



Government Gazette

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NEW SOUTH WALES

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LEGISLATION

Assents to Acts

ACT OF PARLIAMENT ASSENTED TO

Legislative Assembly Office, Sydney, 5 July 2001

IT is hereby notified, for general information, that Her Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Act passed by the Legislative Assembly and Legislative Council of New South Wales in Parliament assembled, viz.:

Act No. 42, 2001 - An Act to make provision with respect to the recovery of damages for injury or death caused by medical practitioners and other health care providers; to make professional indemnity insurance compulsory for medical practitioners and to regulate the provision of that insurance; to protect medical practitioners, nurses and certain other health practitioners from liability when providing voluntary health care in an emergency; and for other purposes. **[Health Care Liability Act]**

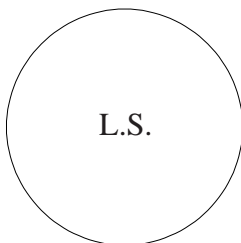
Proclamations

Passenger Transport Amendment Act 2000 No 85—Proclamation

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Passenger Transport Amendment Act 2000*, do, by this my Proclamation, appoint 1 September 2001 as the day on which that Act commences.

Signed and sealed at Sydney, this 30th day of August 2001.



By Her Excellency's Command,

CARL SCULLY, M.P.,
Minister for Transport

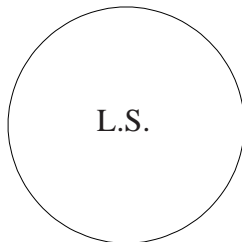
GOD SAVE THE QUEEN!

Public Sector Management Act 1988—Proclamation

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 42D of the *Public Sector Management Act 1988*, do, by this my Proclamation, amend Schedule 3B to that Act as set out in the Appendix to this Proclamation.

Signed and sealed at Sydney, this 22nd day of August 2001.



By Her Excellency's Command,

BOB CARR, M.P.,
Premier

GOD SAVE THE QUEEN!

Public Sector Management Act 1988—Proclamation

Appendix Amendment of Part 1 of Schedule 3B (Senior executive positions) to the Act

- (1) Omit the heading “**Ageing and Disability Department**”.
Insert instead “**Department of Ageing, Disability and Home Care**”.
- (2) Insert at the beginning of the positions relating to the Department of Ageing, Disability and Home Care the position of “Executive Director, Strategic Policy, Planning and Funding”.
- (3) Insert at the end of the positions relating to the Department of Ageing, Disability and Home Care:
Chief Executive Officer, Hunter Residences
Chief Executive Officer, Metropolitan West Residences
- (4) Omit from the positions relating to the Ministry for the Arts:
Assistant Director, Corporate Services, Australian Museum
Associate Director, Business and Administrative Operations
Associate Director, Collections and Museum Services
Chief Information Officer
- (5) Insert at the end of the positions relating to the Ministry for the Arts:
Deputy Director, Collections and Exhibitions
Associate Director, Corporate Services
Associate Director, Knowledge and Information Management
Associate Director, Programs and Commercial Services
Head, Corporate and Commercial Services, Australian Museum
- (6) Omit from the positions relating to the Attorney General’s Department the position of “Director, Estate Management”.
- (7) Omit from the positions relating to the Department of Community Services:
Executive Director, Disability Services
Executive Director, Corporate Communications
Executive Director (Hunter Developmental Disability Service)
Executive Director (Western Sydney Developmental Disability Service)

Public Sector Management Act 1988—Proclamation

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- (8) Insert at the end of the positions relating to the Department of Community Services:
- Executive Director, Business Services and Communications
Director, Finance and Property
- (9) Omit all the positions relating to the Ministry of Energy and Utilities. Insert instead:
- Executive Director, Strategy
Executive Director, Energy and Utilities Policy
Executive Director, Industry Performance
- (10) Omit from the positions relating to the Environment Protection Authority:
- Director, Northern Regions
Director, Southern Regions
- Insert instead:
- Director, Coastal Region
Director, Litigation
- (11) Omit from the positions relating to the New South Wales Fire Brigades the position of “Director, Operational Support”.
- (12) Omit from the positions relating to the New South Wales Fire Brigades:
- Regional Commander, North West
- Insert instead:
- Regional Commander, West
- (13) Omit from the positions relating to the New South Wales Fire Brigades:
- Regional Commander, South West
- Insert instead:
- Director, Risk Management
Director, Logistics Support
- (14) Omit from the positions relating to NSW Fisheries the position of “Director, Office of Fisheries Conservation”.
- (15) Insert at the end of the positions relating to NSW Fisheries the position of “Deputy Director and Director of Conservation”.

Public Sector Management Act 1988—Proclamation

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- (16) Insert at the beginning of the positions relating to the Forestry Commission the position of “Executive General Manager, Investor Services Division”.
- (17) Omit from the positions relating to the Department of Gaming and Racing:
Director, Compliance
Insert instead:
Deputy Director-General
- (18) Omit from the positions relating to the Department of Gaming and Racing the position of “Director, Racing and Charities”.
- (19) Omit from the positions relating to the Department of Health the position of “General Manager, Information and Asset Services”.
- (20) Omit from the positions relating to the Area Health Services under the heading of “*Illawarra Area Health Service*” the position of “Director, Health Services (Operations)”.
- (21) Omit from the positions relating to the Area Health Services under the heading of “*Western Sydney Area Health Service*” the position of “Deputy Chief Executive Officer”.
- (22) Omit from the positions relating to the Department of Housing:
General Manager, Resitech
Director Operations, Resitech
Director Resources, Resitech
Director Business Development and Marketing, Resitech
Insert instead:
General Manager, Residential Technologies
Director Operations, Residential Technologies
Director Resources, Residential Technologies
Director Business Development and Marketing, Residential Technologies
- (23) Omit from the positions relating to the Department of Housing:
Executive Director, Information Services
Insert instead:
Executive Director, Information Technology Services

Public Sector Management Act 1988—Proclamation

- (24) Omit from the positions relating to the Department of Information Technology and Management:
- Assistant Director, Document Registration Division
 - Assistant Director, Information Technology Division
 - Assistant Director, Land Information Services Division
 - Assistant Director, Legal Division
 - Assistant Director, Title Creation Division
 - Deputy Director, Land Titles Office
 - Principal Surveyor
 - Registrar-General and Director, Land Titles Office
 - Director, Year 2000 Compliance
 - Director, Projects and Services
 - General Manager
- (25) Insert after the position of “Surveyor-General” in the positions relating to the Department of Information Technology and Management:
- Registrar-General
 - General Manager, Land and Property Information NSW
 - Division Manager, Registration and Information Services
 - Division Manager, Information Systems
 - Division Manager, Information Sourcing
 - Division Manager, Production and Business Development
 - Manager, Information Management and Technology Services
 - Manager, Legal Services
 - Executive Director, Corporate Governance
- (26) Insert at the end of the positions relating to the Department of Information Technology and Management:
- Director, Multimedia and Electronic Services
 - Director, Operations
- (27) Insert before the position of “Executive Director, Strategy and Policy” in the positions relating to the Department of Land and Water Conservation the position of “Executive Director, Resource Policy”.
- (28) Insert at the beginning of the positions relating to the Department of Mineral Resources the position of “Executive Director”.

Public Sector Management Act 1988—Proclamation

- (29) Omit from the positions relating to the Olympic Co-ordination Authority:
Executive Director, Finance
Insert instead:
Executive Director, Finance and Corporate Services
Senior Director, Development Services
Senior Director, Planning and Compliance
- (30) Omit from the positions relating to the Olympic Co-ordination Authority:
Senior Director, Planning
Senior Director, Stadia
- (31) Omit all the matter relating to the Olympic Roads and Transport Authority.
- (32) Omit from the positions relating to the Parliamentary Counsel's Office:
Senior Legislative Drafting Officer (6 positions)
Insert instead:
Senior Legislative Drafting Officer (4 positions)
- (33) Insert after the position of "Director, Performance Review, Council on the Cost of Government" in the positions relating to the Premier's Department:
Director, Performance Review
Director, Performance Measurement
Director, Performance Improvement
- (34) Omit from the positions relating to the Department of Public Works and Services:
Manager, Information Technology Services
Manager, Solutions Implementation Group
Manager, Year 2000 Projects
General Manager, Strategic Procurement Services Group
Client Executive, International and Inter-State Business Portfolio
General Manager, Infrastructure Services
Regional Manager, Sydney Region
General Manager, Infrastructure and Environmental Services

Public Sector Management Act 1988—Proclamation

- (35) Insert at the end of the positions relating to the Department of Public Works and Services:
- Technical Director
 - Manager, IS&T
 - Manager, GST Projects
 - General Manager, Environmental Services and Manly Hydraulics Laboratory
 - Manager, Sydney Region
 - Corporate Marketing Manager
 - Manager, Corporate Strategy
 - Group General Manager, Strategic Procurement Services
 - Manager, Programs Branch
- (36) Insert at the end of the positions relating to the Roads and Traffic Authority:
- Private Sector Infrastructure Project Manager
 - General Manager, Traffic Systems
- (37) Insert at the beginning of the positions relating to the Royal Botanic Gardens and Domain Trust the position of “Director, Botanic Gardens and Public Programs”.
- (38) Omit all the matter relating to the State Electoral Office.
- (39) Omit from the positions relating to the State Rail Authority:
- Corporate Secretary
 - General Manager, Organisation Development
 - Business Sector Manager, Inner City
 - General Manager, Countrylink
 - Manager, Olympic Co-ordination
 - Corporate Manager, Financial Accounting
 - General Manager, Corporate Services
 - General Manager, Employee Relations
 - Business Sector Manager, South/East
 - Manager, Internal Audit
 - Manager, Employee Services
 - Manager, Safety
 - Sector Manager, North/West and Manager, Special Events
 - Legal Counsel

Public Sector Management Act 1988—Proclamation

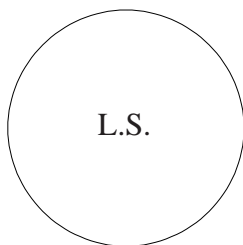
- (40) Insert at the end of the positions relating to the State Rail Authority:
- Project Director, Strategic Projects
 - Corporate Counsel
 - Executive Director, Communications
 - Executive Director, Human Resources
 - Executive Director, Safety
 - Executive Director, Finance
 - Executive Director, Capital Works and Development
 - General Manager, Audit and Investigations
 - Manager, Train Operations
 - Manager, Corporate Finance
 - Manager, Station Operations
- (41) Insert at the end of the positions relating to the Sydney Harbour Foreshore Authority the position of “General Manager, Darling Harbour Precinct”.
- (42) Omit all the positions relating to the Department of Transport.
- Insert instead:
- Deputy Director-General and Executive Director, Industry Reform
 - Executive Director, Transport Finance and Asset Management
 - Executive Director, Portfolio Corporate Business and Customer Services
 - Executive Director, Transport Master Planning and Infrastructure
 - Executive Director, Transport Safety Bureau
 - Director, Infrastructure and Interchange Planning and Development
 - Director, Bus and Ferry Reform
 - Director, Rail
 - Director, Cabinet and Executive Services
 - Director, Transport Communications
 - Director, Service Performance
- (43) Insert at the end of the positions relating to the Zoological Parks Board of New South Wales the position of “General Manager, Marketing and Sales”.

Statute Law (Miscellaneous Provisions) Act (No 2) 2000 No 93—Proclamation

MARIE BASHIR, Governor:

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Statute Law (Miscellaneous Provisions) Act (No 2) 2000*, do, by this my Proclamation, appoint 1 September 2001 as the day on which Schedule 1.4 and Schedule 1.27 to that Act commence.

Signed and sealed at Sydney, this 30th day of August 2001.



By Her Excellency's Command,

JOHN WATKINS, M.P.,
Minister for Fair Trading

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Explanatory note

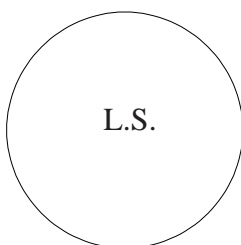
The object of this proclamation is to commence Schedule 1.4 and Schedule 1.27 to the *Statute Law (Miscellaneous Provisions) Act (No 2) 2000*. Schedule 1.4 and Schedule 1.27 make miscellaneous amendments to the *Community Land Management Act 1989* and the *Strata Schemes Management Act 1996*.

Waste Recycling and Processing Corporation Act 2001 No 59—Proclamation

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Waste Recycling and Processing Corporation Act 2001*, do, by this my Proclamation, appoint 1 September 2001 as the day on which that Act commences.

Signed and sealed at Sydney, this 30th day of August 2001.



By Her Excellency's Command,

BOB DEBUS, M.P.,
Minister for the Environment

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Regulations

Births, Deaths and Marriages Registration Regulation 2001

under the

Births, Deaths and Marriages Registration Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Births, Deaths and Marriages Registration Act 1995*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to repeal and remake, without substantial alteration (except in relation to the fees payable for services provided by the Registrar of Births, Deaths and Marriages), the *Births, Deaths and Marriages Registration Regulation 1996*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes the following:

- (a) the particulars required to be notified to the Registrar concerning the birth of a child (clause 5),
- (b) the particulars required to be given to the Registrar for the purpose of having the birth of a child registered (clause 6),
- (c) the particulars required to be entered in the Register kept under the *Births, Deaths and Marriages Act 1995* (***the Act***) in connection with the registration of adoptions (clause 7),
- (d) the particulars required to be entered in the Register in connection with the registration of change of name (clause 8),

Births, Deaths and Marriages Registration Regulation 2001

Explanatory note

- (e) the particulars required to be notified to the Registrar by funeral directors or other persons arranging for the disposal, or removal from the State, of human remains or (in certain circumstances) having custody of human remains (clauses 9–11),
- (f) the documents that are required to accompany an application for the alteration of the Register to record a change of sex (clause 12),
- (g) the persons (in addition to those specified in the Act) who may apply for a birth certificate showing the original sex of a person the record of whose sex has been altered under the Act (clause 13),
- (h) the laws of certain other Australian jurisdictions for the purposes of the definition of *interstate recognition certificate* in the Act (clause 14),
- (i) the fees to be paid for services provided by the Registrar under the Act (clause 15 and Schedule 1).

This Regulation also contains certain formal and machinery matters (clauses 1–4 and 16).

This Regulation is made under the *Births, Deaths and Marriages Registration Act 1995* and, in particular, under section 62 (the general regulation-making power) and the other sections mentioned in the Regulation.

Births, Deaths and Marriages Registration Regulation 2001

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Births, Deaths and Marriages Registration Regulation 2001

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Births, Deaths and Marriages Registration Regulation 2001

Clause 1

Preliminary

Part 1

Births, Deaths and Marriages Registration Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Births, Deaths and Marriages Registration Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Births, Deaths and Marriages Registration Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

In this Regulation:

the Act means the *Births, Deaths and Marriages Registration Act 1995*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Clause 5 Births, Deaths and Marriages Registration Regulation 2001

Part 2 Information required to be given to Registrar or noted in Register

Part 2 Information required to be given to Registrar or noted in Register

5 Notification of birth

For the purposes of section 12 of the Act (Notification of births), the following particulars are required:

- (a) the sex and date and place of birth of the child,
- (b) whether the child was born alive or stillborn,
- (c) the weight of the child at birth and, if the child was stillborn, the period of gestation of the child,
- (d) whether or not the birth was a multiple birth,
- (e) the full name, maiden family name, date of birth and usual place of residence of the mother of the child,
- (f) the full name and occupation of the person giving the notice.

6 Registration of birth

For the purposes of section 14 of the Act (How to have the birth of a child registered), the following particulars are required:

- (a) the sex and date, place and time of birth of the child,
- (b) the full name and address of the doctor or midwife responsible for the professional care of the mother at the birth,
- (c) the weight of the child at birth,
- (d) whether or not the birth was a multiple birth,
- (e) the full name, maiden family name, occupation and usual place of residence of the mother of the child,
- (f) the date of birth (or age) and place of birth of the mother of the child,
- (g) the full name, occupation and usual place of residence of the father of the child,
- (h) the date of birth (or age) and place of birth of the father of the child,

Births, Deaths and Marriages Registration Regulation 2001

Clause 6

Information required to be given to Registrar or noted in Register

Part 2

-
- (i) the date and place of marriage of the parents of the child (if applicable),
 - (j) if the mother of the child has any other children, the given name, sex and date of birth of those children (including any deceased children),
 - (k) whether or not the mother or father of the child is of Aboriginal or Torres Strait Islander origin,
 - (l) if either parent of the child was born outside Australia, the period of residence in Australia of that parent.

Note. The notice given for the purposes of section 14 of the Act (called a birth registration statement) must also state the name of the child (see section 21 of the Act).

7 Registration of adoptions

- (1) For the purposes of section 24 of the Act (How adoptions are registered), the following particulars are required:
 - (a) the full name, sex and date and place of birth of the child to whom the memorandum relates,
 - (b) the full name, maiden family name, occupation and usual place of residence of the adoptive mother of the child,
 - (c) the date of birth (or age) and place of birth of the adoptive mother of the child,
 - (d) the full name, occupation and usual place of residence of the adoptive father of the child,
 - (e) the date of birth (or age) and place of birth of the adoptive father of the child,
 - (f) the date and place of marriage of the adoptive parents of the child (if applicable),
 - (g) if the adoptive parents have any other children (whether adopted children or not), the given names and date of birth of each of those children (including any deceased children).

Clause 7	Births, Deaths and Marriages Registration Regulation 2001
Part 2	Information required to be given to Registrar or noted in Register

- (2) On and from the commencement of section 24A of the Act (Registration of deceased person's former intention to adopt), and for the purposes of that section, the following particulars are required:
- (a) the full name and last residential address of the deceased person,
 - (b) the date and place of death of the deceased person.

Note. Section 24A is to be inserted in the Act by Schedule 2.1 [3] to the *Adoption Act 2000*. That Act also inserts the above subclause (2) in clause 7 of the *Births, Deaths and Marriages Registration Regulation 1996* (which is repealed). The *Adoption Act 2000* has not yet commenced.

8 Registration of change of name

For the purposes of section 31 of the Act (Entries to be made in the Register), the following particulars are required:

- (a) the sex and date and place of birth of the person whose change of name is being registered,
- (b) the name of the person immediately before the change of name,
- (c) the name first given to the person after birth and any other name shown on the person's birth registration,
- (d) any other former names of the person,
- (e) the new full name of the person,
- (f) the full names of the parents of the person (as at the date of the person's birth or birth registration).

9 Information concerning human remains

For the purposes of section 41 (1) (d) of the Act, the following information is required from a funeral director or other person who arranges for the disposal of human remains:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,

Births, Deaths and Marriages Registration Regulation 2001

Clause 9

Information required to be given to Registrar or noted in Register

Part 2

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- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
 - (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
 - (h) the marital status of the deceased immediately before death,
 - (i) if the deceased had married at any time, the date of marriage (or age of the deceased at the date of the marriage), the place of marriage and the full name (including maiden family name) of his or her spouse or, if the deceased had married more than once, the date of each marriage (or age of the deceased at the date of each marriage), the place of each marriage and the full name (including maiden family name) of each spouse,
 - (j) the given names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
 - (k) the full name, maiden family name and occupation of the mother of the deceased,
 - (l) the full name and occupation of the father of the deceased.

10 Information concerning human remains removed from the State

For the purposes of section 41 (2) (b) of the Act, the following information is required from a funeral director or other person who arranges for the removal of human remains (other than cremated remains) from the State:

- (a) the full name and last residential address of the deceased,
- (b) the date and place of death of the deceased,
- (c) whether or not the death was reported to a coroner,
- (d) the sex, date of birth (or age at death) and place of birth of the deceased,
- (e) the usual occupation of the deceased person before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (f) the date of disposal of the remains of the deceased,
- (g) the full name and business address of the funeral director or other person who arranged for removal of the remains,
- (h) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,

Clause 10 Births, Deaths and Marriages Registration Regulation 2001

Part 2 Information required to be given to Registrar or noted in Register

- (i) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (j) the marital status of the deceased immediately before death,
- (k) if the deceased had married at any time, the date of marriage (or age of the deceased at the date of the marriage), the place of marriage and the full name (including maiden family name) of his or her spouse or, if the deceased had married more than once, the date of each marriage (or age of the deceased at the date of each marriage), the place of each marriage and the full name (including maiden family name) of each spouse,
- (l) the given names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (m) the full name, maiden family name and occupation of the mother of the deceased,
- (n) the full name and occupation of the father of the deceased.

11 Information concerning human remains not disposed of within 30 days after death

For the purposes of section 41 (3) (c) of the Act, the following particulars are required from a funeral director or other person who has custody of human remains that have not been disposed of within 30 days after the date of death:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the full name and business address of the person who has custody of the remains of the deceased,
- (e) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (f) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (g) the marital status of the deceased immediately before death,

Births, Deaths and Marriages Registration Regulation 2001

Clause 11

Information required to be given to Registrar or noted in Register

Part 2

- (h) if the deceased had married at any time, the date of marriage (or age of the deceased at the date of the marriage), the place of marriage and the full name (including maiden family name) of his or her spouse or, if the deceased had married more than once, the date of each marriage (or age of the deceased at the date of each marriage), the place of each marriage and the full name (including maiden family name) of each spouse,
- (i) the given names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (j) the full name, maiden family name and occupation of the mother of the deceased,
- (k) the full name and occupation of the father of the deceased.

Clause 12 Births, Deaths and Marriages Registration Regulation 2001

Part 3 Provisions relating to change of sex

Part 3 Provisions relating to change of sex

12 Application to alter Register to record change of sex

For the purposes of section 32C (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32B of the Act:

- (a) a signed statement by each of the 2 doctors (or medical practitioners) referred to in section 32C (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the applicant's identity when making the statutory declaration referred to in that section,
- (b) documentary proof, to the Registrar's satisfaction, of the applicant's identity.

13 Persons who can apply for old birth certificate

- (1) For the purposes of section 32F of the Act, the following persons are prescribed as persons who may apply to the Registrar for a birth certificate for a person (the *transgender person*) the record of whose sex has been altered under Part 5A of the Act that shows the transgender person's sex before the record was so altered:
 - (a) the executor or administrator of the transgender person's estate,
 - (b) a parent of the transgender person,
 - (c) a spouse (or former spouse) of the transgender person,
 - (d) an officer or person acting on behalf of any of the following law enforcement agencies:
 - (i) the Police Service, or the police force of another State or Territory,
 - (ii) the Australian Federal Police,
 - (iii) the New South Wales Crime Commission,
 - (iv) the National Crime Authority,
 - (v) the Office of the Director of Public Prosecutions of this State, of another State or a Territory, or of the Commonwealth,
 - (vi) the Independent Commission Against Corruption.

Births, Deaths and Marriages Registration Regulation 2001	Clause 14
Provisions relating to change of sex	Part 3

14 Prescribed interstate laws

For the purposes of section 32I of the Act (Effect of alteration of register and interstate recognition certificates), the following laws are prescribed:

Births, Deaths and Marriages Registration Act 1996 of the Northern Territory

Births, Deaths and Marriages Registration Act 1997 of the Australian Capital Territory

Sexual Reassignment Act, 1988 of South Australia

Gender Reassignment Act 2000 of Western Australia

Clause 15 Births, Deaths and Marriages Registration Regulation 2001

Part 4 Fees

Part 4 Fees

15 Fees

For the purposes of section 54 of the Act (Fees), the fee for a service provided by the Registrar is the amount set out opposite the service concerned in Schedule 1.

Births, Deaths and Marriages Registration Regulation 2001

Clause 16

Miscellaneous

Part 5

Part 5 Miscellaneous

16 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Births, Deaths and Marriages Registration Regulation 1996*, had effect under that Regulation is taken to have effect under this Regulation.

Births, Deaths and Marriages Registration Regulation 2001

Schedule 1 Fees

Schedule 1 Fees

(Clause 15)

	\$
1 For furnishing a certificate certifying particulars contained in an entry in the Register or a certificate certifying that no entry was located in the Register about a relevant registrable event, including the fee for search under any one name in respect of a period not exceeding 10 years	29.00
2 For furnishing a certificate as to a recording in the Register where the applicant has provided the relevant number of the recording from an index published by the Registry of Births, Deaths and Marriages	22.50
3 For search against any one name in the Register (including an index to the Register) in respect of a period not exceeding 10 years pursuant to an application under section 50 of the Act (Issue of certificate relating to children of deceased person), including the fee for a certificate of result of any such search	28.00
4 For continuation of any search under any one name in respect of each period of 10 years, or part of such a period	28.00
5 For giving priority to a search or to the issue of a certificate of result of search in addition to any other fee	15.00
6 For insertion in a recording of a name, an additional name or other particulars, or registration of a change of name	50.00
7 For altering the record of a person's sex in the registration of the person's birth	50.00
8 For recording in the Register, subsequent to registration of the birth of a child, the name of or other particulars relating to a person as a parent of the child	50.00
9 For furnishing a certified copy of any record or document kept by the Registry of Births, Deaths and Marriages, for which no fee is otherwise provided	27.00 (each sheet)
10 For each special service in relation to the Registry of Births, Deaths and Marriages for which no fee is otherwise provided—such fee as may be approved by the Registrar having regard to the work involved in providing the service	27.50 (minimum fee)

Casino Control Regulation 2001

under the

Casino Control Act 1992

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

J. RICHARD FACE, M.P.,
Minister for Gaming and Racing

Explanatory note

This Regulation replaces (without any major changes in substance) the *Casino Control Regulation 1995*, under the *Casino Control Act 1992*, which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation does the following:

- (a) it prescribes the matters that constitute a “major change” in the state of affairs existing in relation to a casino operator for the purposes of paragraph (b) of the definition of that term in section 35 (1) of the Act and the matters that constitute a “minor change”,
- (b) it exempts certain employees who would otherwise be “special employees” (as defined in section 43 of the Act) from that category,
- (c) it prescribes the changes in the state of affairs existing in relation to special employees, and the particulars relating to those changes, that section 63 of the Act requires the employees concerned to notify to the Casino Control Authority,
- (d) it requires employees other than special employees to wear identification while on duty in areas of a casino to which the public does not have access,

Casino Control Regulation 2001

Explanatory note

- (e) it exempts certain contracts that would otherwise be “controlled contracts” (as defined in section 36 of the Act) from that category,
- (f) it prescribes the form that controlled contracts and variations of controlled contracts must be in and the details of those contracts and variations that a casino operator must give to the Authority, and provides for other requirements for controlled contracts,
- (g) it makes various requirements in relation to “junkets” (as defined in section 76 (3) of the Act) involving the casino, and persons who organise, promote or conduct such junkets and their representatives, and in relation to casino employees’ involvement with such junkets,
- (h) it makes various requirements in relation to responsible gambling practices,
- (i) it modifies and applies certain provisions of the *Liquor Act 1982* to the casino,
- (j) it prohibits the giving of certain inducements and certain kinds of advertising in relation to the casino and prize-winners,
- (k) it makes provision as to miscellaneous other matters (including additional persons and bodies to whom information acquired in the exercise of functions under the Act may be divulged, evidence of the age of patrons of the casino, counselling services in relation to social problems that may arise in connection with gambling, notification to the Authority of the proposed delivery of gaming equipment, and the issuing of penalty notices in respect of certain offences against the Act and this Regulation, and the *Liquor Act 1982* as applied and modified by this Regulation),
- (l) it makes other provisions of an ancillary, formal or technical nature.

This Regulation is made under the *Casino Control Act 1992* and, in particular, section 170 and Schedule 3 (the general power to make regulations) and sections 35, 37, 43, 63, 68, 76, 81, 88, 89, 91, 168A and 169A.

Casino Control Regulation 2001

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Clause 1 Casino Control Regulation 2001

Part 1 Preliminary

Casino Control Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Casino Control Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Casino Control Regulation 1995* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

casino environs means premises the subject of an order under section 89 (3) of the Act.

gaming machine has the meaning given by section 8 (5) of the Act.

Infringement Processing Bureau means the Infringement Processing Bureau within the Police Service.

IPB Code for an offence means the code allocated to the offence by the Infringement Processing Bureau.

liquor has the same meaning as in the *Liquor Act 1982*.

participant in a junket means a person who participates in a junket as a guest.

promoter of a junket means a person who organises, promotes or conducts a junket, but does not include a casino operator or a casino employee.

representative of a promoter means a person who is authorised by a promoter to act on the promoter's behalf in the organisation, promotion or conduct of a junket.

the Act means the *Casino Control Act 1992*.

Casino Control Regulation 2001	Clause 4
Preliminary	Part 1

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Clause 5	Casino Control Regulation 2001
Part 2	Casino operator and casino employees

Part 2 Casino operator and casino employees

5 Major changes in state of affairs of casino operator

For the purposes of paragraph (b) of the definition of *major change* in section 35 (1) of the Act, a change in the state of affairs existing in relation to a casino operator that is described in Schedule 1 is prescribed as a major change.

6 Minor changes in state of affairs of casino operator

For the purposes of the definition of *minor change* in section 35 (1) of the Act, a change in the state of affairs existing in relation to a casino operator that is described in Schedule 2 is prescribed as a minor change.

7 Certain persons not “special employees”

(1) For the purposes of section 43 (2) of the Act, a person employed or working in a casino in a capacity relating to:

- (a) the movement of money about the casino, or
- (b) the exchange of money in the casino, or
- (c) the counting of money in the casino, or
- (d) the supervision of that movement, exchange or counting of money,

is exempt from being a special employee if the money concerned relates only to the sale of food or drink, or of souvenirs or similar merchandise, in the casino.

(2) However, subclause (1) does not operate to exempt from being a special employee an employee who is at any time responsible (whether in an acting capacity or otherwise) for the supervision and management of the sale or supply of liquor in the casino.

(3) A person employed or working in a casino in any of the following capacities is exempt from being a special employee:

- (a) as a promoter of a junket,
- (b) as a representative of such a promoter,
- (c) as a person providing a cash collection, delivery and handling service to the casino under a contract or as an employee of such a person.

Casino Control Regulation 2001	Clause 8
Casino operator and casino employees	Part 2

8 Change in state of affairs of special employee

For the purposes of section 63 of the Act:

- (a) a change in the state of affairs existing in relation to a holder of a licence that is described in Column 1 of Schedule 3 is prescribed, and
- (b) the particulars that are specified in Column 2 of Schedule 3 opposite a change described in Column 1 of that Schedule are prescribed particulars in relation to that change.

9 Identification of employees

A casino employee who is not a licensee under Part 4 of the Act must, at all times while carrying out his or her duties in any part of a casino to which the public does not have access, wear on his or her person and so as to be clearly visible a form of identification approved by the Authority.

Maximum penalty: 1 penalty unit.

Clause 10 Casino Control Regulation 2001

Part 3 Contracts

Part 3 Contracts

10 Certain contracts not controlled contracts

- (1) The object of this clause is to prescribe the classes of contracts that are, for the purposes of paragraph (b) of the definition of *controlled contract* in section 36 of the Act, exempt from that definition.
- (2) The following classes of contracts are prescribed:
 - (a) contracts of employment,
 - (b) contracts relating wholly or partly to the supply of goods or services to a casino, but only if the amount payable under such a contract is less than \$330,000,
 - (c) contracts relating wholly or partly to the conduct of games of Keno by a licensee under the *Public Lotteries Act 1996* in the casino,
 - (d) contracts relating to the supply to a casino of gas, water or electricity, or postal or telecommunications services,
 - (e) contracts relating to the supply of legal, accounting, financial, corporate or property advisory services to a casino,
 - (f) contracts relating to the supply of share registry services to a casino,
 - (g) contracts relating to the supply of airline services to a casino,
 - (h) contracts of insurance and contracts relating to the supply of insurance to, or the procurement of insurance for, a casino,
 - (i) contracts relating to the supply of off-site parking to a casino,
 - (j) contracts relating to the supply of ticketing agency services to a casino,
 - (k) contracts relating to the supply of superannuation services for the benefit of casino employees,
 - (l) contracts relating to the supply of banking or financial services to a casino.
- (3) However, a contract of the class specified in subclause (2) (b) is not exempt if the contract is:
 - (a) one of 2 or more contracts entered into by the same supplier during any 12 month period, if the aggregate amount payable under the contracts is \$330,000 or more, or

Casino Control Regulation 2001

Clause 10

Contracts

Part 3

- (b) a contract relating to the supply of gaming equipment, if the amount payable under the contract is \$11,000 or more, or
 - (c) a contract relating to the maintenance of gaming equipment, if the amount payable under the contract is \$11,000 or more, or
 - (d) a contract relating to the supply or maintenance of security or surveillance equipment, if the amount payable under the contract is \$11,000 or more.
- (4) The class of contracts comprising such of the financial contracts relating to the establishment and operation of the casino as require the consent of the Authority is also prescribed.

11 Form of controlled contracts and variations of controlled contracts

- (1) A controlled contract must be in the following form:
- (a) it must specify an identifying serial number obtained from the Authority, and
 - (b) it must be in writing in the English language, and
 - (c) it must contain the full names, business addresses and business telephone and facsimile numbers of the parties to the contract, and
 - (d) it must contain a full description of the goods or services to be provided under the contract, and
 - (e) it must contain a full description of the nature and amount of the consideration for the provision of those goods or services, and
 - (f) it must specify the period during which the goods or services are to be provided, and
 - (g) it must specify all of the terms (other than the implied terms) of the contract, and
 - (h) it must contain a notice in the form of Notice 1 in Schedule 4.
- (2) A variation of a controlled contract must be in the following form:
- (a) it must specify the same identifying serial number as the controlled contract that it varies (the *original contract*), and
 - (b) it must be in writing in the English language, and
 - (c) it must specify any change to the names, business addresses and business telephone and facsimile numbers of the parties to the original contract, and

Clause 11 Casino Control Regulation 2001

Part 3 Contracts

- (d) it must provide full details of the variation of the terms (other than the implied terms) of the original contract, specifying any additional terms.
- (3) If a variation of a controlled contract involves the addition or replacement of a party to the contract, the variation must contain a notice in the form of Notice 2 in Schedule 4.

12 Required details of notifiable contracts and variations of notifiable contracts

For the purposes of section 37A (1) of the Act, the following details are prescribed in relation to a notifiable contract (and a variation of a notifiable contract):

- (a) details of the full names and business addresses and business telephone and facsimile numbers of the parties to the contract (or to the contract as varied),
- (b) details of the nature and amount of the consideration for the provision of any goods and services to be provided under the contract (or under the contract as varied),
- (c) the contract's identifying serial number (allocated by the casino operator).

13 Authority to provide serial numbers for controlled contracts

The Authority must, as soon as practicable after receiving notification in accordance with section 37 (1) of the Act of details of a proposed controlled contract, provide the casino operator with an identifying serial number for the proposed contract.

14 Fee to accompany contract notice

For the purposes of section 37 (1) of the Act, the prescribed fee is \$2,000.

Casino Control Regulation 2001	Clause 15
Responsible gambling practices	Part 4
Junkets and inducements	Division 1

Part 4 Responsible gambling practices

Division 1 Junkets and inducements

15 Casino operator's involvement with junkets

- (1) A casino operator must not act as a representative of a promoter of a junket involving the casino.
Maximum penalty: 100 penalty units.
- (2) However, a casino operator may organise, promote and conduct such a junket on his or her own behalf.
- (3) The junket may be organised, promoted and conducted by the casino operator personally or by a casino employee at the direction of, and on behalf of, the operator.

16 Casino employee's involvement with junkets

A casino employee must not take part in the organisation, promotion or conduct of a junket involving the casino unless:

- (a) the junket concerned is being organised, promoted or conducted by the casino operator, and
- (b) the employee takes part only in his or her capacity as a casino employee.

Maximum penalty: 100 penalty units.

17 Representative to be authorised

- (1) A person must not act as a representative of a promoter unless the person is duly authorised by the promoter.
- (2) A promoter who authorises a person as the promoter's representative, or changes such an authority:
 - (a) must, when giving (or changing) the authorisation, provide the person with a signed statement specifying the authority (or the authority as changed) given to the person, and
 - (b) must provide a copy of the statement to the Authority within 24 hours after providing it to the person.

Clause 17 Casino Control Regulation 2001

Part 4 Responsible gambling practices
Division 1 Junkets and inducements

- (3) A casino operator must not allow a person to act as a representative of a promoter unless the casino operator has received a document, or a copy of a document, that:
 - (a) is signed by the promoter, and
 - (b) confirms that the person is duly authorised.
- (4) A person who contravenes a provision of this clause is guilty of an offence and liable to a penalty not exceeding 100 penalty units.

18 Promoters and representatives to be approved

- (1) A person must not act as a promoter (or as a representative of a promoter) without the Authority's written approval.
- (2) A casino operator must not permit a person to act as a promoter (or as a representative of a promoter) unless the person has the Authority's written approval so to act.
- (3) An application for an approval referred to in this clause is to be made to the Authority in a form approved by the Authority.
- (4) The Authority must not determine an application for approval unless the application has the written endorsement of the casino operator.
- (5) The Authority may grant a provisional approval pending its determination of an application for approval.
- (6) The Authority may withdraw an approval or a provisional approval at any time by written notice to the holder of the approval or provisional approval.
- (7) The Authority must withdraw an approval or provisional approval if the casino operator requests the Authority in writing to do so.
- (8) A person who contravenes subclause (1) or (2) is guilty of an offence and liable to a penalty not exceeding 100 penalty units.

Casino Control Regulation 2001	Clause 19
Responsible gambling practices	Part 4
Junkets and inducements	Division 1

19 Casino operator to notify Authority of conviction of promoter or representative

- (1) A casino operator who becomes aware that a promoter or a representative has been convicted of an offence (whether in New South Wales or elsewhere), or is the subject of a finding or order that, because of section 5 of the *Criminal Records Act 1991* or an equivalent provision of a law of another jurisdiction, is treated as a conviction for the purposes of that Act or law, must notify the Authority in accordance with this clause.

Maximum penalty: 50 penalty units.

- (2) The notification:
- (a) must be given within 7 days after the casino operator becomes aware of the conviction, and
 - (b) must be in writing, and
 - (c) must specify the particulars of the offence in so far as those particulars are known to the casino operator.
- (3) This clause does not apply in respect of a conviction in relation to which a pardon has been granted, a conviction that is a spent conviction (within the meaning of Part 2 of the *Criminal Records Act 1991* or an equivalent provision of a law of another jurisdiction) or a conviction that has been quashed (within the meaning of Part 4 of the *Criminal Records Act 1991* or an equivalent provision of a law of another jurisdiction).

20 Advance notice of junkets

- (1) A casino operator must provide the Authority with such written details of any proposed junket as the Authority, by notice in writing to the casino operator from time to time, requests.
- (2) The details are to be provided no later than 24 hours before any participant in a proposed junket the subject of such a notice takes part in gaming at the casino (or by such later time as the Authority may allow in a particular case).
- (3) However, if the Authority (by notice under subclause (1) or by a subsequent notice) requests the casino operator to provide a list of participants in a proposed junket, the casino operator must provide the list to the Authority as soon as practicable after receiving the notice.

Clause 20 Casino Control Regulation 2001

Part 4 Responsible gambling practices
Division 1 Junkets and inducements

- (4) A request under this clause may relate to junkets generally, to a particular junket or to junkets of a particular class.
- (5) A casino operator who contravenes a provision of this clause is guilty of an offence and liable to a penalty not exceeding 100 penalty units.

21 Participants in junket to be accompanied

- (1) The promoter of a junket must ensure that the participants in the junket are accompanied, while in the casino, by the promoter or by his or her representative.

Maximum penalty: 50 penalty units.

- (2) The casino operator must ensure that the participants in a junket organised, promoted or conducted by the casino operator are accompanied, while in the casino, by the casino operator or by a casino employee on behalf of the operator.

Maximum penalty: 50 penalty units.

- (3) However, the Authority may notify the casino operator in writing that participants in a particular junket (or in junkets of a particular class) need not be accompanied while in the casino. The requirements of this clause do not apply to a junket the subject of such a notification.

22 Report on completion of junket

- (1) A casino operator must provide the Authority with a written report on each junket within 48 hours after the completion of the junket.
- (2) The report is to specify and give reasons for any variation, in the conduct of the junket, from the details of the proposed junket provided to the Authority under clause 20 (1).
- (3) A casino operator must also provide the Authority, no later than the 10th day of each month, with a written report on all junkets concluded during the previous month.
- (4) A report under this clause is to be in a form approved by the Authority.
- (5) However, the Authority may notify the casino operator in writing that a report is not required in respect of a particular junket (or in respect of junkets of a particular class). The requirements of this clause do not apply to a junket the subject of such a notification.
- (6) A casino operator who contravenes a provision of this clause is guilty of an offence and liable to a penalty not exceeding 100 penalty units.

Casino Control Regulation 2001	Clause 23
Responsible gambling practices	Part 4
Junkets and inducements	Division 1

23 Gambling inducements

A casino operator must not:

- (a) offer or supply any free or discounted liquor as an inducement to participate, or to participate frequently, in any gambling activity in the casino, or
- (b) offer free credits to players, or as an inducement to persons to become players, of gaming machines in the casino, by means of letter box flyers, shopper docketts, or any other means.

Maximum penalty: 50 penalty units.

Division 2 Player information

24 Display of information concerning chances of winning prizes on gaming machines

- (1) A casino operator must display, in accordance with this clause, notices providing information about the chances of winning a major prize from the use or operation of any gaming machine in the casino.

Maximum penalty: 50 penalty units.

- (2) The information contained in the notices must be in the following form:

Your chance of winning the maximum prize on a gaming machine is generally no better than one in a million.

- (3) The notices must be:
 - (a) displayed in each part of the casino where gaming machines are located in such manner and in such a place that it would be reasonable to expect that a person entering the part of the casino in which the notices are displayed would be alerted to their contents, and
 - (b) prominently displayed on the front or top of each gaming machine kept in the casino or displayed by means of a permanently visible light emitting display that forms part of each such machine.
- (4) The matter contained in a notice must be:
 - (a) in the case of a notice displayed as referred to in subclause (3) (a)—in letters of not less than one centimetre in height, and

Clause 24 Casino Control Regulation 2001

Part 4 Responsible gambling practices

Division 2 Player information

- (b) in the case of a notice displayed as referred to in subclause (3) (b)—in letters of not less than 0.4 centimetres in height.

25 Approval of English and other community language player information brochures

- (1) In this clause:

player information means the following:

- (a) information concerning the use and operation of gaming machines,
- (b) information concerning the chances of winning prizes from the playing of gaming machines,
- (c) the G-line (NSW) help line phone number operated under contractual arrangements made by the Department of Gaming and Racing.
- (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, Croatian, Chinese, 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 casino operator in the relevant language on request by a patron of the casino.
- (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, Croatian, Chinese, Greek, Italian, Korean, Macedonian, Maltese, Serbian, Spanish, Turkish and Vietnamese languages.
- (6) The Minister may vary or withdraw any approval given under this clause.

Casino Control Regulation 2001	Clause 26
Responsible gambling practices	Part 4
Player information	Division 2

26 Provision of player information brochures

- (1) A casino operator must make copies of a player information brochure approved by the Minister under clause 25 (2) available to patrons of the casino in accordance with this clause.

Maximum penalty: 50 penalty units.

- (2) The brochures must be made available in each part of the casino in which gaming machines are located.
- (3) The brochures must be displayed in such a manner and in such a place that it would be reasonable to expect that a person entering the part of the casino in which the brochures are required to be available would be alerted to their presence.

27 Provision of player information brochures in community languages

- (1) A patron of a casino may request the casino operator to supply to the patron a community language player information brochure approved under clause 25 (5) in one of the languages specified in that subclause.
- (2) A casino operator 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 (subclause (2)): 50 penalty units.

28 Dangers of gambling—notice to be displayed on gaming machines

- (1) In this clause:

gambling warning notice means a notice containing one or more of the statements listed in subclause (5).

problem gambling notice means a notice in a form set out in subclause (6).

- (2) A casino operator must display in accordance with this clause:
- a gambling warning notice, and
 - a problem gambling notice.

Maximum penalty: 50 penalty units.

- (3) The gambling warning notice and problem gambling notice must be prominently displayed on the front or on top of each gaming machine kept in the casino.

Clause 28	Casino Control Regulation 2001
Part 4	Responsible gambling practices
Division 2	Player information

- (4) The wording required to appear in a gambling warning notice may appear (as a separate and distinct statement) in a problem gambling notice or with any other notice displayed on a gaming machine, provided that the requirements of this clause in relation to the gambling warning notice and the problem gambling notice are otherwise complied with.
- (5) The statements referred to in the definition of *gambling warning notice* in subclause (1) are as follows:
- DON'T LET GAMBLING TAKE CONTROL OF YOUR LIFE
GAMBLING CAN BECOME ADDICTIVE
EXCESSIVE GAMBLING CAN RUIN LIVES
EXCESSIVE GAMBLING CAN DESTROY FAMILIES AND FRIENDSHIPS
EXCESSIVE GAMBLING CAN LEAD TO THE LOSS OF YOUR HOME OR OTHER ASSETS
EXCESSIVE GAMBLING CAN AFFECT YOUR HEALTH
- (6) The notice referred to in the definition of *problem gambling notice* must be in the following form:
- Is gambling a problem for you?
CALL G-line (NSW)
counselling service
1800 633 635
- (7) The matter contained in a problem gambling notice must be in letters and figures of not less than 0.2 centimetres in height.
- (8) The matter contained in a gambling warning notice must be in capital letters of not less than 0.4 centimetres in height.
- (9) The notices may be attached to, or placed on top of, a gaming machine or may consist of a permanently visible light emitting display that forms part of the machine.
- (10) This clause commences on 1 November 2001.

Casino Control Regulation 2001	Clause 29
Responsible gambling practices	Part 4
Player information	Division 2

29 Counselling signage—notice to be displayed

- (1) A casino operator must display a notice in the following form in the vicinity of any entrance to the casino made available to any patron in accordance with this clause:

IS GAMBLING A PROBLEM FOR YOU?

Are you in control of your gambling?

Do you gamble more than you can afford?

Do you borrow money to gamble?

Do you gamble to win back losses?

Does your gambling affect your family and friends?

FOR INFORMATION, COUNSELLING AND REFERRAL

CALL G-line (NSW)

24 hours a day, 365 days a year

1800 633 635

Maximum penalty: 50 penalty units.

- (2) 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.
- (3) The notice must be displayed in such a manner and in such a place that it would be reasonable to expect that a person using any entrance to the casino made available to any patron would be alerted to its contents.

30 ATM signage

- (1) A casino operator must display in accordance with this clause a notice in the following form in a prominent position on the front or top, or in the immediate vicinity, of each automatic teller machine (ATM) installed in the casino environs:

Is gambling a problem for you?

CALL G-line (NSW)

counselling service

1800 633 635

Maximum penalty: 50 penalty units.

Clause 30 Casino Control Regulation 2001

Part 4 Responsible gambling practices
Division 2 Player information

- (2) The matter contained in the notice must be in letters and figures of not less than 0.2 centimetres in height.
- (3) The notice may be attached to an automatic teller machine or may consist of a permanently visible light emitting display that forms part of the machine.

31 Display of clocks

A casino operator must ensure:

- (a) that a clock in good working order and that is set to, or within 10 minutes of, the correct time is kept in each part of the casino where gaming machines are located, and
- (b) that the time shown on that clock can be readily viewed by any person operating a gaming machine in that part of the casino.

Maximum penalty: 50 penalty units.

32 Payment of prize money by cheque

- (1) Subject to section 70 of the Act, a casino operator must pay so much of the total prize money payable to a person as exceeds \$1,000 by means of a crossed cheque payable to the person.

Maximum penalty: 50 penalty units.

- (2) In this clause:

crossed cheque means a cheque crossed as referred to in section 53 of the *Cheques Act 1986* of the Commonwealth as in force on the commencement of this clause.

total prize money means the total amount of money payable to a person as a result of:

- (a) the person winning money on a gaming machine or winning a non-monetary prize that the person has, pursuant to section 66 (4) of the Act, chosen to be paid in money, or
- (b) the person accumulating credits on a gaming machine, or both, on a single occasion.

- (3) This clause commences on 1 March 2002.

Casino Control Regulation 2001	Clause 33
Responsible gambling practices	Part 4
Advertising	Division 3

Division 3 Advertising

33 Prohibitions on gambling-related advertising

- (1) A casino operator is not to publish, or cause to be published, any casino advertising:
 - (a) that encourages breaches of the law, or
 - (b) that includes children, or
 - (c) that is false, misleading or deceptive, or
 - (d) that is not conducted in accordance with decency, dignity and good taste and in accordance with any relevant advertising code of practice in force at the time the advertisement is published, or
 - (e) that suggests that winning a prize is a likely outcome of participating in gambling activities, or
 - (f) that suggests that participation in gambling activities is likely to improve a person's social standing or financial prospects, or
 - (g) that suggests that a player's skill can influence the outcome of a game that is purely a game of chance, or
 - (h) that depicts or promotes the consumption of alcohol while engaging in gambling activities.

Maximum penalty: 100 penalty units.

- (2) A casino operator is not to publish, or cause to be published, any casino advertising in writing in a newspaper, magazine, poster or other printed form that does not contain the following statement:

Is gambling a problem for you?

G-line (NSW) is a counselling service

CALL 1800 633 635.

Maximum penalty: 100 penalty units.

- (3) A person (other than a casino operator) who publishes any casino advertising that does any of the things referred to in subclauses (1) (a)–(h) or (2) commits an offence against this Regulation and is liable to a penalty not exceeding 100 penalty units.
- (4) Subclause (3) does not apply if the casino operator approved in writing of the publication of the casino advertising concerned.

Clause 33 Casino Control Regulation 2001

Part 4 Responsible gambling practices
Division 3 Advertising

- (5) A casino operator must remove any casino advertising displayed in the casino environs that does not comply with this clause.

Maximum penalty: 100 penalty units.

- (6) A casino operator must not enter into or extend the duration of any contract or arrangement for the publication of casino advertising that does not comply with this clause. Any such contract or arrangement is of no effect.

Maximum penalty: 100 penalty units.

- (7) In this clause:

casino advertising means advertising that is directly related to the operation of a casino.

publication includes dissemination of any kind, whether effected by oral, visual, written or other means (for example, dissemination by means of cinema, video, radio, electronics, the Internet or television).

34 Publicity for prize-winners

- (1) A casino operator or an employee of a casino operator must not publish or cause to be published anything which identifies any person who:

- (a) wins a prize of more than \$1,000 in value from playing a gaming machine located in the casino, and
(b) when claiming the prize, requests in writing given to the casino operator or an employee of the casino operator that anything disclosing his or her identity not be published.

Maximum penalty: 50 penalty units.

- (2) A prize-winner who makes a request referred to in subclause (1) (b) may at any time revoke the request.

- (3) Subclause (1) does not apply to:

- (a) a request that has been revoked by the prize-winner, or
(b) the publication of information relating to the type or value of the prize won and the venue or geographic location where it was won.

Casino Control Regulation 2001

Clause 35

Miscellaneous

Part 5

Part 5 Miscellaneous

35 Application of Liquor Act 1982 to casino

- (1) For the purposes of section 89 of the Act, those provisions of the *Liquor Act 1982* specified in Part 1 of Schedule 5 apply to and in respect of the licensed premises, modified to read as set out in Schedule 6.
- (2) In addition, those provisions of the *Liquor Act 1982* specified in Part 2 of Schedule 5 apply to and in respect of those parts of the licensed premises:
 - (a) that are not operated by a casino operator, or
 - (b) that are operated by a casino operator under section 42 of those applied provisions,modified to read as set out in Schedule 6.
- (3) In the provisions set out in Schedule 6:
 - (a) the expression *this Act* is taken to refer to those provisions, and
 - (b) cross-references to sections, or to other provisions within sections, that are not qualified by reference to another Act are references to those provisions as set out in that Schedule.
- (4) In this clause, *licensed premises* means the premises or part of the premises in the casino or casino environs on which the sale of liquor is authorised by a licence.

36 Gaming equipment

- (1) A casino operator must provide the Authority with written details of the following matters at least 24 hours (or within such shorter period as the Authority may allow in a particular case) before the proposed time of delivery to the casino of any gaming equipment:
 - (a) the equipment concerned,
 - (b) the method by which the equipment is to be delivered to the casino,
 - (c) the proposed date of its delivery.

Maximum penalty: 50 penalty units.

Clause 36 Casino Control Regulation 2001

Part 5 Miscellaneous

- (2) Subclause (1) applies only in respect of gaming equipment of a kind specified by the Authority by written notice given to the casino operator from time to time.

37 Detention of suspected person for certain offences

For the purposes of section 88 (2) of the Act, the following provisions of the Act are prescribed:

- (a) section 84 (Excluded person not to enter casino),
- (b) section 93 (Minors not to enter casino),
- (c) section 162 (Forgery etc).

38 Divulging of information

For the purposes of section 148 (2) of the Act, the persons and bodies listed in Schedule 7 are prescribed.

39 Evidence of age

Any of the following documents is, for the purposes of the Act, evidence that the person is at least 18 years of age, but only if the document bears a photograph of the person and indicates (by reference to the person's date of birth or otherwise) that the person is of or above that age and only if the document has not expired and otherwise appears to be in force:

- (a) a motor vehicle driver's or rider's licence or permit held by a person, being a licence or permit issued by the Roads and Traffic Authority or by a corresponding public authority of the Commonwealth, of some other State or of a Territory or of some other country,
- (b) a "proof of age" card held by a person, being a card issued by the Roads and Traffic Authority or by a corresponding public authority of the Commonwealth or of some other State or of a Territory,
- (c) a passport held by a person, being a passport issued by the Commonwealth or under the law of some other country.

40 Casino precinct

- (1) For the purposes of section 81 of the Act, the following premises are declared to form part of a casino:
- (a) the Lightning Ridge Bar,

Casino Control Regulation 2001

Clause 40

Miscellaneous

Part 5

- (b) the Star Lounge,
 - (c) Lifesavers.
- (2) In this clause, *the Lightning Ridge Bar*, *the Star Lounge*, and *Lifesavers* mean the premises shown marked as areas of Star City Casino of those names on the plan deposited with the Authority entitled “*Casino Precinct for the purposes of section 81 (4) of the Casino Control Act*” and dated 10 September 1998.

41 Penalty notice offences

- (1) For the purposes of section 168A of the Act:
- (a) each offence created by a provision specified in Column 1 of Part 1 or Column 1 of Part 2 of Schedule 8 is prescribed, and
 - (b) the prescribed amount of penalty for such an offence is the amount specified opposite the offence in Column 4 of Schedule 8.
- (2) For the purposes of section 145A of the *Liquor Act 1982* (as applied by this Regulation and modified to read as set out in Schedule 6):
- (a) each offence created by a provision specified in Column 1 of Part 3 of Schedule 8 is prescribed, and
 - (b) the prescribed amount of penalty for such an offence is the amount specified opposite the offence:
 - (i) in Column 4 of Schedule 8 if the person is not a minor, or
 - (ii) in Column 5 of Schedule 8 if the person is a minor.

42 Short descriptions

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 8 consists of:
- (a) if one or more IPB codes are set out in relation to the offence in Column 3 of Schedule 8, any of those IPB codes together with:
 - (i) the text set out in relation to the offence in Column 2 of Schedule 8, or
 - (ii) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence, or

Clause 42 Casino Control Regulation 2001

Part 5 Miscellaneous

- (b) if no IPB code is set out in relation to the offence in Column 3 of Schedule 8:
 - (i) the text set out in relation to the offence in Column 2 of Schedule 8, or
 - (ii) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 8, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

43 Remedial orders

- (1) For the purposes of section 169A of the Act, offences against section 74 (Credit prohibited) of the Act are prescribed offences.
- (2) For the purposes of section 169A of the Act, offences against the following provisions of this Regulation are prescribed offences:
 - (a) clause 23 (Gambling inducements),
 - (b) clause 24 (Display of information concerning chances of winning prizes on gaming machines),
 - (c) clause 26 (Provision of player information brochures),
 - (d) clause 27 (Provision of player information brochures in community languages),
 - (e) clause 28 (Dangers of gambling—notice to be displayed on gaming machines),
 - (f) clause 29 (Counselling signage—notice to be displayed),
 - (g) clause 30 (ATM signage),
 - (h) clause 31 (Display of clocks),

Casino Control Regulation 2001	Clause 43
Miscellaneous	Part 5

- (i) clause 32 (Payment of prize money by cheque),
- (j) clause 33 (Prohibitions on gambling-related advertising),
- (k) clause 34 (Publicity for prize-winners).

44 Savings provision

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

Casino Control Regulation 2001

Schedule 1 Description of major change in state of affairs of a casino operator

Schedule 1 Description of major change in state of affairs of a casino operator

(Clause 5)

- 1 A change in:
 - (a) the name of the casino operator, or
 - (b) the principal business address of the casino operator.
- 2 A person's ceasing to be a close associate of the casino operator.
- 3 A change in:
 - (a) the information entered in the register of members of the casino operator, or
 - (b) the beneficiaries or unitholders of the trust of the casino operator.
- 4 A change consisting of:
 - (a) the sale or purchase of 5% or more of the paid-up capital of the casino operator, or
 - (b) the acquisition by a person of a beneficial interest in the paid-up capital of the casino operator that results in that person having a beneficial interest in 5% or more of that capital.
- 5 A change in the nominal or paid-up capital of the casino operator.
- 6 A change in the objectives or main activities of the casino operator.
- 7 A change in any direct or indirect financial interest held by the casino operator in any business or enterprise (including the acquisition or disposal of such an interest).
- 8 The casino operator 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 casino operator's behalf.
- 9 The involvement of the casino operator or a member of the board of directors, a trustee or a close associate of the casino operator as a party to:
 - (a) any dispute or event that, in the opinion of the casino operator, is likely to give rise to criminal proceedings, or
 - (b) the commencement, discontinuance or finalisation of criminal proceedings.

Casino Control Regulation 2001

Description of major change in state of affairs of a casino operator

Schedule 1

-
- 10 The creation of a charge in excess of \$500,000 over any real or personal property of the casino operator.
 - 11 An increase or decrease of \$5,000,000 or more in the finance available to the casino operator.
 - 12 The entry into an arrangement under Part 5.1 of the *Corporations Act 2001* of the Commonwealth by the casino operator or a close associate of the casino operator.
 - 13 The entering into possession of, or assumption of control of, property of the casino operator, or a close associate of the casino operator, by a receiver or other controller within the meaning of the *Corporations Act 2001* of the Commonwealth.
 - 14 The commencement of the administration of the casino operator, or a close associate of the casino operator, under Part 5.3A of the *Corporations Act 2001* of the Commonwealth.
 - 15 The ending of the administration of the casino operator, or a close associate of the casino operator, under Part 5.3A of the *Corporations Act 2001* of the Commonwealth.
 - 16 The commencement of the winding up of the casino operator or a close associate of the casino operator.
 - 17 The casino operator's breach of obligations under any contract or arrangement for the provision of a loan or other financial accommodation.
 - 18 A change in constituent documents relating to the casino (such as Articles of Association, trust deed or unitholders agreement).

Casino Control Regulation 2001

Schedule 2 Description of minor change in state of affairs of a casino operator

Schedule 2 Description of minor change in state of affairs of a casino operator

(Clause 6)

- 1 A change in:
 - (a) the postal address of the casino operator, or
 - (b) the telephone number of the casino operator, or
 - (c) the facsimile number of the casino operator.
- 2 The involvement of the casino operator or a member of the board of directors, a trustee or a close associate of the casino operator as a party to:
 - (a) any dispute or event that, in the opinion of the casino operator, is likely to give rise to civil proceedings or to alternative dispute resolution procedures, or
 - (b) the commencement, settlement, discontinuance or finalisation of civil proceedings, or
 - (c) the commencement or finalisation of alternative dispute resolution procedures.
- 3 The commencement, discontinuance or finalisation of criminal proceedings to which a casino employee of the casino operator is a party.
- 4 The repossession of any property of the casino operator.
- 5 An amendment of an assessment relating to the casino operator under the income tax laws of the Commonwealth.
- 6 The casino operator commencing to remunerate a casino employee at a remuneration level of \$150,000 a year or more (whether as salary or remuneration package), and any increase or decrease in the remuneration paid to such an employee.
- 7 The sale of any of the casino operator's assets, if the consideration for the sale exceeds \$250,000 or the asset is valued in the casino operator's books of account at more than \$250,000.

Casino Control Regulation 2001

Change in state of affairs of licensee

Schedule 3

Schedule 3 Change in state of affairs of licensee

(Clause 8)

Column 1	Column 2
Description of change	Prescribed information
1 A change in: <ul style="list-style-type: none"> (a) the name of the licensee, or (b) the principal residential address of the licensee, or (c) the telephone number of the licensee. 	Particulars of those matters as changed.
2 The involvement of the licensee as a party to: <ul style="list-style-type: none"> (a) the commencement, settlement, discontinuance or finalisation of civil proceedings, or (b) the commencement or finalisation of criminal proceedings, or (c) the commencement or finalisation of alternative dispute resolution proceedings. 	Particulars of: <ul style="list-style-type: none"> (a) the nature of the proceedings, and (b) the names and addresses of the other parties to the proceedings, and (c) the date of the commencement, settlement, discontinuance or finalisation of the proceedings, and (d) the terms of the settlement (unless the terms of settlement are prohibited from being disclosed) or the result of the finalisation of the proceedings (including the making of an order under section 10 of the <i>Crimes (Sentencing Procedure) Act 1999</i>).
3 A change consisting of the obtaining of judgment against the licensee.	Particulars giving the terms of the judgment.

Casino Control Regulation 2001

Schedule 3 Change in state of affairs of licensee

Column 1	Column 2
Description of change	Prescribed information
4 The licensee: <ul style="list-style-type: none"> (a) becomes bankrupt, or (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, or (c) compounds with creditors or makes an assignment of remuneration for their benefit, or (d) enters into a compromise or scheme of arrangement with creditors. 	Particulars of: <ul style="list-style-type: none"> (a) the terms, and (b) the date, of the bankruptcy, application, compounding, assignment, compromise or scheme of arrangement.

Casino Control Regulation 2001

Notices in controlled contracts

Schedule 4

Schedule 4 Notices in controlled contracts

(Clause 11)

Notice 1

Casino Control Act 1992

This contract is a controlled contract within the meaning of the *Casino Control Act 1992 (the Act)*.

Parties to this contract may be required to provide information to the Casino Control Authority (*the Authority*).

This contract may be terminated in certain circumstances.

A party to this contract may be served with a notice in writing by the Authority affording the party an opportunity to show cause within 14 days why the contract should not be terminated on the grounds that, for reasons specified in the notice, it is not in the public interest for the contract to remain in force.

A party served with a notice may, within the period of 14 days specified in the notice, arrange with the Authority for the making of submissions as to why the contract should not be terminated.

After considering any submissions so made, the Authority may, by notice in writing served on each party to the contract, require the contract to be terminated within a time specified in the notice.

If the contract is not terminated as required by the notice it is terminated by the operation of section 39 of the Act.

If the contract is terminated in accordance with Division 2 of Part 3 (sections 36–42) of the Act:

- (a) the termination does not affect a right acquired, or a liability incurred, before that termination by a person who was a party to the contract, as a result of the performance before that termination of any obligation imposed by the contract, and
- (b) no liability for breach of contract is incurred by a person who was a party to the contract by reason only of that termination, and
- (c) neither the Crown nor the Authority incurs any liability by reason of that termination.

Casino Control Regulation 2001

Schedule 4 Notices in controlled contracts

A party to a contract terminated in accordance with Division 2 of Part 3 of the Act commits an offence under section 41 of the Act and is liable to a penalty not exceeding 100 penalty units if the party gives any further effect to any part of the contract.

Notice 2**Casino Control Act 1992**

The contract to which this variation of contract relates is a controlled contract within the meaning of the *Casino Control Act 1992 (the Act)*.

Parties to the contract may be required to provide information to the Casino Control Authority (*the Authority*).

The contract may be terminated in certain circumstances.

A party to the contract may be served with a notice in writing by the Authority affording the party an opportunity to show cause within 14 days why the contract should not be terminated on the grounds that, for reasons specified in the notice, it is not in the public interest for the contract to remain in force.

A party served with a notice may, within the period of 14 days specified in the notice, arrange with the Authority for the making of submissions as to why the contract should not be terminated.

After considering any submissions so made, the Authority may, by notice in writing served on each party to the contract, require the contract to be terminated within a time specified in the notice.

If the contract is not terminated as required by the notice it is terminated by the operation of section 39 of the Act.

If the contract is terminated in accordance with Division 2 of Part 3 (sections 36–42) of the Act:

- (a) the termination does not affect a right acquired, or a liability incurred, before that termination by a person who was a party to the contract, as a result of the performance before that termination of any obligation imposed by the contract, and
- (b) no liability for breach of contract is incurred by a person who was a party to the contract by reason only of that termination, and
- (c) neither the Crown nor the Authority incurs any liability by reason of that termination.

Casino Control Regulation 2001

Notices in controlled contracts

Schedule 4

A party to a contract terminated in accordance with Division 2 of Part 3 of the Act commits an offence under section 41 of the Act and is liable to a penalty not exceeding 100 penalty units if the party gives any further effect to any part of the contract.

Casino Control Regulation 2001

Schedule 5 Application of Liquor Act 1982 to casino

Schedule 5 Application of Liquor Act 1982 to casino

(Clause 35)

Part 1 Provisions of Liquor Act 1982 applying to licensed premises

Sections 2A, 3, 4, 4B, 6, 6B, 12, 18, 20, 36, 69B, 69C, 69D, 69E, 69F, 69G, 69H, 91, 97, 101, 103, 104, 104E, 110, 110A, 111, 113, 114, 115, 116, 116A, 116B, 116C, 116D, 117A, 117B, 117E, 117EB, 117EC, 117ED, 117G, 117I, 121, 122, 123, 125, 125E, 129, 131, 132, 135, 139, 140, 141, 142A, 143, 144, 145, 145A, 152, 152A, 154A, 155, Schedule 1.

Part 2 Additional provisions of Liquor Act 1982 applying to casino premises

Sections 4A, 19A, 21, 23, 23AD, 23AE, 37, 38, 40, 41, 42, 42A, 42B, 42C, 42D, 47, 47A, 48, 53, 55, 55A, 56, 58, 60, 61, 61A, 62A, 66, 66A, 67, 68, 68A, 69, 71, 71A, 76, 76A, 90, 104A, 112, 119, 125A, 126, 142, 151B.

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

Schedule 6 Applied provisions of Liquor Act 1982 as modified

(Clause 35)

Part 1 Preliminary

2A Harm minimisation is a primary object of Act

A primary object of this Act is harm minimisation, that is, the minimisation of harm associated with misuse and abuse of liquor (such as harm arising from violence and other anti-social behaviour). The Authority, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for harm minimisation when exercising functions under this Act.

3 Savings and transitional provisions

Schedule 1 has effect.

4 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

application includes an application for a conditional grant of the application.

authorised deposit-taking institution or *ADI* means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* of the Commonwealth.

Authority means the New South Wales Casino Control Authority constituted under the *Casino Control Act 1992*.

beer means liquor which is beer, ale, lager, pilsener, porter, stout or any other fermented malt liquor or any fermented liquor made from hops or that for the purposes of sale is held out to be beer.

brewer means a person who, for the purposes of sale, makes beer.

casino has the same meaning as in the *Casino Control Act 1992*.

casino environs means premises the subject of an order under section 89 (3) of the *Casino Control Act 1992*.

Casino Control Regulation 2001

Schedule 6 Applied provisions of Liquor Act 1982 as modified

conditional application means an application that may only be granted conditionally.

court means a Local Court established under the *Local Courts Act 1982*.

dine-or-drink authority means an authority referred to in section 23AD.

dining room, in relation to licensed premises, means a part of the licensed premises used permanently and primarily for the consumption at tables of meals served otherwise than by self-service.

employee includes a person engaged under a contract for services.

entertainment means entertainment provided by a person or persons physically present and actually providing the entertainment.

inspector means an inspector appointed under section 106 of the *Casino Control Act 1992*.

licence means a licence in force under section 18.

licensed premises means the premises or part of the premises in the casino or casino environs on which the sale of liquor is authorised by a licence.

liquor includes:

- (a) a beverage which, at 20°Celsius, contains more than 1.15 per cent ethanol by volume, and
- (b) anything that is not a beverage referred to in paragraph (a) but, for the purposes of sale, is held out to be beer or spirits.

local liquor accord means any code of practice, memorandum of understanding or other arrangement:

- (a) that affects the supply of liquor, the opening and closing of licensed premises or other aspects of the management of or conduct of business on licensed premises, and
- (b) that is entered into in writing between two or more persons licensed under this Act or under the *Liquor Act 1982* (or between one or several such persons and one or several clubs registered under the *Registered Clubs Act 1976*), with the approval of the Commissioner of Police or a delegate of the Commissioner, for the purpose of eliminating or reducing alcohol-related violence or anti-social behaviour or other alcohol-related harm.

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

low alcohol liquor means each of the following:

- (a) undiluted and unadulterated liquor (other than wine of the grape) which, at 20°Celsius, contains 3.5 per cent or less ethanol by volume,
- (b) undiluted and unadulterated wine of the grape which, at 20°Celsius, contains 6.5 per cent or less ethanol by volume.

manager or ***manager of licensed premises*** means a person appointed under Division 8A of Part 3 to manage licensed premises.

meal means a genuine meal partaken of by a person seated at a table.

minor means a person who has not attained the age of 18 years.

nightclub means premises in which liquor is sold with or as ancillary to entertainment.

owner, in relation to premises, means the person entitled to the rents or profits of the premises.

proof of age card means a document:

- (a) issued by the Roads and Traffic Authority under section 117EA of the *Liquor Act 1982*, or
- (b) issued by a public authority of the Commonwealth, or of another State or Territory, for the purpose of attesting to the identity and age of the holder.

record includes any book, account, document, paper or other source of information compiled, recorded or stored in written form or on microfilm, or by electronic process, or in any other manner or by any other means.

refreshments does not include liquor.

responsible adult, in relation to a minor, means any person who is of or above the age of 18 years and who belongs to one or more of the following classes of persons:

- (a) a parent, step-parent or guardian of the minor,
- (b) the minor's spouse or any person who, although not legally married to the minor, ordinarily lives with the minor as the minor's spouse on a permanent and domestic basis,
- (c) a person who is, for the time being, in loco parentis to the minor.

Casino Control Regulation 2001

Schedule 6 Applied provisions of Liquor Act 1982 as modified

restaurant means premises that are licensed to sell liquor, with or as ancillary to a meal, for consumption at a table on the premises (including such premises the licence relating to which is subsequently endorsed with a dine-or-drink authority), but does not include premises that are licensed to be used as a nightclub.

restaurant restricted period, in relation to licensed premises to which a dine-or-drink authority relates, means a period, commencing no earlier than 10 pm on a day and ending no later than 6 am on the following day, during which the licensee is authorised to sell or supply liquor at the premises whether or not with or as ancillary to a meal.

restricted area means a part of licensed premises (being a part not operated by a casino operator) in which liquor is ordinarily sold or supplied for consumption on the premises, not being:

- (a) a restaurant, or
- (b) a part of the licensed premises in respect of which an authorisation under section 112 is in force whenever it operates to authorise the use by a minor of that part, or
- (c) a part of the premises in which liquor is sold or supplied exclusively to lodgers or inmates or both.

seated eating position means a seated eating position within the meaning of section 23AD.

sell includes any of the following:

- (a) barter or exchange,
- (b) offer, agree or attempt to sell,
- (c) expose, send, forward or deliver for sale,
- (d) cause or permit to be sold or offered for sale.

supply includes dispose of and deliver.

wine includes cider, perry and mead.

- (2) A requirement under this Act to produce a record is, if the record is not written or not written in the English language, a requirement to produce a statement, written in the English language, setting forth such of the particulars in the record as are not written or are not written in the English language.
- (3) In this Act, a reference to the exercise of a function includes a reference to the exercise or performance of a power, authority or duty.

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

4A Meaning of “close associate”

(1) For the purposes of this Act, a person is a *close associate* of a licensee or an applicant for a licence if the person:

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the licensee or applicant that is or will be carried on under the authority of the licence, and by virtue of that interest or power is or will be able (in the opinion of the Authority) to exercise a significant influence over or with respect to the management or operation of that business, or
- (b) holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the business of the licensee or applicant that is or will be carried on under the authority of the licence.

(2) In this section:

relevant financial interest, in relation to a business, means:

- (a) any share in the capital of the business, or
- (b) any entitlement to receive any income derived from the business, or to receive any other financial benefit or financial advantage from the carrying on of the business, whether the entitlement arises at law or in equity or otherwise, or
- (c) any entitlement to receive any rent, profit or other income in connection with the use or occupation of premises on which the business is or is to be carried on (for example, an entitlement of the owner of licensed premises to receive rent as lessor of the premises).

relevant position means:

- (a) the position of director, manager or secretary, or
- (b) any other position, however designated, if it is an executive position.

relevant power means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others:

- (a) to participate in any directorial, managerial or executive decision, or
- (b) to elect or appoint any person to any relevant position.

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Schedule 6 Applied provisions of Liquor Act 1982 as modified

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- (3) An authorised deposit-taking institution is not a close associate within the meaning of this section by reason only of having a relevant financial interest in relation to a business.

4B Corporate licences—interpretation

A reference in this Act to a position of authority in a body corporate is a reference to the position of chief executive officer, director or secretary of the body corporate.

6 Application of Act

Nothing in this Act applies to or in respect of the sale of any of the following:

- (a) spirituous or distilled perfume if the sale is as perfumery only and not for drinking,
- (b) liquor if the sale is for medicinal purposes only and is made by a registered medical practitioner or a pharmacist registered under the *Pharmacy Act 1964*,
- (c) liquor taken in execution or under similar process, or forfeited to the Crown, if the sale is by the sheriff or a sheriff's officer, or a bailiff or a police officer,
- (d) liquor if the sale is authorised by a law of the Commonwealth for the export of the liquor from the Commonwealth,
- (e) liquor if:
 - (i) the sale is made by a person other than a licensee as part of a sale of flowers or food designed to be delivered as a gift to a person (not being the purchaser) specified by the purchaser, and
 - (ii) the liquor is delivered together with the flowers or food to the person so specified, and
 - (iii) the volume of liquor supplied in respect of each gift delivered by the vendor does not exceed 2 litres.

6B Delegations

- (1) The Commissioner of Police may delegate to a person any function conferred or imposed on the Commissioner by this Act, other than this power of delegation.

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- (2) The person to whom a function has been delegated by the Commissioner of Police under this section may delegate the function to another person, subject to any conditions to which the delegation by the Commissioner is subject.
 - (3) The Authority may delegate to a person any function conferred or imposed on the Authority by this Act, other than this power of delegation.

12 Procedure before the Authority

- (1) In any matter before it, the Authority is not bound by the rules of evidence or natural justice and may inform itself on any matter in such manner as it sees fit.
- (2) The Authority may consider and determine a matter in the absence of the public if the Authority thinks it appropriate.

Part 3 Licence

Division 1 Class of licence

18 Authority may grant licence

The Authority may grant a licence authorising the licensee to sell or supply liquor by retail on the premises specified in the licence (being premises forming part of the casino or casino environs), but only for consumption on those premises.

Division 2 Duration and conditions of licence

19A Duration of licence

- (1) A licence remains in force until its surrender in writing is accepted by the Authority, except as provided by this section.
- (2) A licence ceases to be in force:
 - (a) for the duration of the period of suspension, if it is suspended, or
 - (b) permanently, if it is cancelled.

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Schedule 6 Applied provisions of Liquor Act 1982 as modified

20 Conditions of licence

- (1) The Authority may:
 - (a) in granting a licence, or
 - (b) at any other time, of its own motion or on the application of the licensee,

impose conditions not inconsistent with this Act without prior compliance with which the grant does not take effect or to which the licence is to be subject.
- (2) A licence is subject to any conditions imposed under subsection (1), whether or not any such condition is endorsed on the licence.
- (3) Without limiting this section, a condition can be imposed under this section that prohibits or restricts activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).
- (4) Without limiting this section, a condition can be imposed under this section that authorises or requires a licensee, in specified circumstances:
 - (a) to cease to serve liquor at the licensed premises, or
 - (b) to restrict access to the licensed premises in a manner and to the extent provided by the condition,

or both, from a time of day that is earlier than the time at which, as otherwise required by the licence, trading must cease.
- (5) The Authority may, at any time:
 - (a) on the application of the licensee, or
 - (b) of its own motion,

vary or revoke a condition of a licence imposed by it.
- (6) The Authority must, before imposing, varying or revoking any condition:
 - (a) give the licensee details of any proposed condition, variation or revocation and allow the licensee 14 days in which to make submissions in respect of the proposal, and
 - (b) consider any submissions made by the licensee, and
 - (c) notify the licensee of its decision, which takes effect when written notice of the decision is given to the licensee, or on such later date as may be specified in the notice.

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21 Licence—miscellaneous conditions

The premises to which a licence relates (except a part of the premises in which liquor is being sold or supplied with or as ancillary to a meal served on the premises or in which meals or substantial refreshments are available with or without charge) must not be open at any time for the sale or supply of liquor for consumption on the premises unless, in the casino or the casino environs, at least a light meal is available, with or without charge, for consumption by persons to whom liquor is sold or supplied.

23 Primary purpose of licensed premises relating to a restaurant

Where the premises to which a licence relates are a restaurant, the primary purpose of the licensed premises is, for the purposes of this Act, to be a restaurant, and accordingly the premises must at all times be operated consistently with this primary purpose, whether or not the licence is endorsed with a dine-or-drink authority.

23AD Restaurant licence—dine-or-drink authority

- (1) The Authority may grant an application for a licence relating to a restaurant to be endorsed with an authority (referred to in this Act as a *dine-or-drink authority*) relating to the sale, supply and consumption of liquor at the restaurant.
- (2) A dine-or-drink authority authorises liquor to be sold or supplied in the restaurant for consumption, otherwise than with or as ancillary to a meal consumed at a table in the restaurant, at no more than 30 per cent of the seated eating positions available in the restaurant at any time.
- (3) The authorisation conferred by a dine-or-drink authority is subject to such conditions as are imposed by this Act and to such conditions as are imposed by the Authority at the time of grant of the application for the authority.
- (4) The Authority may, on its own motion or on the application of the licensee or the Commissioner of Police:
 - (a) revoke a dine-or-drink authority, or
 - (b) impose any further condition to which the authority is to be subject, or
 - (c) revoke or vary any condition imposed by the Authority under this section (whether or not previously varied under this section).

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- (5) A dine-or-drink authority is in force only while all the conditions to which it is subject are being complied with.
- (6) Conditions may (without limitation) do any or all of the following:
- (a) reduce the percentage referred to in subsection (2),
 - (b) specify the maximum number of seated eating positions that are to be available for the consumption of liquor as referred to in that subsection,
 - (c) prohibit advertising of the restaurant that is inconsistent with the primary purpose of the premises, as referred to in section 23,
 - (d) prohibit entertainment in the restaurant that is inconsistent with that primary purpose (including, for example, entertainment in the nature of pool tables or amusement devices).
- (7) The Authority may, on its own motion or on the application of the licensee or the Commissioner of Police, revoke or vary any conditions of the kind referred to in subsection (6) (a) or (b), other than conditions imposed by this Act.
- (8) **Condition—maximum number of patrons**
It is a condition of a dine-or-drink authority that the maximum number of patrons permitted on licensed premises to which the authority relates must not exceed the number of available seated eating positions on those premises.
- (9) **Condition—records of food and liquor sales**
It is a condition of a dine-or-drink authority that:
- (a) the licensee maintains proper and accurate records that show the total monthly liquor sales and the total monthly food sales for the restaurant to which the authority relates, and
 - (b) such records are made available for inspection on request by an inspector or police officer at any reasonable time.
- (10) **Condition—advertising of restaurant**
It is a condition of a dine-or-drink authority that the licensee must not advertise the restaurant to which the authority relates in a manner that is inconsistent with the primary purpose of the licensed premises, as referred to in section 23 (including, for example, advertising the restaurant only as a drinking bar or as other such premises that have as their primary purpose the sale of liquor).

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- (11) **Condition—increase in seated eating positions**
It is a condition of a dine-or-drink authority authorising 100 or fewer seated eating positions that the number of seated eating positions at the restaurant to which the authority relates may exceed 100 only if:
- (a) the increase in seated eating positions is approved by the Authority, and
 - (b) the difference between:
 - (i) the prescribed fee paid for the dine-or-drink authority under section 56 (2), and
 - (ii) the prescribed fee applicable to a dine-or-drink authority authorising over 100 seated eating positions,has been paid.
- (12) **Condition—display of notice advising public of dine-or-drink authority**
It is a condition of a dine-or-drink authority that:
- (a) a notice is to be displayed, at or near the main public entrance to the restaurant to which the Authority relates, that clearly indicates that the restaurant is a dine-or-drink venue, and that clearly states the percentage of seated eating positions available for diners under the authority (for example, “Dine-or-drink—This licensed restaurant serves diners and drinkers, with 70% of seats reserved for diners.”), and
 - (b) the wording in the notice is legible and prominent, and
 - (c) the notice is displayed in such a manner that it would be reasonable to expect that a person entering the restaurant would reasonably be expected to be alerted to the contents of the notice.
- (13) In this section, a reference to a seated eating position is a reference to a seated position at a table, being a position at which a meal can reasonably and comfortably be consumed.
- (14) In this section, a *licensee* means the holder of a licence relating to a restaurant, being a licence that is endorsed with a dine-or-drink authority.

23AE Restaurant licence—consumption of liquor away from table

- (1) Nothing in this Act is to be construed as preventing a person in a restaurant to which a licence relates from consuming liquor away from a table in the restaurant, or from standing while consuming liquor, so long as there is a seat for the person at a table.

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- (2) Subsection (1) has effect subject to any conditions to which the licence is subject.

Division 4 Application for licence**36 Restrictions on liquor licence application**

An application for a licence may be made by a body corporate only.

37 Making of application

- (1) An application under this Act must be:
- (a) made in a form approved by the Authority, and
 - (b) lodged with the Authority in triplicate, and
 - (c) except in the case of an application for transfer of a licence, accompanied by such information as the Authority requests in relation to the proposed operation of the licensed premises, and
 - (d) except in the case of an application for transfer of a licence, accompanied by 3 copies of a plan, properly drawn to scale, of the premises in respect of which the application is made, and
 - (e) accompanied by evidence of the consent of the casino operator to the making of the application.
- (2) An application must be accompanied by \$500 and, if the application is granted, the fee specified in section 56 (if applicable) is reduced by that amount.
- (3) Where, before an application for a licence or transfer of a licence is disposed of, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection) or in the documents lodged with the application, the applicant must forthwith give the Authority a notice in writing specifying particulars of the change.
- Maximum penalty: 20 penalty units.
- (4) For the purposes of subsection (3), an application is disposed of when the application is granted or refused.

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38 Statutory declaration as to interested persons

- (1) An application:
 - (a) for a licence, or
 - (b) for transfer of a licence under section 42,must be accompanied by the statutory declaration referred to in subsection (2).
- (2) The statutory declaration specified in this subsection is a statutory declaration by a person having knowledge of the facts stating:
 - (a) that the person has made all reasonable inquiries to ascertain the information required to complete the statutory declaration, and
 - (b) whether there are any persons (other than authorised deposit-taking institutions) who will be interested in the business, or the profits of the business, carried on under the licence, and
 - (c) if there are any such persons, their names and dates of birth and, in the case of a proprietary company, the names of the directors and shareholders.
- (3) For the purposes of subsection (2), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive or does receive:
 - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
 - (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.

40 Application for conditional grant

- (1) An application for a licence may be made as a conditional application if the premises to which the licence will relate are premises proposed to be erected, or premises proposed to be added to or altered, in accordance with an approved plan lodged with the application or are premises already erected in respect of which there is lodged with the application any consent required under another Act for the proposed use, or proposed change of use, of the premises.

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- (2) Upon such terms as the Authority thinks fit, the Authority may consider and determine an application to amend a conditional grant.
 - (3) Before granting a conditional application, the Authority may require to be lodged with the Authority a further approved plan that shows an amendment required by the Authority to be made to the approved plan or plans previously lodged in relation to the application.
 - (4) In this section:
approved plan, in relation to proposed licensed premises, or a proposed addition to or alteration of licensed premises, means a plan of the proposed premises, or of the proposed addition or alteration, that is accompanied by any development consent required under the *Environmental Planning and Assessment Act 1979* for the carrying out of the work represented by the plan, or evidence that such consent is not required.

41 Application for transfer of licence

- (1) Application for transfer of a licence may be made by the licensee and the proposed transferee.
- (2) An application must be accompanied by the statutory declaration referred to in section 38 (2) (if applicable).

42 Application on dispossession of licensee

- (1) This section applies where a licence is current and:
 - (a) the licensee is evicted from the licensed premises, or
 - (b) to the exclusion of the licensee, the owner of the licensed premises comes into, or becomes entitled to, possession of the licensed premises.
- (2) Where this section applies, an application for a transfer of the licence may be made:
 - (a) where the licensed premises are the subject of a contract with the owner of the premises pursuant to which the licence is exercised—by the owner of the premises or by a casino operator, or
 - (b) in any other case—by a person directly or indirectly interested in the exercise of the licence.

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- (3) The owner of licensed premises, a casino operator or a person interested directly or indirectly in the exercise of the licence, who comes into possession of the premises is to be taken to be the licensee of the premises until:
- (a) the day that is 28 days after this section becomes applicable, or
 - (b) the day on which an application is made under subsection (2), whichever first occurs.
- (4) Where an application is made under subsection (2) not later than 28 days after this section becomes applicable, the applicant is, until the application is considered and determined or otherwise disposed of, taken to be the licensee under the licence to which the application relates.
- (5) The Authority may not determine an application for transfer of a licence under this section unless, in the absence of special circumstances, it is satisfied:
- (a) that notice of the application was given to the dispossessed licensee at least 3 clear days before the consideration of the application, or
 - (b) that all reasonable steps necessary for giving notice in accordance with paragraph (a) were taken by or on behalf of the applicant and that failure to give the notice was not due to any neglect or default of the applicant or of any person employed by the applicant for the purpose of giving notice.

42A Fee for application for transfer of licence

An application for a transfer of a licence under section 41 or 42 must be accompanied by a fee of \$250.

Division 4A Investigation of application

42B Authority to investigate certain applications

The Authority is to investigate:

- (a) each application to the Authority for a licence, or for the transfer of a licence, that is lodged with the Authority under this Act, and
- (b) any changes of which the Authority is notified under section 37 in relation to such an application.

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42C Investigations by Authority

- (1) The Authority must refer to the Commissioner of Police details of the applicant together with any supporting information in relation to the applicant that the Authority considers to be appropriate for referral to the Commissioner.
- (2) The Commissioner of Police is to inquire into, and report to the Authority on, such matters concerning the applicant as the Authority may request.
- (3) An application is to proceed to be dealt with even if any investigation, inquiry or report under this section in relation to the applicant has not been completed within 6 months after the application was lodged.

42D Authority may require further information

- (1) The Authority may by notice in writing require a person making an application for a licence or for the transfer of a licence, or a close associate of any such person, to do one or more of the following:
 - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation of the application and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as are relevant to the investigation of the application and permit examination of the records, the taking of extracts from them and the making of copies of them,
 - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
 - (d) furnish to the Authority such authorities and consents as the Authority requires for the purpose of enabling the Authority to obtain information (including financial and other confidential information) from other persons concerning the person and his or her associates.
- (2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.
- (3) The Authority may refuse to consider and determine an application if a requirement made under this section in relation to the application is not complied with.

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Division 5 Objections to application

47 Grant of application is discretionary

- (1) The Authority has a discretion to grant an application.
- (2) The Authority may refuse an application if it determines, after subsection (3) has been complied with:
 - (a) that the applicant is not a suitable person to be the holder of a licence, or
 - (b) that a person who is, was or will be a close associate of the applicant is not a suitable person to be a close associate of the holder of a licence, or
 - (c) in the case of an application for the grant of a licence—that a person who occupies a position of authority in the body corporate that is the applicant is not a suitable person to occupy such a position in a body that is to be the holder of a licence.
- (3) A determination under subsection (2) may not be made unless:
 - (a) the applicant has been made aware of reasons for the possibility of such a determination, and
 - (b) the applicant has been given an opportunity to make submissions, and to bring to the attention of the Authority any matter related to those reasons that the applicant thinks fit.

47A Refusal of application—responsible service standards

The Authority is to refuse an application for a licence unless satisfied that practices will be in place at the licensed premises as soon as the licence is granted that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place.

Division 6 Grant of application

48 Application of Division

- (1) Subject to sections 58 and 60, the provisions of this Division apply to and in respect of the conditional grant of an application in the same way as they apply to and in respect of the unconditional grant of an application of the same kind.

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- (2) The requirements of this Division relating to premises apply to and in respect of a conditional application as if the premises to which the conditional application relates had been erected or, as the case may be, added to or altered, in accordance with the plans upon which the application is based.

53 Grounds on which dine-or-drink authority may be granted

An application for the endorsement of a licence relating to a restaurant with a dine-or-drink authority must not be granted unless the Authority is satisfied that:

- (a) the granting of the application would not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises to which the application relates, and
- (b) practices are or will be in place and will remain in place at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
- (c) the licensed premises will at all relevant times be operated consistently with the primary purpose of the premises, as referred to in section 23, and
- (d) the licensed premises have the appropriate facilities for a restaurant, including facilities to support that primary purpose and facilities for the sale, supply and consumption of liquor, and
- (e) practices are or will be in place and will remain in place at the licensed premises that ensure that no more than 30 per cent of the seated eating positions available in the restaurant will be allocated to persons not dining at the premises.

55 Issue of licence

- (1) Where the Authority grants an application for a licence, the licence must not be issued unless the fee specified in section 56 is paid to the Authority and any condition without prior compliance with which the grant does not have effect has been complied with.
- (2) A grant of a licence does not have effect while the issue of the licence is prohibited by subsection (1).

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- (3) A grant of a licence is cancelled after 3 months if the fee specified in section 56 has not been paid.
 - (4) This section has effect subject to section 55A.

55A Issue of licence on instalment plan

- (1) This section applies to a licence other than a licence that authorises the use of the licensed premises as a restaurant.
- (2) The licence:
 - (a) must not be issued if one-quarter of the fee prescribed by section 56 has not been paid within 3 months after the licence is granted, and
 - (b) must not be issued until one-quarter of that fee has been paid, and
 - (c) is automatically cancelled on the first anniversary of its grant if any part of that fee remains unpaid at that date.
- (3) If the licence is cancelled under subsection (2) (c), amounts paid toward the fee for the licence are not refundable to the applicant.

56 Fee for grant of licence and associated matters

- (1) The fee for the granting of a licence is:
 - (a) in the case of a licence that authorises the licensed premises to be used as a restaurant only—\$500, or
 - (b) in the case of a licence that authorises the licensed premises to be used as a nightclub only—\$60,000, or
 - (c) in any other case—\$15,000.
- (2) The following provisions have effect with respect to dine-or-drink authorities:
 - (a) The authority:
 - (i) must not be issued if one-quarter of the prescribed fee has not been paid within 3 months after the authority is granted, and
 - (ii) must not be issued until one-quarter of the prescribed fee has been paid, and
 - (iii) does not take effect until the authority has been endorsed on the licence concerned by the Authority, and

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- (iv) is automatically cancelled on the first anniversary of its grant if any part of the fee for the authority remains unpaid at that date.
 - (b) If the authority is cancelled under paragraph (a) (iv), amounts paid toward the prescribed fee are not refundable to the applicant.
 - (c) The prescribed fee is:
 - (i) where the licensed premises have over 100 seated eating positions—\$15,000, or
 - (ii) where the licensed premises have 100 or fewer seated eating positions—\$10,000.

58 Duration of conditional grant

If an application is conditionally granted under section 40, the grant has effect only while an approval or consent required by another Act for the use, erection, addition or alteration to which the grant relates has effect.

60 Final grant of application

- (1) The Authority may, on application, make a final grant of an application conditionally granted under section 40.
- (2) The Authority must not make a final grant of an application to erect, add to, or alter, premises unless the applicant for the final grant produces evidence by which the Authority is satisfied that the work of erection, addition or alteration has been completed substantially in accordance with the approved plan on the basis of which the conditional application was granted.
- (3) An application for a final grant of a conditional application may not be made if the applicant has any knowledge of proceedings instituted in any court as a result of which, if determined at the time of the making of the application, the Authority might be precluded from finally granting the application.

61 Grant of transfer of licence

- (1) Subject to this section, the Authority may grant an application under section 41 or 42 for the transfer of a licence to a person approved by it who would be entitled to apply for the same kind of licence in relation to the licensed premises.

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- (2) Where the Authority is satisfied on the information before it that there is nothing that might preclude it from granting an application under section 41 or 42, the Authority may, at the request of the transferee and with the written consent of the transferor, make a provisional grant of the application.
 - (3) A provisional grant of an application for the transfer of a licence ceases to have effect (unless the provisional grant is confirmed by the Authority beforehand):
 - (a) on the expiration of a period specified by the Authority when provisionally granting the application together with such additional periods as the Authority thinks fit to allow upon application made before expiration of the period sought to be extended, or
 - (b) on the lodging of an application by the transferor for a transfer of the licence to a different transferee,whichever first occurs.
 - (4) Subject to subsection (3), a provisional grant of an application has the same effect as a grant of the application under subsection (1).
 - (5) If a provisional grant of an application for the transfer of a licence ceases to have effect because of the operation of subsection (3), the Authority may make such orders in relation to the licence as it considers appropriate in the circumstances, including any of the following orders:
 - (a) an order that the licence is to revert to the transferor,
 - (b) an order treating a person (with the person's consent) as licensee until a transfer of the licence is effected,
 - (c) an order that the licence not be exercised until specified conditions are met or the Authority orders otherwise.
 - (6) A transfer of a licence has effect as if the licence had been granted to the transferee.

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61A Refusal of application for transfer of licence—responsible service standards

The Authority is to refuse an application for the transfer of a licence unless satisfied:

- (a) that practices will be in place at the licensed premises of the transferee as soon as the licence is transferred that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
- (b) that those practices will remain in place.

62A Consideration of investigations before application may be granted

- (1) An application for a licence, or for the transfer of a licence, must not be granted by the Authority unless the Authority has considered any investigations and inquiries carried out, or reports received, under Division 4A.
- (2) However, the Authority may consider and determine such an application if any investigation, inquiry or report under that Division has not been completed or received by the Authority within 3 months after the application was lodged.

Division 8 Disciplinary provisions**66 Interpretation**

- (1) For the purposes of this Division, a reference to a conviction for an offence against this Act does not include a reference to a conviction for an offence under section 91.
- (2) In this Division, a reference to a licensee includes a reference to a former licensee and a reference to a manager includes a reference to a former manager.

66A Authority may investigate licensee and others

- (1) The Authority may at any time carry out all such investigations and inquiries as are considered by the Authority to be necessary in order to ascertain whether a complaint should be made against a licensee, manager or close associate under section 67.

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- (2) The Commissioner of Police is to inquire into, and report to the Authority on, such matters as the Authority may request concerning the licensee, manager or close associate to whom the complaint, if made, would relate.
 - (3) The Authority may, by notice in writing, require a licensee, a manager or a close associate who is the subject of an investigation under this section, or a close associate of such a licensee or manager, to do one or more of the following things:
 - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
 - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
 - (d) furnish to the Authority such authorities and consents as the Authority requires for the purpose of enabling the Authority to obtain information (including financial and other confidential information) from other persons concerning the person under investigation and his or her associates.
 - (4) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

67 Notice to show cause against taking of disciplinary action

- (1) A complaint in relation to a licensee or manager is an authorised complaint for the purposes of this section if it is made in writing by any of the following:
 - (a) the owner of the licensed premises,
 - (b) a person authorised in writing by 3 or more persons residing in the vicinity of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents,
 - (c) the Commissioner of Police,
 - (d) a person authorised by the local consent authority for the licensed premises,

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- (e) a person authorised by:
- (i) an industrial organisation of employees registered under the *Industrial Relations Act 1996*, or
 - (ii) an association of employees registered under the *Workplace Relations Act 1996* of the Commonwealth, as from time to time in force,
- (f) an inspector,
- (g) a casino operator,
- and specifies as its grounds one or more of the grounds specified in section 68.
- (2) A complaint in relation to a licensee is an authorised complaint for the purposes of this section if:
- (a) it is made in writing by a person authorised to do so by the relevant local consent authority referred to in subsection (1) (d), and
 - (b) it specifies, as the ground on which it is made, that the licensed premises are being opened for business even though the owner of the licensed premises has failed to comply with a direction or order of the local consent authority to carry out specified work on or in relation to the licensed premises.
- (3) A complaint in relation to a person who is a close associate of a licensee is an authorised complaint for the purposes of this section if it is made in writing by the Commissioner of Police or an inspector and specifies as its grounds one or more of the grounds specified in section 68 (2).
- (4) A complaint under subsection (3) can be made in conjunction with a complaint in relation to the licensee on the ground specified in section 68 (1) (j) or on any other ground and those complaints can be considered and determined together.
- (5) Upon the making of an authorised complaint, the Authority may give notice of the complaint to the licensee, manager or person to whom the complaint relates and allow him or her to make submissions as to why disciplinary action should not be taken against him or her in accordance with this Act.

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- (6) A notice under subsection (5):
- (a) must specify the grounds of the complaint on which it is issued, and
 - (b) where a ground of complaint is the ground referred to in section 68 (1) (e), (i), (k) or (n) or (2) (a)—must specify the reasons given by the complainant for making the complaint on that ground, and
 - (c) must be served on the person the subject of the complaint and, if that person is not the licensee, on the licensee personally or by post, not less than 14 days before the day appointed for the consideration of the complaint.
- (7) Where a complaint is made under this section, a copy of the complaint must be served by post:
- (a) where the licensee occupies the licensed premises under a contract—on the party to the contract granting the right of occupation, and
 - (b) on each person named:
 - (i) in the statutory declaration referred to in section 38 (2) that accompanied the application for the licence, or
 - (ii) if a statutory declaration accompanied an application for transfer of the licence as referred to in section 41 (2) or has been produced to the Authority under section 101 (2)—in the later or latest of those statutory declarations, and
 - (c) if the complaint is against a licensee on the ground that a person named in the complaint is a close associate of the licensee and is not a suitable person to be a close associate of a licensee—on that person, and
 - (d) the casino operator,
- and each person served with a copy of the complaint may make submissions to the Authority within 14 days of being so served as to why the disciplinary action should not be taken.
- (8) Notwithstanding the other provisions of this section, a licensee who fails to comply with a condition of the licence is guilty of an offence against this Act but the same failure to comply with a condition of a licence may not be the subject both of proceedings under this subsection and an authorised complaint on the ground referred to in section 68 (1) (a) or (b).
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68 Grounds for complaint

- (1) The grounds upon which a complaint may be made under section 67 (1) in relation to a licensee or a manager of licensed premises are as follows:
- (a) that the licensee or manager has, while holding a licence or managing licensed premises, been convicted:
 - (i) of an offence specified in the complaint (other than an offence against this Act) for which he or she has been sentenced to imprisonment, or
 - (ii) of an offence against this Act so specified,
 - (b) that the licensee or manager has been guilty of a breach of a condition of the licence concerned,
 - (c) that the licensee or manager has failed to comply with a direction or order of the Authority given or made under this Act and specified in the complaint,
 - (d) that a requirement of the Authority made under this Act in relation to the investigation of the licensee or manager and specified in the complaint has not been complied with,
 - (e) that the continuation of the licence is not in the public interest,
 - (f) that the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
 - (g) that intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises,
 - (h) that acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises,
 - (i) that the licensee is not a suitable person to be the holder of a licence or the manager is not a suitable person to be the manager of the licensed premises,
 - (j) that a person named in the complaint is a close associate of the licensee and is not a suitable person to be a close associate of a licensee,
 - (k) that a person named in one of the following statutory declarations made in relation to the licence held by the licensee or, where more than one such statutory declaration has been made, the later or latest of those statutory declarations, namely:

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- (i) a statutory declaration, referred to in section 38 (2), which accompanied the application for the licence,
 - (ii) a statutory declaration, referred to in section 38 (2) as applied by section 41 (2), which accompanied an application for the transfer of the licence,
 - (iii) a statutory declaration referred to in section 101 (2), produced to the Authority,
- (l) that a person who occupies a position of authority in the body corporate that is the holder of the licence is not a suitable person to occupy such a position in a body that is the holder of a licence,
 - (m) that entertainment has been conducted on the licensed premises otherwise than in accordance with the conditions of an approval under Part 1 of Chapter 7 of the *Local Government Act 1993* or the provisions of any regulation made under that Act,
 - (n) that the licence is considered not to have been exercised in the public interest,
 - (o) in the case of a licence relating to a restaurant—that the licensed premises concerned have been used for a purpose that is not consistent with their primary purpose of being a restaurant, as referred to in section 23.
- (2) The grounds on which a complaint may be made under section 67 (3) in relation to a person who is a close associate of a licensee are as follows:
- (a) that the close associate is not a suitable person to be a close associate of a licensee,
 - (b) that a complaint against the licensee under section 67 has been established and that:
 - (i) the close associate knew or ought reasonably to have known that conduct of the kind to which the complaint relates was occurring or was likely to occur on the licensed premises, and
 - (ii) the close associate failed to take all reasonable steps to prevent conduct of that kind occurring on the licensed premises,
 - (c) that a requirement of the Authority made under this Act in relation to the investigation of the close associate and specified in the complaint has not been complied with.

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68A Complaints against close associates

- (1) For the purposes of section 68 (2), a complaint against a licensee under section 67 is taken to have been established if the Authority, when it considered the complaint and any submissions duly made in relation to the complaint, determined that the matter of the complaint had been established.
- (2) On the consideration and determination of the matter of a complaint under section 67 (3) on the ground specified in section 68 (2) (b), the onus is on the close associate to satisfy the Authority that the close associate took all reasonable steps to prevent conduct of the kind concerned occurring on the licensed premises.

69 Disciplinary powers of Authority

- (1) The Authority is to consider and determine the matter of a complaint and any submissions duly made in relation to the complaint and, if it is satisfied that the ground upon which the complaint was made has been established may, unless subsection (4) applies, do any one or more of the following:
 - (a) reprimand the licensee or manager,
 - (b) order the licensee or manager to pay to the Crown a monetary penalty not exceeding 500 penalty units or, if circumstances of aggravation exist in relation to the complaint, not exceeding 1,000 penalty units,
 - (c) impose a condition to which the licence is to be subject or revoke or vary a condition to which the licence is subject,
 - (d) suspend the licence for a specified period,
 - (e) cancel the licence,
 - (f) disqualify the licensee from holding a licence for such period as the Authority thinks fit,
 - (g) in the case of a manager of licensed premises, withdraw the manager's approval by the Authority to manage licensed premises,
 - (h) in the case of a manager of licensed premises, disqualify the manager from being the holder of an approval to manage licensed premises,

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- (i) where the ground established is the ground referred to in section 68 (1) (e) or (n), give such directions as to the exercise of the licence as it thinks fit, or
 - (j) take no action.
- (2) For the purposes of this section, circumstances of aggravation exist in relation to a complaint only if:
- (a) the complaint concerns a contravention or alleged contravention of section 125 (Conduct on licensed premises) or 125E (Sale of stolen goods or drugs on licensed premises), and
 - (b) the complaint alleges that for the reasons specified in the complaint the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist, and
 - (c) the Authority, in finding that the matter of the complaint has been established, is of the opinion (having regard to any matter such as the number of contraventions of the Act involved, the seriousness of the contravention involved, the number of people involved in the contravention or the seriousness of the outcome of the contravention, or any other relevant consideration) that the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist.
- (3) Where the Authority determines under subsection (1) that the matter of the complaint has been established, the Authority may, whether or not it acts under that subsection:
- (a) reprimand:
 - (i) a person required by section 67 (7) (b) or (c) to be served with a copy of the complaint, or
 - (ii) a person who occupies a position of authority in the body corporate that holds the licence, or
 - (iii) a director of, or shareholder in, a proprietary company required to be so served, or
 - (iv) a director of, or shareholder in, a corporation that, within the meaning of the *Corporations Act 2001* of the Commonwealth, is a related body corporate of a proprietary company referred to in subparagraph (iii),

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- (b) order a person, director or shareholder referred to in paragraph (a) to pay to the Crown a monetary penalty not exceeding 500 penalty units or, if circumstances of aggravation exist in relation to the complaint, not exceeding 1,000 penalty units,
- (c) disqualify, for a period commencing on a specified day, a person, director or shareholder referred to in paragraph (a) from being:
- (i) a person interested in a business, or in the profits of a business, carried on pursuant to a licence (within the meaning of section 38 (3)) or a person who occupies a position of authority in a body corporate that holds a licence, or
 - (ii) a director of, or shareholder in, a proprietary company so interested or a corporation that, within the meaning of the *Corporations Act 2001* of the Commonwealth is a related body corporate of such a proprietary company,
- unless it is proved that the person, director or shareholder had no knowledge of the matter upon which the complaint was made out and used all due diligence to obviate the necessity for the complaint.
- (4) If the ground of complaint as to which the Authority is satisfied under subsection (1) is the ground referred to in section 67 (2), the Authority may suspend the licence until:
- (a) the work to which the complaint relates has been carried out, or
 - (b) the licence ceases to have effect for any reason other than suspension.
- (5) The Authority is to consider and determine the matter of a complaint under section 67 (3) and any submissions duly made and, if it is satisfied that the ground on which the complaint was made has been established, may do any one or more of the following:
- (a) reprimand the person,
 - (b) disqualify the person from being a close associate of a licensee for such period as the Authority thinks fit,
 - (c) disqualify the person from holding a licence for such period as the Authority thinks fit,
 - (d) order the person to pay to the Crown a monetary penalty not exceeding 500 penalty units,

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- (e) take no action.
 - (6) While a person is disqualified by the Authority from being a close associate of a licensee, the person is conclusively presumed for the purposes of this Act to be a person who is not a suitable person to be a close associate of a licensee.
 - (7) The taking of action under subsection (5) in respect of a complaint does not prevent or limit the taking of any other action under this section in respect of any other complaint in relation to a licensee or manager (whether or not that other complaint is considered together with the complaint).
 - (8) When considering and determining the matter of a complaint under subsection (1) or (5), the Authority must consider any relevant findings of a court, a tribunal or a Royal Commission, the Independent Commission Against Corruption or other commission of inquiry or a coroner in any investigation, inquiry or other proceeding if those findings have been publicly released and are brought to the attention of the Authority.
 - (9) The Authority must not take action under this section unless a member of the Authority who is or has been a Judge, or is a legal practitioner of at least 7 years' standing, is present at the meeting of the Authority at which the decision to take the action is made.

Division 8A Special provisions for body corporate licensee

69B Appointment of manager

A body corporate that is a licensee must appoint a manager for the licensed premises and must not cause or permit the conduct of business under the licence for a period in excess of 14 days unless there is an appointment of a manager of the licensed premises in force under this Division.

Maximum penalty: 50 penalty units.

69C Restrictions on who may be appointed as manager

- (1) The following restrictions apply to the appointment of a manager of licensed premises:
 - (a) a person may not be appointed as the manager of licensed premises unless the person is approved by the Authority to manage the licensed premises concerned,

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- (b) only a natural person may be appointed to manage licensed premises,
 - (c) a person cannot be appointed as the manager of licensed premises if at the time of the appointment he or she already holds an appointment as manager, or is a licensee, of other licensed premises, including other premises licensed to sell liquor under the *Liquor Act 1982*.
- (2) An appointment in contravention of this section is void for the purposes of this Part.

69D Authority approval of manager

- (1) An application for the Authority's approval of a person's appointment as the manager of licensed premises is to be made in the form approved by the Authority.
- (2) The Authority must not give its approval unless satisfied that the person concerned is a suitable person to manage licensed premises.
- (3) If the Authority is satisfied on the information before it that there is nothing that might preclude it from giving its approval, but requires more information before making a final decision, the Authority may give a provisional approval of the person to be such a manager.
- (4) A provisional approval is sufficient to entitle the appointment of the person, in accordance with section 69E, as manager of the licensed premises concerned for a period specified by the Authority. Any such appointment lapses, however, unless the Authority confirms its approval within that period (or within such extension of that period as the Authority may allow).

69E How appointments are made and revoked

- (1) A licensee must give the Authority notice of the appointment of a person as manager of licensed premises. The notice must give the name, address and date of birth of the person appointed and must be signed by the appointee as evidence of consent to his or her appointment as manager.

Maximum penalty: 20 penalty units.

- (2) The appointment of a manager is not in force until the licensee has given the Authority notice of the appointment as required by this section.

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- (3) The appointment of a manager is revoked by the licensee giving notice under this section of the appointment of a new manager or by the licensee or manager giving the Authority notice of the manager's ceasing to act as manager. A notice of appointment of or of ceasing to act as manager may specify a day that is later than the day the notice is given as the day the notice is to take effect, and the notice takes effect accordingly.
 - (4) A notice under this section must be in writing in the form approved by the Authority.
 - (5) In any proceedings in which the question of whether notice was given to the Authority under this section is at issue, the party alleged to have given the notice bears the onus of establishing on the balance of probabilities that the notice was given.

69F Responsibilities and liabilities of manager of licensed premises

- (1) The person appointed as manager of licensed premises is responsible at all times for the personal supervision and management of the conduct of the business of the licensed premises under the licence.
- (2) If an element of an offence under a provision of this Act is an act or omission by a licensee, a person who is manager of the licensed premises is, while responsible under subsection (1), responsible in respect of the offence as though that person were also a licensee of those premises and is liable for the offence accordingly.
- (3) This section does not affect any liability of a licensee for a contravention by the licensee of a provision of this Act.

69G Liability of licensee for contravention by manager

The licensee of licensed premises is taken to have contravened any provision of this Act that the manager of the licensed premises contravened as a result of section 69F unless the licensee establishes that the licensee:

- (a) did not authorise or knowingly permit the contravention by the manager, and
- (b) maintained control over and supervision of the activities of the manager of the licensed premises in an effort to prevent any such contravention occurring.

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69H Liability of persons in position of authority in body corporate licensee

- (1) If a licensee that is a body corporate contravenes (whether by act or omission) any provision of this Act, each person who occupies a position of authority in the body is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) If a licensee that is a body corporate is taken to have contravened (whether by act or omission) any provision of this Act by reason of a contravention by the manager of the licensed premises, each person who occupies a position of authority in the body is taken to have contravened the same provision unless he or she establishes that he or she:
 - (a) was not knowingly a party to any authorisation by the body corporate of the contravention by the manager, and
 - (b) took all reasonable steps (within the scope of his or her authority) to ensure that the body corporate maintained control over and supervision of the activities of the manager of the licensed premises in an effort to prevent any such contravention by the manager occurring.
- (3) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the body corporate or manager of the licensed premises has been proceeded against or convicted.
- (4) This section does not affect any liability imposed on a body corporate or the manager of licensed premises for an offence committed by the body corporate or manager against this Act.
- (5) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a body corporate (while acting in his or her capacity as such) had, at any particular time, a particular intention, is evidence that the body corporate had that intention at that time.

Division 9 General**71 Duplicate licence**

The Authority may, on payment of the fee of \$50, issue a duplicate of a licence.

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71A Endorsements on licence

A requirement of this Act that a condition or other matter be endorsed on a licence is sufficiently complied with if the condition or other matter is endorsed on a schedule to the licence.

76 Disposal of money by Authority

All money payable to the Authority is to be collected and received by the Authority on account of, and is to be paid into, the Consolidated Fund.

76A Date of payment to Authority by direct deposit

A payment made to the Authority for the purposes of this Act by means of payment to an authorised deposit-taking institution for direct deposit to the credit of the Authority is taken to have been paid to the Authority on the date of payment to that ADI.

Part 6 Licensed premises

90 Boundaries of licensed premises

The Authority may define or redefine the boundaries of licensed premises or proposed licensed premises of its own motion or on the application of any of the following:

- (a) the owner of the premises,
- (b) the licensee,
- (c) the applicant for a licence,
- (d) a casino operator,

subject to each part of the licensed premises, as so defined or redefined, being in close proximity to all other parts of the licensed premises and being capable of supervision by the manager.

91 Name of licensed premises

- (1) The licensee must, before the opening of the licensed premises, cause to appear and be maintained on the front of the licensed premises, in accordance with subsection (2), a sign that specifies:
 - (a) a name for the licensed premises (not being a name that is a prohibited name for the licensed premises under this section), and

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(b) the name of the licensee.

Maximum penalty: 3 penalty units.

(2) The sign referred to in subsection (1) must so appear and be maintained near the principal public entrance to the licensed premises in such a manner that it may be read from the part of a public place on which the front of the premises abuts.

(3) The licensee must not alter the name referred to in subsection (1) (a) unless the Authority has approved in writing of the proposed new name.

Maximum penalty: 3 penalty units.

(4) The Authority must not approve an alteration of the name of the licensed premises if the name as proposed to be altered is a prohibited name for the licensed premises under this section.

(5) The licensee must not cause or permit the use on any sign displayed on the exterior of the licensed premises or in any advertising with respect to the licensed premises of a name that is a prohibited name for the licensed premises under this section.

Maximum penalty: 5 penalty units.

(6) A name is a prohibited name for the licensed premises under this section if it is a name that the Authority has notified the licensee in writing is prohibited as being objectionable, inappropriate or misleading.

(7) It is a defence to a prosecution for an offence under this section if it is proved that:

(a) the licensee had taken all reasonable precautions to avoid commission of the alleged offence, and

(b) at the time of the alleged offence, the licensee did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

97 Breath analysis equipment

(1) Evidence of the results of a test indicating the presence or concentration of alcohol in the blood of a person by means of a breath analysing instrument installed on licensed premises is not admissible:

(a) in any civil proceedings against the licensee of the licensed premises (subject to subsection (2)), or

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- (b) in any criminal proceedings.
- (2) This section does not prevent the admission into evidence in civil proceedings of the results of a test if it is established that at the time of the test:
- (a) the breath analysing instrument concerned did not comply with the relevant Australian Standard (as in force at the date of the manufacture of the instrument), or
 - (b) the licensee was aware or should have been aware that the instrument was not operating correctly, or
 - (c) subsection (4) was being contravened in respect of the breath analysing instrument concerned.
- (3) A breath analysing instrument is an instrument that is designed to ascertain by analysis of a person's breath the concentration of alcohol present in the person's blood, being an instrument of the type specified in Australian Standard 3547 (Breath Alcohol Testing Devices for Personal Use), published by the Standards Association of Australia. That standard, as in force from time to time, is the relevant Australian Standard for the purposes of this section.
- (4) At all times that a breath analysing instrument installed on licensed premises is available for use by customers on those premises there must be prominently displayed on or in close proximity to the instrument a sign that complies with the following requirements:
- (a) the sign must be clearly legible and in good condition and so positioned that its contents can be easily read by a person using the instrument,
 - (b) the sign must display the following matter in print of a type size and character that will be clearly legible to a person using the equipment:

IMPORTANT INFORMATION ABOUT BREATH TESTING

Readings given by this instrument are NOT ACCEPTED by the Police or the Courts.

Your blood alcohol level can rise for 1 hour or more after your last drink.

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- (5) If subsection (4) is contravened, the licensee of the licensed premises is guilty of an offence.

Maximum penalty: 20 penalty units.

101 Control of licensed premises

- (1) A licensee must not:
- (a) let or sublet the right to sell liquor on the licensed premises, or
 - (b) let or sublet any part of the licensed premises on which liquor is ordinarily sold or supplied, or
 - (c) without the previous written consent of the Authority:
 - (i) let or sublet any other part of the licensed premises, or
 - (ii) let or sublet the right to supply gaming or liquor-related services in the licensed premises, or
 - (iii) enter into any contract or arrangement, relating to any gaming or liquor-related services in respect of the licensed premises.

Maximum penalty: 50 penalty units.

- (2) If a person (other than a licensee or an authorised deposit-taking institution) becomes interested in the business or the conduct of the business, of the licensed premises, it is a condition of the licence that the licensee must, within 28 days after the other person's becoming so interested, produce to the Authority a statutory declaration stating:
- (a) that the licensee has made all reasonable inquiries to ascertain the information required to complete the statutory declaration, and
 - (b) the name and date of birth of the person so interested and in the case of a proprietary company, the names of the directors and shareholders.
- (3) For the purposes of subsection (2), a person is interested in the business, or the conduct of the business of the licensed premises concerned if the person is entitled to receive or does receive:
- (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or

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- (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.

- (4) In this section:

gaming machine means a device that is designed:

- (a) for the playing of a game of chance or a game that is partly a game of chance and partly a game requiring skill, and
- (b) for paying out money or tokens or for registering a right to an amount of money or money's worth to be paid.

gaming or liquor-related services means the following services:

- (a) services that promote the use of gaming machines or of services or facilities relating to gaming machines,
- (b) services that promote activities, services or facilities of which gaming machines, or services or facilities relating to gaming machines, form part,
- (c) consultancy or advisory services that include advice on the management or operation of gaming machines or of services or facilities relating to gaming machines,
- (d) services for the management or supervision of gaming machines or of services or facilities relating to gaming machines,
- (e) services that promote the sale or supply of liquor,
- (f) consultancy or advisory services that include advice on the sale or supply of liquor,
- (g) services for the management or supervision of the sale or supply of liquor.

103 Exclusion of persons from licensed premises

- (1) A licensee or his or her employee may refuse to admit to the licensed premises and may turn out, or cause to be turned out, of the licensed premises any person:
 - (a) who is then intoxicated, violent, quarrelsome or disorderly, or
 - (b) who engages or uses any part of the licensed premises for the purposes of prostitution, or
 - (c) whose presence on the licensed premises renders the licensee liable to a penalty under this Act, or

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- (d) who hawks, peddles or sells any goods on the premises, unless the person has the written permission of the Authority and the licensee to do so, or
 - (e) who uses, or has in his or her possession, while on the premises any substance that the licensee or employee suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or
 - (f) whom the licensee, under the conditions of the licence or according to a term (of the kind referred to in section 104E (1)) of a local liquor accord, is authorised or required to refuse access to the licensed premises.
- (2) If, pursuant to subsection (1), a person has been refused admission to, or has been turned out of, licensed premises, the licensee or an employee of the licensee may, at any subsequent time or from time to time, refuse to admit that person into the licensed premises or may turn him or her out, or cause him or her to be turned out, of the licensed premises.
- (3) If a person to whom a licensee is, under subsection (1) or (2), entitled to refuse admission to the licensed premises is on the premises the person must, on being required so to do by the licensee, his or her employee or a police officer, quit the premises.
- Maximum penalty: 50 penalty units.
- (4) For the purposes of subsection (1) or (2), such reasonable degree of force as may be necessary may be used to turn a person out of licensed premises.
- (5) If a police officer is requested by a licensee or his or her employee to turn out, or to assist in turning out, of the licensed premises a person whom the licensee is entitled under subsection (1) or (2) to turn out of the premises, it is the duty of the police officer to comply with the request and he or she may, for that purpose, use such reasonable degree of force as may be necessary.

104 Quiet and good order of neighbourhood

- (1) If a written complaint is made to the Authority of undue disturbance to the quiet and good order of the neighbourhood of licensed premises caused by:
- (a) the manner in which the business of the licensed premises is conducted, or

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- (b) the behaviour of persons after they have left the licensed premises, or
- (c) the manner in which the business of the licensed premises is conducted and the behaviour of persons after they have left the licensed premises,

the Authority may convene a conference to hear submissions relating to the complaint.

- (2) A complaint under this section can be made only by:
 - (a) a person authorised in writing by 3 or more persons residing in the neighbourhood of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents, or
 - (b) the Commissioner of Police, or
 - (c) a person authorised by the council of the local government area (including the City of Sydney) in which the licensed premises are situated, or
 - (d) a person authorised by the Minister for Urban Affairs and Planning, or
 - (e) a person who satisfies the Authority that his or her interests, financial or other, are adversely affected by the undue disturbance to which the person's complaint relates, or
 - (f) an inspector.
- (3) A complaint under this section must be made or verified by statutory declaration.
- (4) A complaint may relate to more than one licensed premises.
- (5) A conference may relate to more than one complaint.
- (6) A conference convened in relation to licensed premises the subject of a complaint may be extended to include any other licensed premises if the Authority is satisfied:
 - (a) that the evidence given in support of the complaint would support a complaint against the other licensed premises, or
 - (b) that, assuming that the complaint is shown to be justified, action taken in relation to the licensed premises the subject of the complaint will be ineffective unless similar action is taken in relation to the other licensed premises.

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- (7) Any licensed premises to which a conference is extended as referred to in subsection (6) is, for the purposes of this section, taken to be the subject of a complaint, and this section applies to the complaint as if the complaint had been made under subsection (1).
 - (8) Notice of the time and place for the conference is to be given to all complainants and the licensee or licensees as directed by the Authority.
 - (9) The conference is to be presided over by a member of the Authority who may, in relation to a licence, after giving each complainant present and the licensee (if present) a reasonable opportunity to be heard in relation to the complaint:
 - (a) impose, vary or revoke conditions of the licence, or
 - (b) adjourn the conference subject to implementation and continuation of undertakings given by the licensee, or
 - (c) issue a warning to the licensee, or
 - (d) take no action.
 - (10) The conditions that may be imposed on a licence include, but are not limited to, conditions relating to limitation of trading hours and public access as referred to in section 20 (4).
 - (11) Procedure at the conference (including any decision to adjourn the conference) is to be determined by the Authority.
 - (12) If a condition restricting the trading hours of a licensee is imposed under this section, an application may be made to the Authority to vary or revoke the condition. The application may not be made by or on behalf of the licensee during the period of 6 months that next succeeds the imposition of the condition, except with the leave of the Authority granted on the ground that there has been a material change in the facts or circumstances on which the imposition of the condition was based. The application may be dealt with by the Authority in such manner as the Authority determines.

104A Order by Authority for short-term closure of premises

- (1) The Authority may, by notice served on a licensee or a person apparently in charge of licensed premises, order the licensee to close the licensed premises from a time specified in the order until a later specified time.

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- (2) The Authority may only make an order under this section if the Authority is satisfied:
 - (a) that a serious breach of this Act has occurred, or is likely to occur, on the premises, and
 - (b) that the closure of the premises is necessary to prevent or reduce a significant threat or risk to the public interest.
 - (3) Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include circumstances in which there is:
 - (a) a threat to public health or safety, or
 - (b) a risk of substantial damage to property, or
 - (c) a significant threat to the environment, or
 - (d) a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed on the premises.
 - (4) An order must not require the closure of premises for a period longer than 72 hours.
 - (5) An order may require the closure of premises until specified conditions are met but must not require closure for a period longer than 72 hours.
 - (6) A licensee must not fail to comply with an order made under this section.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.
 - (7) Two or more orders closing the same premises may not be made under this section in any period of one week.

104E Local liquor accords

- (1) Without limiting the terms that may be included in a local liquor accord, such an accord may make provision for or with respect to authorising or requiring any licensees who are parties to the accord:
 - (a) to cease to serve liquor at their licensed premises, or

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- (b) to restrict the public's access to their licensed premises in a manner and to the extent provided by the accord,
- or both, from a time of day that is earlier than the time at which, as required by the relevant licence, trading must cease.
- (2) Entry by any person into a local liquor accord, and any conduct on the part of any person for the purpose of promoting or giving effect to the terms of a local liquor accord, are specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*.
- (3) Conduct authorised by subsection (2) is authorised only to the extent (if any) to which the conduct, so far as it consists of things done to regulate the supply of liquor or in some other respect, would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.

Part 7 Inspectors

110 Powers of entry, inspection and seizure

- (1) If the Commissioner of Police believes on reasonable grounds that unlawful or disorderly conduct is taking place on licensed premises the Commissioner may, at any time of the day or night, enter the licensed premises with or without a police officer.
- (2) In exercising the power conferred by subsection (1), the Commissioner of Police may, with or without assistance, break into the premises if entry is refused or unreasonably delayed (whether or not by the absence of a person able to permit entry to the premises).
- (3) If an authorised officer believes on reasonable grounds that a breach of this Act has been, or is being, committed on licensed premises the officer may, at any time of the day or night, enter the licensed premises with or without a police officer.
- (4) An authorised officer may, at any reasonable time, enter and examine any part of the licensed premises and may do any or all of the following:
- (a) take an account of all liquor on the premises,
 - (b) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act have been, or are being, complied with,

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- (c) having required the licensee (or any other person having them in his or her custody) to produce any registers, books, records or other documents relating to the business carried on with the authority of the licence, make copies of, or take extracts from, entries in the registers, books, records or other documents.
 - (5) In the exercise of a power conferred under this section, an authorised officer may:
 - (a) if the officer considers it necessary to do so for the purposes of obtaining evidence of the commission of an offence, seize any registers, books, records or other documents relating to the business conducted on the licensed premises, and
 - (b) require any person to answer any question relating to any such registers, books, records or other documents or any other relevant matter.
 - (6) The licensee or person in charge of licensed premises must not refuse or fail to admit to the licensed premises a person requiring entrance under subsection (1), (3) or (4) or obstruct or delay the person in the exercise of his or her powers.

Maximum penalty: 50 penalty units.
 - (7) In this section, *authorised officer* means an inspector who is authorised by the Authority for the purposes of this section.

110A Dealing with seized documents

- (1) If an authorised officer seizes any document under section 110 on licensed premises, the officer must issue the person apparently in charge of the premises with a written receipt for the document.
- (2) An authorised officer may retain any document seized under section 110 until the completion of any proceedings (including proceedings on appeal) in which it may be evidence.
- (3) A document may only be retained under subsection (2) if the person from whom the document was seized is provided, within a reasonable time after the seizure, with a copy of the document certified by an authorised officer as a true copy.
- (4) The copy is, as evidence, of equal validity to the document of which it is certified to be a copy.
- (5) In this section, *authorised officer* means an inspector who is authorised by the Authority for the purposes of this section.

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111 Obstruction

A person who hinders or obstructs an inspector, police officer or any other person in the exercise by the inspector, police officer or other person of a function conferred on him or her by or under this Act is guilty of an offence and liable, if no other penalty or punishment is provided for the offence, to a penalty not exceeding 50 penalty units.

Part 7A Minors**112 Use of licensed premises by minor**

- (1) The Authority may, on the application of the licensee and subject to any conditions that the Authority may impose, authorise:
 - (a) the use by a minor in the company of a responsible adult of any part of licensed premises in the casino environs, or
 - (b) the use by minors under adult supervision of any part of licensed premises in the casino environs.
- (2) An authorisation under subsection (1) (b) must be subject to a condition as to the required level of adult supervision of minors using any part of licensed premises pursuant to the authorisation.
- (3) Authorisations may be granted under both paragraphs (a) and (b) of subsection (1) in respect of the same part of licensed premises.
- (4) If an authorisation under subsection (1) (b) is operating to authorise the use by a minor of a part of licensed premises, any authorisation under subsection (1) (a) has no operation to the extent that it applies to that part of the licensed premises.
- (5) The Authority may, on its own motion or on the application of the licensee:
 - (a) revoke or vary an authorisation under subsection (1), or
 - (b) impose any condition, or any further condition, to which such an authorisation is to be subject, or
 - (c) revoke or vary any condition imposed under subsection (1) or paragraph (b).
- (6) An authorisation under subsection (1) is in force only while all conditions to which it is subject are being complied with.

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113 Minor using false evidence of age

A minor who uses any evidence purporting to be evidence of his or her age in order to obtain entry to, remain in, or obtain liquor from, licensed premises, is guilty of an offence if the evidence is false in a material particular in relation to the minor.

Maximum penalty: 10 penalty units.

114 Sale or supply of liquor to minor

- (1) A person must not, in the casino or casino environs, sell or supply liquor to a person under the age of 18 years.

Maximum penalty: 50 penalty units or, if circumstances of aggravation exist in relation to the offence, 100 penalty units or 12 months imprisonment (or both).

- (2) A licensee must not, on the licensed premises, allow liquor to be sold or supplied to a person under the age of 18 years.

Maximum penalty: 50 penalty units or, if circumstances of aggravation exist in relation to the offence, 100 penalty units or 12 months imprisonment (or both).

- (3) A person must not obtain liquor from licensed premises on behalf of a person under the age of 18 years.

Maximum penalty: 50 penalty units or, if circumstances of aggravation exist in relation to the offence, 100 penalty units or 12 months imprisonment (or both).

- (4) For the purposes of this section, circumstances of aggravation exist in relation to an offence under this section only if:

- (a) the information by which the proceedings for the offence are instituted alleges that the offence is (for the reasons specified in the information) so serious as to warrant the imposition of a penalty in excess of 50 penalty units, and
- (b) the court that convicts the person for the offence is of the opinion (having regard to the quantity or nature of the liquor involved or the young age of the person involved, or other relevant considerations) that the offence is so serious as to warrant the imposition of a penalty in excess of 50 penalty units.

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- (5) A licensee must cause a notice to be displayed on the licensed premises in accordance with subsection (6).
Maximum penalty: 20 penalty units.
- (6) The notice referred to in subsection (5) must comply with the following:
- (a) it must be in the following form:
LIQUOR ACT 1982
It is an offence to SELL or SUPPLY to or to OBTAIN liquor on behalf of a person under the age of 18 years.
 - (b) if liquor is sold at a bar or counter, the notice must be prominently displayed at the bar or counter, in such a manner and in such a position that a person standing at the bar or counter would reasonably be expected to be alerted to its contents,
 - (c) if liquor is not sold at a bar or counter but is otherwise sold, the notice must be prominently displayed at or near every entrance by which members of the public may enter the premises concerned, in such a manner and in such a position that a person coming in by the entrance would reasonably be expected to be alerted to its contents.
- (7) It is a defence to a prosecution for an offence under subsection (1) or (3) if it is proved that the person to whom the liquor was sold or supplied, or on whose behalf it was obtained, was of or above the age of 14 years and that, before the liquor was sold, supplied or obtained, there was produced to the defendant documentary evidence that might reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years.
- (8) It is a defence to a prosecution for an offence under subsection (1) (except in the case of a sale or supply which took place on licensed premises) if it is proved that the defendant was a parent or guardian of the person to whom the liquor was sold or supplied or was authorised to sell or supply liquor to the person by the parent or guardian.
- (9) It is a defence to a prosecution for an offence under subsection (2) if it is proved that the liquor was supplied to the person by that person's parent or guardian.

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- (10) It is a defence to a prosecution for an offence under subsection (3) if it is proved that the defendant was a parent or guardian of the person on whose behalf the liquor was obtained or was authorised to obtain liquor on behalf of the person by the parent or guardian.
 - (11) A reference in this section to the supply of liquor to a person includes a reference to the serving of liquor to a person.

115 Minor consuming, obtaining or carrying away liquor

- (1) A person under the age of 18 years must not:
 - (a) consume liquor on licensed premises or on the premises of an unlicensed restaurant in the casino or casino environs, or
 - (b) obtain, or attempt to obtain, liquor for consumption on licensed premises, or
 - (c) carry liquor away, or attempt to carry liquor away, from licensed premises.

Maximum penalty: 10 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) of consuming liquor on the premises of an unlicensed restaurant if it is proved that the defendant consumed the liquor in the company of and with the authority of his or her parent or guardian.
- (3) It is a defence to a prosecution for an offence under subsection (1) (c) if it is proved that the defendant was ordered or requested to carry the liquor away from the licensed premises.
- (4) A person must not:
 - (a) send a person under the age of 18 years to licensed premises, or
 - (b) order or request a person under the age of 18 years to go to licensed premises,

for the purpose of obtaining liquor.

Maximum penalty (subsection (4)): 20 penalty units.

116 Sale or supply of liquor by minor

- (1) Except where the Authority has given its consent (proof of which lies on the defendant), a licensee must not allow a person under the age of 18 years to sell, supply or serve liquor on the licensee's licensed premises.

Maximum penalty: 50 penalty units.

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- (2) The Authority must not give a consent under this section that would allow a person under the age of 18 years to be in the casino.

116A Offences by minor on licensed premises

- (1) A minor:
- (a) who enters or remains in a restricted area of licensed premises not operated by a casino operator, or
 - (b) who, in breach of the conditions of the licence, enters or remains in a part of licensed premises operated by a casino operator,

is guilty of an offence.

Maximum penalty: 10 penalty units.

- (2) It is a defence to a prosecution for an offence arising under subsection (1) if it is proved that the minor concerned was, at the material time, an apprentice or trainee (within the meaning of the *Industrial and Commercial Training Act 1989*) and that the minor entered or remained in the relevant area of the licensed premises for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee.

- (3) A minor who for any purpose enters or remains in:

- (a) a part of licensed premises that is not operated by a casino operator and that is authorised under section 112 (1) (a) for use by a minor in the company of an adult, or
- (b) a part of licensed premises that is operated by a casino operator and that is authorised by the conditions of the licence for use by a minor in the company of an adult,

is guilty of an offence against this Act unless the minor does so in the company and immediate presence of a responsible adult.

Maximum penalty: 10 penalty units.

- (4) It is a defence to a prosecution of a minor for an offence under subsection (1) (a) or (3) (a) if it is proved that the defendant believed on reasonable grounds that an authorisation under section 112 (1) (b) operated to authorise the use of that part at the relevant time by minors under adult supervision.

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- (5) A minor who for any purpose enters or remains on licensed premises to which a dine-or-drink authority relates during a restaurant restricted period is guilty of an offence against this Act unless the minor does so in the company and immediate presence of a responsible adult.

Maximum penalty: 10 penalty units.

116B Offences by licensee in relation to minor

- (1) If a minor:

- (a) enters a restricted area on licensed premises, or
- (b) enters a part of licensed premises authorised under section 112 (1) (a) for use by a minor in the company of an adult but is not in the company and immediate presence of a responsible adult, or
- (c) enters, in breach of the conditions of the licence, a part of licensed premises operated by a casino operator, or
- (d) enters licensed premises to which a dine-or-drink authority relates during a restaurant restricted period but is not in the company and immediate presence of a responsible adult,

the licensee is guilty of an offence against this Act.

Maximum penalty: 50 penalty units.

- (2) If a minor:

- (a) is in a restricted area on licensed premises, or
- (b) is in a part of licensed premises authorised for use by a minor in the company of an adult but is not in the company and immediate presence of a responsible adult, or
- (c) is, in breach of the conditions of the licence, in a part of licensed premises operated by a casino operator, or
- (d) is on licensed premises to which a dine-or-drink authority relates during a restaurant restricted period but is not in the company and immediate presence of a responsible adult,

the licensee is guilty of an offence against this Act unless the minor is at once removed from the licensed premises.

Maximum penalty: 50 penalty units.

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- (3) It is a defence to a prosecution for an offence under subsection (1) or (2) if it is proved that the minor was above the age of 14 years and that:
- (a) before the minor entered the restricted area or part of the licensed premises concerned, or the licensed premises to which the dine-or-drink authority relates, or
 - (b) while the minor was in the restricted area or part of the licensed premises concerned, or the licensed premises to which the dine-or-drink authority relates,
- there was produced to the licensee, or an employee or agent of the licensee, documentary evidence that might reasonably be accepted as applying to the minor and as evidence that the minor was of or above the age of 18 years.
- (4) It is a defence to a prosecution for an offence arising under subsection (1) (a) or (c) or (2) (a) or (c) if it is proved that the minor concerned was, at the material time, an apprentice or trainee (within the meaning of the *Industrial and Commercial Training Act 1989*) and that the minor entered or remained in the relevant area of the licensed premises for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee.
- (5) A licensee is guilty of an offence against this Act if liquor is sold, supplied or consumed anywhere on the licensed premises:
- (a) during any period for which an authorisation under section 112 (1) (b) operates to authorise the use by a minor of a part of the licensed premises, or
 - (b) within 30 minutes before the beginning of that period or within 30 minutes after its end.

Maximum penalty: 50 penalty units.

116C Notices to be displayed

- (1) A licensee (other than a casino operator) is guilty of an offence against this Act unless there is continuously displayed:
- (a) in each restricted area on the licensed premises a notice in accordance with subsection (3), and

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- (b) in each part of the licensed premises in which a minor is permitted to remain only in the company and immediate presence of a responsible adult a notice in accordance with subsection (4).

Maximum penalty: 20 penalty units.

- (2) A licensee that is a casino operator is guilty of an offence against this Act unless there is continuously displayed:

- (a) in each part of the licensed premises from which minors are to be excluded, as required by a condition of the licence—a notice in accordance with subsection (3), and
- (b) in each part of the licensed premises in which a minor is permitted to remain only in the company and immediate presence of a responsible adult, as required by a condition of the licence—a notice in accordance with subsection (4).

Maximum penalty: 20 penalty units.

- (3) A notice referred to in subsection (1) (a) or (2) (a):

- (a) must be displayed in such a manner and in such a place that it would be reasonable to expect that a person entering the part of the licensed premises in which the notice is displayed would be quickly alerted to the contents of the notice, and
- (b) must be in the following form:

LIQUOR ACT 1982
IF YOU ARE UNDER 18
YOU ARE NOT PERMITTED BY LAW
IN THIS AREA

- (4) A notice referred to in subsection (1) (b) or (2) (b):

- (a) must be displayed in such a manner and in such a place that it would be reasonable to expect that a person entering the part of the licensed premises in which the notice is displayed would be quickly alerted to the contents of the notice, and

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(b) must be in the following form:

LIQUOR ACT 1982
IF YOU ARE UNDER 18
YOU ARE BY LAW NOT PERMITTED
TO BE IN THIS AREA
UNLESS YOU ARE IN THE COMPANY
AND IMMEDIATE PRESENCE OF
A RESPONSIBLE ADULT

(5) A holder of a licence endorsed with a dine-or-drink authority for licensed premises trading during a restaurant restricted period is guilty of an offence against this Act unless there is continuously displayed during the restaurant restricted period a notice in accordance with subsection (6).

Maximum penalty: 20 penalty units.

(6) A notice referred to in subsection (5):

(a) must be displayed at or near the main public entrance to the restaurant and in such a manner that it would be reasonable to expect that a person entering the premises of the restaurant would reasonably be expected to be alerted to the contents of the notice, and

(b) must be in the following form, using wording that is legible and prominent:

Liquor Act 1982

If you are under 18 you are by law not permitted to enter (or be in) this restaurant at any time between 10 pm and 6 am unless you are in the company and immediate presence of a responsible adult.

(7) Despite subsection (6) (b), the wording required to appear in a notice under subsection (5) may appear (as a separate and distinct statement) in a notice required under section 23AD (12), provided that the requirements under this Act in relation to each notice are otherwise complied with.

Maximum penalty: 20 penalty units.

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- (8) A licensee who offers liquor for sale through an internet site is guilty of an offence against this Act unless the notice set out below is displayed on the site at all times while it is accessible. The words contained in the notice must be big enough to ensure that a person accessing the internet site would reasonably be expected to be alerted to the contents of the notice.

Maximum penalty: 20 penalty units.

LIQUOR ACT 1982

IT IS AN OFFENCE TO SELL OR SUPPLY TO OR TO
OBTAIN LIQUOR ON BEHALF OF A PERSON UNDER
THE AGE OF 18 YEARS

- (9) A separate offence is committed in respect of each restricted area or other part of the licensed premises for which there is a failure to display in the restricted area or other part the notice required by this section.
- (10) It is a defence to a prosecution for an offence under this section if it is proved that the licensee:
- (a) had taken all reasonable precautions to avoid commission of the alleged offence, and
 - (b) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

116D Offence by adult accompanying minor

If an adult in whose company a minor is lawfully on licensed premises including licensed premises to which a dine-or-drink authority relates:

- (a) permits the minor to consume liquor on the licensed premises, or
- (b) leaves the minor on the licensed premises deprived of the company and immediate presence of the adult without first informing the licensee or an employee of the licensee,

the adult is guilty of an offence against this Act.

Maximum penalty: 20 penalty units.

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117A Minor required to provide information

- (1) An authorised person may require a person who is reasonably suspected of being a minor and who, if a minor, would be committing an offence against this Act:
 - (a) to state his or her full name and residential address, and
 - (b) to produce then, or at a police station within a reasonable time, documentary evidence that might reasonably be accepted as applying to the person and as proof of his or her age.
- (2) A person the subject of a requirement under subsection (1) must not:
 - (a) refuse or fail to state his or her full name and residential address, or
 - (b) without reasonable cause, refuse or fail to produce evidence of age as referred to in subsection (1) (b).

Maximum penalty: 10 penalty units.

- (3) In this section:
authorised person means an inspector, a licensee, an employee or agent of a licensee, or a police officer.

117B Entry to licensed premises by minor

If:

- (a) a licensee, or an employee of the licensee, is aware that a person who may reasonably be suspected of being under the age of 18 years is attempting to enter the licensed premises, or a part of the licensed premises, and
- (b) the presence of the person on the licensed premises or part of the licensed premises would, if the person were under the age of 18 years, be an offence against this Act,

the licensee or employee must refuse the person entry to the licensed premises or part of the licensed premises unless there is produced to the licensee or employee documentary evidence that may reasonably be accepted as applying to the person and as proving that the person is of or above the age of 18 years.

Maximum penalty: 20 penalty units.

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117E Reasonable evidence of age

(1) Without precluding any other evidence that might reasonably be accepted as evidence that a person is at least 18 years of age, a document that belongs to one of the following classes of documents:

- (a) a motor vehicle driver's or rider's licence or permit held by a person, being a licence or permit issued by the Roads and Traffic Authority or by a corresponding public authority of the Commonwealth, of some other State or of a Territory or of some other country,
- (b) a "proof of age" card held by a person, being a card issued by the Roads and Traffic Authority or by a corresponding public authority of the Commonwealth or of some other State or a Territory,
- (c) a passport held by a person, being a passport issued by the Commonwealth or under the law of some other country,

is, for the purposes of this Act, evidence that the person is at least 18 years of age, but only if the document bears a photograph of the person and indicates (by reference to the person's date of birth or otherwise) that the person is of or above that age and only if the document has not expired and otherwise appears to be in force.

(2) A minor who:

- (a) provides information in order to obtain evidence of a kind referred to in subsection (1), and
- (b) knows that the information is false or misleading in a material particular,

is guilty of an offence against this Act.

Maximum penalty: 10 penalty units.

(3) A person who:

- (a) provides or certifies information of a kind required to enable that or any other person to obtain evidence of a kind referred to in subsection (1), and
- (b) knows that the information is to be used in order to obtain evidence, or that it is required in order to obtain evidence, of the kind referred to in subsection (1), and

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- (c) knows that the information is intended to be used to obtain evidence that will be false or misleading in a material particular,

is guilty of an offence against this Act.

Maximum penalty: 20 penalty units.

117EB Manufacturing false proof of age card

- (1) A person must not make a false document that could reasonably be taken to be a proof of age card with the intent that the document be used by any person as a proof of age card for the purposes of this Act.

Maximum penalty: 20 penalty units.

- (2) A person (*the offender*) must not give to another person a false document that could reasonably be taken to be a proof of age card with the intent that the document be used by any person as a proof of age card for the purposes of this Act, if the offender knows or could reasonably be expected to know that the document is false.

Maximum penalty: 20 penalty units.

- (3) A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) or (2) in circumstances of aggravation.

Maximum penalty: 50 penalty units.

- (4) For the purposes of this section, a person commits an offence in circumstances of aggravation if:

- (a) the offence involved a high degree of planning, or
- (b) the offence involved the use of other people acting at the direction of the person convicted of the offence in the commission of the offence, or
- (c) the person committed the offence solely or principally for financial reward, or
- (d) the offender has a previous conviction for an offence under this section.

117EC Giving or lending proof of age card

A person must not give or lend the person's proof of age card to another person, if the person giving or lending the card knows or could reasonably be expected to know that the card may be used:

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- (a) as a proof of age card for the purposes of this Act by the person to whom the card was given or lent or by any other person, or
 - (b) to obtain a proof of age card for the person to whom the card was given or lent, or for any other person, for the purposes of this Act.

Maximum penalty: 20 penalty units.

117ED Tampering with proof of age card

A person must not for an improper purpose wilfully or negligently alter, deface, or otherwise interfere with a proof of age card or with any of the material particulars contained on the card.

Maximum penalty: 20 penalty units.

117G Minor not to be detained

A minor may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty under this Act.

117I Sale of undesirable liquor products

- (1) The licensee is guilty of an offence if an undesirable liquor product is sold or supplied on licensed premises to any person.

Maximum penalty: 50 penalty units.

- (2) In this section, *undesirable liquor product* means a liquor product or class of liquor products declared, under section 117I of the *Liquor Act 1982*, to be an undesirable liquor product.

Part 8 Offences and related matters

Division 1 Offences

119 Sale of liquor outside trading hours

A licensee must not:

- (a) keep the licensed premises open for the sale or supply of liquor,
or

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- (b) sell or supply liquor,
at a time at which the licensee is not, by this Act or under the conditions of the licence, permitted to effect the sale or supply.
Maximum penalty: 20 penalty units.

121 Unauthorised sale of liquor by licensee

- (1) A licensee must not sell or supply liquor, or cause or suffer liquor to be sold or supplied, otherwise than in accordance with the authority conferred by his or her licence.
- (2) An agent or servant of, or person purporting to act on behalf of, a licensee must not sell liquor, or cause or suffer liquor to be sold otherwise than in accordance with the authority conferred on the licensee by the licence.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

122 Sale of liquor without licence

- (1) A person must not sell liquor, or cause or suffer liquor to be sold, in the casino or casino environs unless the person is a licensee or is the agent or servant of a licensee.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

- (2) A person who is the occupier, manager or person apparently in control of any premises on or from which liquor is sold in contravention of subsection (1) is taken to have sold the liquor unless it is proved that the person:

- (a) had no knowledge of the sale, and
(b) had used all due diligence to prevent the sale of liquor on or from the premises.

123 Unlicensed premises

A licensee must not sell, or employ or permit another person to sell, liquor on premises, or in a place, other than the premises on which, or the place at which, the licence authorises the licensee to sell the liquor.

Maximum penalty: 20 penalty units.

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

125 Conduct on licensed premises

- (1) A licensee must not:
- (a) permit the licensed premises to be used for the purposes of prostitution, or
 - (b) permit intoxication, or any indecent, violent or quarrelsome conduct, on the licensed premises.

Maximum penalty: 20 penalty units in the case of an offence under paragraph (a) or 50 penalty units in the case of an offence under paragraph (b).

- (2) A person must not use any part of licensed premises for the purposes of prostitution.

Maximum penalty: 20 penalty units.

- (3) A person (whether or not the person is the licensee) must not, on licensed premises, sell or supply liquor to any person who is at the time in a state of intoxication.

Maximum penalty: 50 penalty units.

- (4) If a person is intoxicated on licensed premises, the licensee is taken to have permitted intoxication on the licensed premises unless the licensee proves that the licensee and his or her employees took the steps set out in subsection (5) or all other reasonable steps to prevent intoxication on the licensed premises.

- (5) For the purposes of subsection (4), the following are the relevant steps:

- (a) asked the intoxicated person to leave the premises,
- (b) contacted, or attempted to contact, a police officer for assistance in removing the person from the premises,
- (c) refused to serve the person any alcohol after becoming aware that the person was intoxicated.

- (6) An amendment made to another provision of this section by the *Casino Control Amendment (Liquor Act Application) Regulation 1996* does not apply to proceedings for an offence alleged to have been committed before the commencement of the amendment.

Casino Control Regulation 2001

Schedule 6 Applied provisions of Liquor Act 1982 as modified

125A Production of licence

- (1) The holder of a licence who fails, without reasonable excuse, to produce the licence on demand being made on the licensed premises by an inspector is guilty of an offence.

Maximum penalty: 5 penalty units.

- (2) The onus of proving a reasonable excuse for the purposes of this section is on the licensee.

125E Sale of stolen goods or drugs on licensed premises

- (1) A licensee must not permit his or her licensed premises to be used for the sale of:

- (a) any goods that the licensee suspects of being stolen, or
- (b) any substance that the licensee suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*.

Maximum penalty: 50 penalty units.

- (2) A licensee must not permit the possession or use on the licensed premises of any substance that the licensee suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*.

Maximum penalty: 50 penalty units.

- (3) A servant of a licensee or a person, other than the licensee, in charge of licensed premises must not permit the licensed premises to be used for the sale of:

- (a) any goods that the servant or person suspects of being stolen, or
- (b) any substance that the servant or person suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*.

Maximum penalty: 50 penalty units.

- (4) A servant of a licensee or a person, other than the licensee, in charge of licensed premises must not permit the possession or use on the licensed premises of any substance that the servant or person suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*.

Maximum penalty: 50 penalty units.

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

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- (5) It is a defence to a prosecution for an offence under this section if it is proved that the goods concerned were not stolen or that the substance concerned was not a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*.

126 Gaming on licensed premises

- (1) A licensee must not:
- (a) permit or suffer any gaming for stakes on the licensed premises, or
 - (b) permit or suffer the playing of an unlawful game on the licensed premises, or
 - (c) in contravention of the *Unlawful Gambling Act 1998*:
 - (i) open, keep or use the licensed premises, or
 - (ii) suffer the licensed premises to be opened, kept or used.

Maximum penalty: 10 penalty units.

- (2) A servant of a licensee or a person, other than the licensee, in charge of licensed premises must not permit the playing of an unlawful game on the licensed premises.

Maximum penalty: 10 penalty units.

- (3) The conduct on licensed premises of a lottery or game of chance pursuant to and in accordance with section 4 or 4A of the *Lotteries and Art Unions Act 1901* does not render a person liable to a penalty under subsection (1) or (2).

129 Failure to pay for liquor, meals or accommodation

- (1) A person supplied on licensed premises with liquor, a meal or accommodation must not:
- (a) on demand made by the licensee or the licensee's employee or agent, refuse or fail to pay a reasonable amount for the liquor, meal or accommodation, or
 - (b) avoid such a demand.

Maximum penalty: 3 penalty units.

- (2) The court before which a person is convicted of an offence under subsection (1) may, on the conviction or at any time afterwards, order the offender to pay to the licensee such amount as it thinks reasonable for the provision of the liquor, meals or accommodation concerned.

Casino Control Regulation 2001

Schedule 6 Applied provisions of Liquor Act 1982 as modified

131 Carrying away of liquor

- (1) A person must not carry away liquor from the licensed premises.
Maximum penalty: 3 penalty units.
- (2) It is a defence to a prosecution under subsection (1) if it is proved that the liquor carried away was in the possession of the defendant when he or she entered the licensed premises.
- (3) It is a defence to a prosecution for an offence under subsection (1) if it is proved that the liquor concerned was carried away by a licensee or an employee of a licensee for the purpose of taking it to another part of the licensed premises.
- (4) No offence is committed under subsection (1) if:
 - (a) the licence is a restaurant licence, and the liquor is wine, and
 - (b) the wine was purchased in a container at the restaurant and was partly consumed there, and
 - (c) the container is re-corked or otherwise resealed before being carried away.

132 Obtaining liquor by false representation

A person must not obtain, or attempt to obtain, liquor on licensed premises by falsely representing that the person:

- (a) is a lodger in, or inmate of, the premises, or
- (b) is a guest of a lodger in, or of an inmate of, the premises, or
- (c) intends to partake of, or has partaken of, a meal on those premises, or
- (d) is in attendance at a dinner, reception, convention or the like, or at a ball conducted, on those premises, or
- (e) is a guest at a function on those premises, or
- (f) is an employee of the licensee.

Maximum penalty: 3 penalty units.

135 Carrying of liquor for sale

- (1) A person must not do any of the following:
 - (a) carry liquor about for the purpose of sale in the casino or casino environs,

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

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- (b) offer or expose liquor for sale at or on any place in the casino or casino environs other than a place at or on which liquor may lawfully be sold,
 - (c) carry liquor, for the purpose of sale, to a place in the casino or casino environs other than a place at or on which liquor may lawfully be sold.

Maximum penalty: 20 penalty units.

- (2) If liquor is carried, offered or exposed by a person in contravention of subsection (1) and is so carried, offered or exposed on behalf of another person, that other person is taken to have contravened that subsection.
- (3) It is a defence to a prosecution for a contravention of subsection (1) or (2) if it is proved that the liquor was carried, offered or exposed, as the case may be, for the purpose of a sale that may lawfully be made.
- (4) In a prosecution for a contravention of subsection (1), the burden of proving that liquor that has been carried about, or carried to any place, was not so carried for the purpose of sale is on the person charged.

139 False or misleading statements

- (1) A person must not, in an official document under this Act, make a statement that the person knows, or could reasonably be expected to know:
 - (a) is false or misleading in a material respect, or
 - (b) omits material matter.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) A document is an official document under this Act if it is an application, declaration, affidavit, instrument or other document that is delivered to or lodged with the Authority or the court, for the purposes of this Act.
- (3) This section continues to apply to an affidavit or statutory declaration made before the substitution of this section by the *Casino Control Amendment (Liquor Act Application) Regulation 1996* as if this section had not been substituted.

Casino Control Regulation 2001

Schedule 6 Applied provisions of Liquor Act 1982 as modified

Division 2 Evidence**140 Averments**

- (1) In any proceedings under this Act, an allegation (however expressed) in an application, objection, information or complaint, as to any of the following is evidence of the truth of the allegation:
 - (a) that a liquid is liquor,
 - (b) that a specified person is the holder of a licence,
 - (c) that a specified person is not the holder of a licence,
 - (d) that a specified licence has been suspended,
 - (e) that specified premises are licensed premises,
 - (f) that specified premises are in the casino or casino environs,
 - (g) that a specified part of premises is a restricted area,
 - (h) that an authorisation under section 112 is in force in respect of a specified part of any premises,
 - (i) that a specified condition has been, and remains, imposed on a specified licence,
 - (j) that a specified person has been approved under Division 8A of Part 3 as the manager of specified licensed premises,
 - (k) that a specified person is an inspector.
- (2) In any proceedings under this Act, an allegation in an information that, at a specified time after the commencement of this Act, a person was under the age of 18 years is evidence of the truth of the allegation unless the defendant denies the allegation in accordance with subsection (3).
- (3) An allegation referred to in subsection (2) may be denied:
 - (a) at any adjournment before the commencement of the hearing of the information—by informing the court, the informant or a person appearing for the informant in writing of the denial, or
 - (b) at any time not later than 14 days before the commencement of the hearing of the information—by informing the informant or a person appearing for the informant in writing of the denial.

141 Evidence of certain matters

In any proceedings under this Act, evidence of delivery or supply of liquor is evidence of a sale of the liquor.

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

142 Licensee taking liquor off premises outside hours

In any proceedings for a contravention of section 119, liquor is deemed to have been sold or consumed on the licensed premises to which the proceedings relate notwithstanding that it is proved that the licensee took or carried, or employed or suffered another person to take or carry, the liquor out of the licensed premises for the purpose of being sold or consumed at a place in the occupation of the licensee or in a public street or other public place.

Division 3 General

142A Proof of certain matters

In any proceedings for an offence under this Act, the defendant has the onus of proving that, because of section 6 (e), this Act does not apply to or in respect of the act or omission which constitutes the offence.

143 General penalty

The maximum penalty for a contravention of a provision of this Act is 50 penalty units unless some other maximum penalty or punishment is provided for the contravention.

144 Licensee or manager liable for act of agent or employee

If, in contravention of this Act, an agent or employee of the holder of a licence or the manager of licensed premises, or a person acting, or purporting to act, on behalf of the holder of a licence or the manager of licensed premises, sells or supplies liquor on the premises to which the licence relates, the licensee or manager is guilty of an offence and liable to the punishment prescribed for the contravention.

145 Proceedings for offence

- (1) Proceedings under this Act by which a person:
 - (a) may be imprisoned, or
 - (b) may be punished by the exaction of a penalty for the non-payment of which the person is liable to be imprisoned,may be disposed of summarily by a court constituted by a Magistrate sitting alone.

Casino Control Regulation 2001

Schedule 6 Applied provisions of Liquor Act 1982 as modified

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- (2) Proceedings referred to in subsection (1) may be instituted by an information laid within the period of 12 months that next succeeds the act or omission giving rise to the proceedings.
 - (3) Despite anything to the contrary in this section or in any other Act, proceedings for an offence referred to in the Table to this section may be instituted by information laid within the period of 3 years after the act or omission giving rise to the offence.
 - (4) Subsection (3) extends to apply in respect of an act or omission giving rise to proceedings for an offence referred to in the Table to this section that occurred within 12 months before that subsection commenced.

Table (Offences to which 3 year time limit applies)

An offence against section 69B, 69E, 101, 121, 122, 123 or 139.

145A Penalty notices

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act and the offence is one that is stated by the *Casino Control Regulation 2001* to be an offence to which this section applies.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within a time and to a person specified in the notice, the amount of penalty prescribed by the *Casino Control Regulation 2001* for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence, except proceedings under Division 8 (Disciplinary provisions) of Part 3.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor does it in any way affect or prejudice, any civil proceeding arising out of the same occurrence.
- (6) However, when a penalty is paid under this section in respect of a penalty notice served on a person, the person is for the purposes of Division 8 of Part 3 taken to have been convicted of the offence to which the penalty notice related.

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

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- (7) Payment under this section does not interfere with the operation of section 69F, 69G, 69H or 144 in respect of a contravention or alleged contravention of this Act by the person who pays the penalty.
- (8) The *Casino Control Regulation 2001* may:
- (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (9) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a court.
- (10) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (11) In this section, *authorised officer* means an inspector or a police officer.

Part 10 Miscellaneous

151B Service by post

A summons, notice or other instrument required or permitted to be served under this Act by post is taken to have been properly addressed for the purpose of its service by post if addressed to the person to whom it is directed at any of the following addresses:

- (a) the address of any licensed premises of which the person is licensee,
- (b) the address of the place at which the person resides, as last known to the Authority,
- (c) the address of a place at which the person carries on business, as last known to the Authority.

Casino Control Regulation 2001

Schedule 6 Applied provisions of Liquor Act 1982 as modified

152 Forfeiture of liquor and associated items

- (1) If, in proceedings for an offence under section 121 (1), a licensee is proved to have sold liquor that he or she is not authorised by his or her licence to sell, there is to be forfeited to the use of the Crown all liquor (other than liquor the licensee is authorised by his or her licence to sell) found, at the time of the commission of the offence, in the licensee's possession or apparently under his or her control together with the vessels in which the liquor is contained.
- (2) If, in proceedings for an offence under section 122 (1), a person is proved to have committed the offence, there is to be forfeited to the use of the Crown all liquor found, at the time of the commission of the offence, in the person's possession or apparently under his or her control, or in the place where the offence was committed, together with the vessels in which the liquor is contained.
- (3) If, in proceedings for an offence under section 135, a person is proved to have committed the offence, there is to be forfeited to the use of the Crown:
 - (a) all liquor that, in contravention of that section, was being, by the offender, carried about for sale, offered or exposed for sale or carried to any place for the purpose of sale together with the vessels in which the liquor is contained, and
 - (b) any vehicle, boat or other conveyance in which the liquor was so carried, offered or exposed.
- (4) If a licence is cancelled under this Act, there is forfeited to the use of the Crown all liquor found, not earlier than 7 days after the cancellation takes effect, in the former licensee's possession on the former licensed premises, together with the vessels in which the liquor is contained.
- (5) A police officer may seize and carry away anything that he or she reasonably suspects may be liable to forfeiture under this section.
- (6) An inspector may seize and carry away any liquor, together with the vessels in which the liquor is contained, that the inspector reasonably suspects may be liable to forfeiture under this section.

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

152A Confiscation of proof of age cards

- (1) An authorised person to whom a proof of age card, or thing resembling a proof of age card, is produced by a person representing it to be the person's proof of age card (whether as proof of age or of identity) may, with no authority other than this section, seize the card or thing if he or she reasonably suspects that the card or thing:
 - (a) is not the person's proof of age card or contains information that is false or misleading as to that person's name or age, or
 - (b) has been forged or fraudulently altered, or
 - (c) is being used in contravention of any provision of this Act.
- (2) In this section:

proof of age card means a "proof of age" card issued by the Roads and Traffic Authority or by a corresponding public authority of the Commonwealth or of some other State or Territory.
- (3) A proof of age card or thing seized under this section is to be forwarded to the Commissioner of Police. The Commissioner must cause the card or article to be returned (by delivery or by post) to the person who produced it unless subsection (4) applies.
- (4) The Commissioner may retain possession of and deal with a proof of age card or thing forwarded to the Commissioner in such manner as the Commissioner thinks fit if satisfied that the card or thing:
 - (a) is not the proof of age card of the person from whom it was seized or contains information that is false or misleading as to that person's name or age, or
 - (b) has been forged or fraudulently altered, or
 - (c) is being used in contravention of any provision of this Act.
- (5) Each of the following is an authorised person for the purposes of this section:
 - (a) any police officer,
 - (b) the Authority, an inspector, the licensee and any employee of the licensee on the licensed premises concerned, but only on those licensed premises or in a place in the immediate vicinity of those licensed premises.

Casino Control Regulation 2001

Schedule 6 Applied provisions of Liquor Act 1982 as modified

154A Civil proceedings

- (1) A contract made with a licensee to sell liquor in accordance with this Act to the licensee is taken, for the purposes only of subsection (2), to be a contract made jointly and severally with the licensee and the persons directly or indirectly interested in the profits of the business carried on pursuant to the licence.
- (2) If liquor is sold to a licensee under a contract referred to in subsection (1) and the licensee defaults in payment for the liquor, civil proceedings may be taken by the vendor of the liquor against all or any of the persons so referred to for recovery of the unpaid amount.

155 Notices

- (1) Except to the extent to which this Act otherwise provides, a notice under this Act must be in writing and may be served by post.
- (2) The Authority may, at the consideration or adjourned consideration of a matter in relation to which a notice was served by post, despite that service, order the service of the notice in the manner provided by section 63 (1) of the *Justices Act 1902* in relation to service of a summons (a reference in that section to “place of abode” being construed as including licensed premises, or proposed licensed premises, to which the notice relates) and may adjourn or further adjourn the consideration of the matter to enable the notice to be served in accordance with the order.

Schedule 1 Savings and transitional provisions

(Section 3)

**Part 18 Liquor and Registered Clubs Legislation
Amendment Act 2000****88 Conditions of licences**

The purported imposition, at a time before the commencement of this clause, of a condition on a licence that would have been valid if sections 20 and 104, as amended by the *Casino Control Amendment (Liquor Act Application) Regulation 2000*, had been in force at the time is validated.

Casino Control Regulation 2001

Applied provisions of Liquor Act 1982 as modified

Schedule 6

Part 19 Casino Control Amendment Act 2001

89 Past acts and omissions of Director of Casino Surveillance

Any act or omission of the Director of Casino Surveillance under this Act that occurred before 1 July 2001 is taken to be an act or omission of the Authority.

90 Referred applications

Sections 42B, 42C and 42D, as amended by the *Casino Control Amendment (Merger of Functions) Regulation 2001*, extend to applications made before 1 July 2001, and apply to any such application despite its having been referred to the Director under section 42B, as in force immediately before 1 July 2001.

Casino Control Regulation 2001

Schedule 7 Persons and bodies prescribed for purposes of section 148 (2) of Act

Schedule 7 Persons and bodies prescribed for purposes of section 148 (2) of Act

(Clause 38)

1 Australia

New South Wales Minister for Gaming and Racing
New South Wales Director-General of the Department of Gaming and Racing
New South Wales Director of Liquor and Gaming
Queensland Office of Gaming Regulation
Victorian Office of Gaming Regulation
Gaming Commission of Western Australia
Western Australian Department of Racing, Gaming and Liquor
South Australian Gaming Supervisory Authority
South Australian Office of Liquor and Gaming Commission
Tasmanian Gaming Commission
Northern Territory Department of Industries and Business (Division of Racing, Gaming and Liquor Licensing)
Australian Capital Territory Gambling and Racing Commission
Commonwealth Casino Surveillance Authority

2 New Zealand

New Zealand Casino Control Authority
New Zealand Department of Internal Affairs

3 Great Britain

The Gaming Board for Great Britain

4 United States of America

Nevada Gaming Commission
Nevada Gaming Control Board

Casino Control Regulation 2001

Persons and bodies prescribed for purposes of section 148 (2) of Act

Schedule 7

New Jersey Casino Control Commission

New Jersey Department of Law and Public Safety—Division of
Gaming Enforcement

Casino Control Regulation 2001

Schedule 8 Penalty notice offences

Schedule 8 Penalty notice offences

(Clauses 41 and 42)

Part 1

Column 1	Column 2	Column 3	Column 4
Provision of the Act	Short description	IPB Code	Penalty
Section 86 (2)	employee gamble/solicit/accept benefit in casino	1203, 6123	\$220
Section 86 (3)	former key official gamble in casino	1289, 6124	\$220
Section 87 (1)	cheat in casino	1291, 6127	\$660
Section 87 (1A)	dishonestly retain benefit in casino	1292, 6128	\$220
Section 87 (2)	use card counting device in casino	1299, 6129	\$550
Section 87 (3)	use/possess cheating equipment in casino	1301, 6580	\$550

Part 2

Column 1	Column 2	Column 3	Column 4
Provision of this Regulation	Short description	IPB Code	Penalty
Clause 23	Offer gambling inducement	9521, 1522	\$550
Clause 24 (1)	Fail to display winning chances	9522, 1523	\$550
Clause 26 (1)	Fail to make player information available	9523, 1525	\$550
Clause 27 (2)	Fail to make player information available (other language)	9524, 1527	\$550
Clause 28 (2) (a)	Fail to display gambling warning notice	9525, 1528	\$550
Clause 28 (2) (b)	Fail to display problem gambling notice	9526, 1530	\$550

Casino Control Regulation 2001

Penalty notice offences

Schedule 8

Column 1	Column 2	Column 3	Column 4
Provision of this Regulation	Short description	IPB Code	Penalty
Clause 29 (1)	Fail to display counselling notice	9527, 1537	\$550
Clause 30 (1)	Fail to display notice on ATM	9528, 1547	\$550
Clause 31	Fail to display clock	9529, 1550	\$550
Clause 32	Fail to pay prize money by required cheque	9530, 1551	\$550
Clause 33 (1)	Publish unacceptable gambling advertisement	9531, 1557	\$550
Clause 33 (2)	Gambling advertisement without warning	9532, 1563	\$550
Clause 33 (3)	Publish non-complying gambling advertisement	9533, 1564	\$550
Clause 33 (4)	Fail to remove non-complying gambling advertisement	9534, 1566	\$550
Clause 33 (5)	Enter into/extend unlawful contract/arrangement	9541, 1567	\$550
Clause 34 (1)	Publish winner's details contrary to request	9542, 1568	\$550

Part 3

Column 1	Column 2	Column 3	Column 4	Column 5
Provision of the Liquor Act (as applied by this Regulation and modified as set out in Schedule 6)	Short description	IPB Code	Penalty (other than minors)	Penalty (minors)
Section 91 (1)	Fail to display licence sign	5827, 0900	\$33	—
Section 91 (3)	Alter name of premises without approval	5829, 0901	\$33	—
Section 91 (5)	Cause/permit use of prohibited name on exterior/in advert	5830, 0904	\$55	—
Section 103 (3)	Fail to leave licensed premises	6068, 0908, 8665	\$550	\$55

Casino Control Regulation 2001

Schedule 8 Penalty notice offences

Column 1	Column 2	Column 3	Column 4	Column 5
Provision of the Liquor Act (as applied by this Regulation and modified as set out in Schedule 6)	Short description	IPB Code	Penalty (other than minors)	Penalty (minors)
Section 113	Minor use false evidence of age to obtain entry/remain in/obtain liquor from licensed premises	6544	—	\$55
Section 114 (1)	Sell/supply liquor to minor	6535, 1572, 1574, 6555, 2198	—	\$550
Section 114 (2)	Allow liquor to be sold/supplied to minor	6513, 1573	\$550	—
Section 114 (3)	Obtain liquor on behalf of minor	6536, 1578, 5848	\$550	\$55
Section 115 (1) (a)	Minor consume liquor on licensed premises/at unlicensed restaurant	6545, 1575	—	\$55
Section 115 (1) (b)	Minor obtaining/attempting to obtain liquor on licensed premises	6546, 1576	—	\$55
Section 115 (1) (c)	Minor carrying away/attempting to carry away liquor from licensed premises	6547, 1577	—	\$55
Section 115 (4)	Send/order/request minor to obtain liquor	6537, 5890, 0910	\$220	\$55
Section 116 (1)	Licensee allow minor to sell/supply/serve liquor	6514, 1579	\$550	—
Section 116A (1)	Minor enter/remain in restricted area/casino area	6548, 1580	—	\$55
Section 116A (3)	Unacc. minor enter/remain in authorised part of casino/licensed premises	6549, 1581	—	\$55
Section 116A (5)	Unacc. minor enter/remain in restaurant in restricted period	5892, 0140	—	\$55
Section 116B (1) (a)	Allow minor to enter restricted area on licensed premises	6515, 1583	\$550	—

Casino Control Regulation 2001

Penalty notice offences

Schedule 8

Column 1	Column 2	Column 3	Column 4	Column 5
Provision of the Liquor Act (as applied by this Regulation and modified as set out in Schedule 6)	Short description	IPB Code	Penalty (other than minors)	Penalty (minors)
Section 116B (1) (b)	Allow unacc. minor to enter authorised part	6516, 1594	\$550	—
Section 116B (1) (c)	Allow unacc. minor to enter licensed premises (casino part)	6517, 1585	\$550	—
Section 116B (1) (d)	Allow unacc. minor to enter restaurant in restricted period	8663, 0147	\$550	—
Section 116B (2) (a)	Fail to remove minor from restricted area	6518, 1586	\$550	—
Section 116B (2) (b)	Fail to remove unacc. minor	6519, 1587	\$550	—
Section 116B (2) (c)	Fail to remove minor from licensed premises (casino part)	6520, 1588	\$550	—
Section 116B (2) (d)	Fail to remove minor from restaurant in restricted period	5899, 0911	\$550	—
Section 116C (1) (a)	Fail to display notice about minors in restricted area	5909, 1591	\$220	—
Section 116C (1) (b)	Fail to display notice about unacc. minors in authorised area	1592	\$220	—
Section 116C (2) (a)	Fail to display notice about minors in restricted area	6530, 1591	\$220	—
Section 116C (2) (b)	Fail to display notice about unacc. minors in authorised area	6531, 1592	\$220	—
Section 116C (5)	Fail to display notice about restricted period in restaurant	5904, 0149	\$220	—
Section 116D (a)	Permit minor to consume alcohol on premises	6542, 1594	\$220	—
Section 116D (b)	Leave minor on premises without first informing licensee	8675, 1595	\$220	—

Casino Control Regulation 2001

Schedule 8 Penalty notice offences

Column 1	Column 2	Column 3	Column 4	Column 5
Provision of the Liquor Act (as applied by this Regulation and modified as set out in Schedule 6)	Short description	IPB Code	Penalty (other than minors)	Penalty (minors)
Section 117A (2) (a)	Suspected minor refusing/failing to state name or address	6551, 1596, 8676	\$110	\$55
Section 117A (2) (b)	Suspected minor refusing/failing to produce evidence of age	6552, 1597, 6068	\$110	\$55
Section 117B	Licensee/employee fail to refuse minor entry to premises/part of premises	6522, 1598	\$220	\$55
Section 117E (2)	Minor providing false/misleading information to get age evidence	6554, 1601	—	\$110
Section 117E (3)	Providing/certifying false/misleading information for age evidence	6538, 1602, 8668, 0919	\$220	\$110
Section 117EB (1)	Make false proof of age card	8194, 0174, 8677	\$220	\$110
Section 117EB (2)	Give false proof of age card	8195, 0175, 8682	\$220	\$110
Section 117EB (3)	Make/give false proof of age card (aggravation)	8196, 0176, 8685	\$550	\$110
Section 117EC	Give/lend proof of age card	8197, 0177, 5913, 0923	\$220	\$110
Section 117ED	Tamper with proof of age card	8198, 0178, 5914, 0924	\$220	\$110
Section 119 (a)	Keep premises open for liquor sale/supply	6524, 1606	\$220	—
Section 119 (b)	Sell/supply liquor outside hours	6525, 1606	\$220	—
Section 121 (1)	Sell/supply liquor/cause/suffer liquor to be sold/supplied contrary to authority	7490, 0655	\$550	—

Casino Control Regulation 2001

Penalty notice offences

Schedule 8

Column 1	Column 2	Column 3	Column 4	Column 5
Provision of the Liquor Act (as applied by this Regulation and modified as set out in Schedule 6)	Short description	IPB Code	Penalty (other than minors)	Penalty (minors)
Section 121 (2)	Agent/servant/person on behalf of licensee sell liquor/cause/suffer liquor to be sold contrary to authority	7491, 0059, 5915, 0925	\$550	\$55
Section 122 (1)	Unauthorised sale/cause/suffer unauthorised sale of liquor	7492, 0060, 5916, 0926	\$550	\$55
Section 123	Licensee sell liquor/employ/permit person to sell liquor on unlicensed premises	7495, 0120	\$220	—
Section 125 (1) (b)	Permit intoxication/ indecent/violent/ quarrelsome conduct on premises	6526, 1608	\$550	—
Section 125 (3)	Sell/supply liquor to intoxicated person	6540, 1609	\$550	\$55
Section 125A (1)	Licensee fail to produce licence	6584, 1302	\$55	—
Section 126 (1) (a)	Permit/suffer gaming for stakes on premises	6527, 1610	\$110	—
Section 126 (1) (b)	Permit/suffer unlawful game on premises	6528, 1611	\$110	—
Section 126 (1) (c) (i)	Open/keep/use premises contrary to Unlawful Gambling Act	6529, 1612	\$110	—
Section 126 (1) (c) (ii)	Suffer premises to be opened/used/kept contrary to Unlawful Gambling Act	6529, 1612	\$110	—
Section 126 (2)	Servant/person in charge permitting unlawful game on premises	6541, 1613, 6085	\$110	\$55
Section 129 (1) (a)	Refuse/fail to pay for liquor/meal/ accommodation	6069, 1170, 6070, 1171, 6071, 1170, 0959, 0960, 0963	\$55	\$55

Casino Control Regulation 2001

Schedule 8 Penalty notice offences

Column 1	Column 2	Column 3	Column 4	Column 5
Provision of the Liquor Act (as applied by this Regulation and modified as set out in Schedule 6)	Short description	IPB Code	Penalty (other than minors)	Penalty (minors)
Section 129 (1) (b)	Avoid demand for payment for liquor/meal/accommodation	6072, 1173, 6073, 1174, 6074, 1175, 0994, 0999, 1008	\$55	\$55
Section 135 (1) (a)	Carry liquor about for sale	7497, 0132, 6089, 1010	\$220	\$55
Section 135 (1) (b)	Unlawfully offer/expose liquor for sale	7498, 0133, 6090, 1026	\$220	\$55
Section 135 (1) (c)	Carry liquor for sale to unlawful place	7499, 0134, 6091, 1028	\$220	\$55
Section 139 (1)	Statement false/misleading/omits matter	6092, 1037	\$550	\$55

Commercial Vessels (Certificates of Competency and Safety Manning) Amendment (Fees) Regulation 2001

under the

Commercial Vessels Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Commercial Vessels Act 1979*.

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to increase certain fees prescribed by the *Commercial Vessels (Certificates of Competency and Safety Manning) Regulation 1986* that are payable in respect of:

- (a) examinations for certificates of competency, and
- (b) the issue, recognition and revalidation of certificates of competency, and
- (c) miscellaneous other matters.

These fee increases take account of an annual increase in the Consumer Price Index.

This Regulation is made under the *Commercial Vessels Act 1979*, including sections 30G (3) and 52 (the general regulation-making power).

Clause 1 Commercial Vessels (Certificates of Competency and Safety Manning)
 Amendment (Fees) Regulation 2001

Commercial Vessels (Certificates of Competency and Safety Manning) Amendment (Fees) Regulation 2001

1 Name of Regulation

This Regulation is the *Commercial Vessels (Certificates of Competency and Safety Manning) Amendment (Fees) Regulation 2001*.

2 Commencement

This Regulation commences on 1 October 2001.

3 Amendment of Commercial Vessels (Certificates of Competency and Safety Manning) Regulation 1986

The *Commercial Vessels (Certificates of Competency and Safety Manning) Regulation 1986* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Commercial Vessels (Certificates of Competency and Safety Manning)
Amendment (Fees) Regulation 2001

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 3)

Schedule 3

Omit the Schedule. Insert instead:

Schedule 3 Fees payable in connection with certificates of competency

(Clause 13)

Part 1 Fees in respect of examinations

Column 1	Column 2	Column 3
Class of certificate or endorsement	Examination for which fee is payable	Fee \$
Master Class 1, Master Class 1 (limited to sail as Chief Mate), Master Class 2, Master Class 2 (limited to sail as Chief Mate), Second Mate Class 1, Second Mate Class 2	All exams for the relevant class of certificate	351
Master Class 3 or Master Class 3 (limited to sail as Chief Mate)	All exams for the relevant class of certificate	351
Master Class 4 or Mate Class 4	All exams for the relevant class of certificate	321
Master Class 5	All exams for the relevant class of certificate	242
Coxswain	All exams for the relevant class of certificate	122
Marine Engineer Class 1, Marine Engineer Class 2 or Marine Engineer Watchkeeper	All exams for the relevant class of certificate	351
Marine Engineer Class 3	All exams for the relevant class of certificate	242

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Commercial Vessels (Certificates of Competency and Safety Manning)
Amendment (Fees) Regulation 2001

Schedule 1 Amendment

Column 1	Column 2	Column 3
Class of certificate or endorsement	Examination for which fee is payable	Fee \$
Marine Engine Driver Grade 1	All exams for the relevant class of certificate	242
Marine Engine Driver Grade 2	All exams for the relevant class of certificate	158
Marine Engine Driver Grade 3	All exams for the relevant class of certificate	83
All classes mentioned above	Where a single written or single oral supplementary exam is carried out for the relevant class of certificate	33
Certificate endorsed for either trading or fishing operations	Trading or fishing operations	83
Certificate endorsed for air-cushioned vessel operations	Air-cushioned vessel operations	83
Certificate endorsed for special operations	Special operations	83
Certificate endorsed for refrigeration operations	Engineering knowledge—written	83
	Engineering knowledge—oral	83

Part 2 Fees in respect of issue, recognition and revalidation of certificates of competency

Column 1	Column 2
Matter for which fee is payable	Fee \$
Issue of certificate under section 30H of the Act if candidate satisfies examination requirements (or those requirements except for short courses) outside NSW	38
Recognition of certificates of other States etc under section 30L of the Act:	
(a) by endorsement of certificate	13
(b) by notice certifying validity	28

Commercial Vessels (Certificates of Competency and Safety Manning)
Amendment (Fees) Regulation 2001

Amendment

Schedule 1

Column 1	Column 2
Matter for which fee is payable	Fee \$
Revalidation of certificate under section 30I of the Act	83
Issue of duplicate certificate under section 30H (4) of the Act for certificate lost or destroyed	83

Part 3 Miscellaneous fees

Column 1	Column 2
Matter for which fee is payable	Fee \$
Eyesight test conducted by the Minister to satisfy medical requirements for issue of certificate of competency	42
Re-assessment of written examination paper for issue of certificate of competency	20
Oral examination required on seamanship or coastal local knowledge in connection with certificate of competency	83
Application for review of Minister's decision under clause 6 of this Regulation	28
Record of service book	22
Where, at the request of applicant for examination, a person acting on behalf of the Minister attends at a place where the officer would not, except in response to the request, have been engaged on official duties—travelling and accommodation expenses incurred by the officer because of that attendance	Such reasonable fee as may be deemed by the Minister to cover some or all of those expenses and was notified to the applicant at the time of the request
Issue of certificate of competency where applicant has passed examinations conducted by another marine authority	64
Search fee—per item	33

Commercial Vessels (Load Lines) Amendment (Fees) Regulation 2001

under the

Commercial Vessels Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Commercial Vessels Act 1979*.

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to increase the fees prescribed by the *Commercial Vessels (Load Lines) Regulation 1986* for:

- (a) an initial survey and the issue of a load line certificate, and
- (b) an initial survey and the issue of a load line exemption certificate, and
- (c) a periodical survey, and
- (d) a periodical inspection.

These fee increases take account of an annual increase in the Consumer Price Index.

This Regulation is made under the *Commercial Vessels Act 1979*, including sections 38 and 52 (the general regulation-making power).

Clause 1 Commercial Vessels (Load Lines) Amendment (Fees) Regulation 2001

Commercial Vessels (Load Lines) Amendment (Fees) Regulation 2001

1 Name of Regulation

This Regulation is the *Commercial Vessels (Load Lines) Amendment (Fees) Regulation 2001*.

2 Commencement

This Regulation commences on 1 October 2001.

3 Amendment of Commercial Vessels (Load Lines) Regulation 1986

The *Commercial Vessels (Load Lines) Regulation 1986* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Commercial Vessels (Load Lines) Amendment (Fees) Regulation 2001

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Schedule 2 Fees

Omit “251” wherever occurring from Items 1, 2, and 3. Insert instead “259”.

[2] Schedule 2, Item 4

Omit “83”. Insert instead “86”.

Commercial Vessels (Permits) Amendment (Fees) Regulation 2001

under the

Commercial Vessels Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Commercial Vessels Act 1979*.

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to increase certain fees, charges and expenses prescribed by the *Commercial Vessels (Permits) Regulation 1986* for:

- (a) applications for permits under the *Commercial Vessels Act 1979*, and
- (b) investigations of those applications, and
- (c) surveys of vessels undertaken in accordance with the Act, and
- (d) miscellaneous other matters.

These fee, charge and expense increases take account of an annual increase in the Consumer Price Index.

This Regulation also simplifies the fee structure for certain initial, periodic and prototype vessel surveys replacing a four tier fee system (based on vessel length and permit class type) with a two tier system (solely based on the length of the vessel concerned).

This Regulation is made under the *Commercial Vessels Act 1979*, including sections 17 and 52 (the general regulation-making power).

Clause 1 Commercial Vessels (Permits) Amendment (Fees) Regulation 2001

Commercial Vessels (Permits) Amendment (Fees) Regulation 2001

1 Name of Regulation

This Regulation is the *Commercial Vessels (Permits) Amendment (Fees) Regulation 2001*.

2 Commencement

This Regulation commences on 1 October 2001.

3 Amendment of Commercial Vessels (Permits) Regulation 1986

The *Commercial Vessels (Permits) Regulation 1986* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Commercial Vessels (Permits) Amendment (Fees) Regulation 2001

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 3)

Schedule 3

Omit the Schedule. Insert instead:

Schedule 3 Fees, expenses and charges

(Clause 14)

Part 1 General

1	Replacement of a permit plate that has become lost, illegible, damaged or destroyed (section 15 (5))	\$62
2	Investigation as to whether conditions should be imposed on a deemed temporary permit (but only where conditions are imposed) (section 19 (3) (b)):	\$222
	In addition, for any inspection of a vessel for that purpose	\$112 per hour or part of an hour
3	Work carried out in connection with:	
	(a) an application for a permit and investigation of the application (section 17) (including survey, examination, approval of plans, witnessing position of draught marks, witnessing of inclining tests, approval of stability data, witnessing of vessel trials and examination of information in connection with approval of plans), or	
	(b) an application for approval of prototype vessel plans:	
	For a vessel less than or equal to 7.5 metres in length	\$114 per metre (or part of a metre) of length of the vessel
	For a vessel more than 7.5 metres in length	\$238 per metre (or part of a metre) of length of the vessel

Page 3

Commercial Vessels (Permits) Amendment (Fees) Regulation 2001

Schedule 1

Amendment

4	Work carried out in connection with an application for a permit in respect of a vessel of a design or production run for which a prototype approval has previously been issued:	
	For a vessel less than or equal to 7.5 metres in length	\$59 per metre (or part of a metre) of length of the vessel
	For a vessel more than 7.5 metres in length	\$112 per metre (or part of a metre) of length of the vessel
5	Work associated with the repeated re-examination of vessel survey plans	\$112 per hour or part of an hour
6	Investigation as to whether the suspension of a permit was justified (section 22 (5)):	\$112
	In addition, for any inspection of a vessel for that purpose	\$112 per hour or part of an hour
7	Work carried out in respect of the survey of a vessel in accordance with its survey schedule (section 30):	
	For a vessel less than or equal to 7.5 metres in length	\$36 per metre (or part of a metre) of length of the vessel
	For a vessel that is more than 7.5 metres in length	\$47 per metre (or part of a metre) of length of the vessel
8	Issue of a Class 4 permit in respect of a vessel that is less than 6 metres long and that is subject to an exemption from periodical survey under section 48	\$121 (for each group of 10 vessels, or part of such a group)
9	Issue of a replacement survey record book (clause 10 (7))	\$149
10	Issue of a towage permit (clause 12):	\$57
	In addition, for any inspection of a vessel for that purpose	\$112 per hour or part of an hour

Commercial Vessels (Permits) Amendment (Fees) Regulation 2001

Amendment	Schedule 1
11	<p>Inspection, where a defect or deficiency has been revealed by an inspection under section 28, for the purpose of ascertaining whether the defect or deficiency has been rectified</p> <p>\$112 per hour or part of an hour</p>
12	<p>Inspection subsequent to repairs following accident damage (section 29 (3))</p> <p>\$112 per hour or part of an hour</p>
13	<p>Preliminary inspection of an existing vessel for oral advice on survey requirements</p> <p>\$186 (which is to be deducted from any subsequent application fee in relation to the vessel)</p>
14	<p>Conversion of a deemed temporary permit to a New South Wales permit (section 20)</p> <p>\$112 per metre</p>
15	<p>Reinstatement of suspended permits</p> <p>\$112</p>
16	<p>Resurvey of vessel with cancelled survey permit:</p> <p>For a vessel less than or equal to 7.5 metres in length</p> <p>\$59 per metre (or part of a metre) of length of the vessel</p> <p>For a vessel more than 7.5 metres in length</p> <p>\$112 per metre (or part of a metre) of length of the vessel</p>

Part 2 Supplementary charges payable in addition to the fees, expenses and charges under Part 1

17	<p>Survey or service carried out by a surveyor outside normal working hours</p> <p>\$55 per hour or part of an hour (including travelling time), subject to a minimum fee of \$217 where the hours are not merely an extension of normal working hours</p>
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Commercial Vessels (Permits) Amendment (Fees) Regulation 2001

Schedule 1 Amendment

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- | | | |
|----|---|--|
| 18 | Attendance by a surveyor (at the request of an applicant for a vessel permit, or of a person submitting a vessel for survey, inspection or issue of a towage permit) otherwise than at a place or time at which the surveyor is normally engaged in official duties | Such reasonable travel and accommodation expenses as are incurred by the surveyor for the purposes of the attendance |
|----|---|--|

Commons Management Regulation 2001

under the

Commons Management Act 1989

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

RICHARD AMERY, M.P.,
Minister for Land and Water Conservation

Explanatory note

This Regulation replaces the *Commons Management Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation provides for the following matters:

- (a) the model by-law to apply to certain commons in existence in 1991 for which the relevant trust has not made a by-law (clause 5), and
- (b) the imposition of fees (clauses 8, 12, 31, 34 and 36), and
- (c) the procedures for enrolling persons on a commoners' roll for a trust established under the Act (Part 2), and
- (d) the procedures for the conduct of elections of the members of a trust board under the Act and for the conduct of meetings held by trust boards (Part 3), and
- (e) various matters concerning the conduct of the affairs of a trust, including the accounts to be kept in relation to a trust (Part 4), and
- (f) other minor, consequential and ancillary matters (Parts 1 and 5).

This Regulation is made under the *Commons Management Act 1989*, including section 62 (the general regulation-making power) and various other provisions referred to in the Regulation.

Commons Management Regulation 2001

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Commons Management Regulation 2001

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Clause 1 Commons Management Regulation 2001

Part 1 Preliminary

Commons Management Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Commons Management Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Commons Management Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

approved means approved for the time being by the Minister.

relevant trust officer, in relation to a trust, means:

- (a) the treasurer (in respect of all matters relating to the trust accounts) and the secretary to the trust board (in respect of all other matters), or
- (b) the administrator, or
- (c) the general manager of the local authority,

by which or by whom the affairs of the trust are managed.

secretary, in relation to a trust board, means the person holding office as secretary of the trust board.

the Act means the *Commons Management Act 1989*.

treasurer, in relation to a trust board, means the person holding office as treasurer of the trust board.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Commons Management Regulation 2001

Clause 5

Preliminary

Part 1

5 Model by-law

For the purposes of section 9 (4) of the Act, the model by-law set out in Schedule 1 is the prescribed model by-law.

Clause 6 Commons Management Regulation 2001

Part 2 Commoners' rolls

Part 2 Commoners' rolls

6 Commoners' rolls

- (1) For the purposes of section 5 (2) of the Act, a person has the prescribed qualification for enrolment as a commoner if:
- (a) the person resides in the land district in which the common is located and does not hold more than 20 hectares of land in that land district, or
 - (b) the person has such qualifications as may be specified for those purposes by the notice establishing the trust in respect of the common,
- and is not enrolled on another commoners' roll.
- (2) For the purposes of section 10 (2) of the Act, a person has the prescribed qualification for enrolment as a commoner if:
- (a) in the case of an existing common to which clause 5 (1) of Schedule 5 to the Act applies—the person is:
 - (i) a commoner in respect of the common under that clause, or
 - (ii) a person who is entitled to use the common by virtue of the grant or instrument by which the common was created,and is not enrolled on another commoners' roll, or
 - (b) in the case of any other common—the person has a qualification specified in subclause (1) in respect of the common.

7 Roll open for inspection

A copy of a commoners' roll must be kept at the office of the relevant trust officer for inspection by any person during normal business hours.

8 Applications for enrolment as a commoner

An application for enrolment as a commoner is to be made in the approved form accompanied by the fee determined by the trust (being an amount not exceeding the relevant amount specified in Schedule 2) and lodged with the relevant trust officer.

Commons Management Regulation 2001

Clause 9

Commoners' rolls

Part 2

9 Exhibition of applications

The relevant trust officer must ensure that an application for enrolment as a commoner is exhibited at 2 or more conspicuous places on the common, and at some other suitable public place approved by the trust, until the application has been dealt with.

10 Lodgment of objections

A commoner may object to the proposed enrolment of a person as a commoner by lodging with the relevant trust officer a notice in writing of the grounds of the objection.

11 Hearing of applications

- (1) An application must not be dealt with until at least 3 days after the date on which notice of the application was first exhibited.
- (2) Both the applicant for enrolment and any objector to the applicant's enrolment are entitled to be heard at the proceedings at which the application is considered.
- (3) The trust, after having considered an application and any objections to it, must determine the application by causing the applicant's name to be entered on the commoners' roll or by refusing the application.
- (4) An application must be dealt with as soon as possible but in no case later than 2 months after its receipt.

12 Appeal to local land board against refusal of application

- (1) For the purposes of section 11 (1) of the Act:
 - (a) the prescribed period within which an appeal may be made under that subsection is the period of 28 days following the date on which the applicant receives written notice of the trust's refusal of the application, and
 - (b) the prescribed manner in which such an appeal may be made is by lodging a notice of appeal, in the approved form and accompanied by the relevant fee specified in Schedule 2, with the registrar of the local land board to which the appeal is made.

Clause 12 Commons Management Regulation 2001

Part 2 Commoners' rolls

- (2) For the purposes of section 11 (2) of the Act:
- (a) the prescribed period within which a copy of an appeal must be served on a trust under that subsection is the period of 28 days following the date on which the applicant receives written notice of the trust's refusal of the application, and
 - (b) the prescribed manner in which a copy of such an appeal must be served is by serving it, personally or by post, on the relevant trust officer.

13 Periodic revision of commoners' rolls

A trust must, not later than 15 December in each year and at such other times as it may determine, convene a special meeting for the purpose of removing from the commoners' roll the names of any persons who are no longer entitled to be on the roll.

Commons Management Regulation 2001	Clause 14
Trust boards	Part 3
Elections	Division 1

Part 3 Trust boards

Division 1 Elections

14 Elections generally

- (1) An election of members of a trust board under section 32 or 33 of the Act is to be conducted in such manner as the trust may, at a general meeting of commoners, determine.
- (2) An election of members of a trust board referred to in section 5 or 49 of the Act is to be conducted in such manner as the administrator of the trust may determine.

15 Nominations for election

- (1) Nominations of candidates for election under section 32 or 33 of the Act:
 - (a) must be made in writing, signed by 2 commoners and accompanied by the written consent of the candidate, and
 - (b) must be delivered to the relevant trust officer not less than 7 days before the date fixed for the holding of the meeting at which the election is to take place.
- (2) Nominations of candidates for election under section 5 or 49 of the Act are to be called at the meeting at which the election is to take place.

16 Qualifications for members and office bearers of a trust board

- (1) A person is qualified to be a member of a trust board if, and only if, the person has been enrolled on the commoners' roll for the whole of the period of 6 months immediately prior to the calling of the election or, if the commoners' roll has been established for less than 6 months, for the whole of the period since the roll was established.
- (2) A person must not hold 2 or more positions of office bearer of a trust board simultaneously.

Clause 17 Commons Management Regulation 2001

Part 3 Trust boards

Division 2 Procedure of trust boards

Division 2 Procedure of trust boards

17 Ordinary meetings

- (1) Ordinary meetings of the members of a trust board must be held at least 6 times a year.
- (2) Each member of a trust board must be given at least 3 days' notice of an ordinary meeting of the trust board.

18 Special meetings

- (1) Special meetings of the members of a trust board may be convened by the secretary, or by any member of the trust board, on 24 hours' notice of the time and place of meeting being given to each member of the trust board.
- (2) No business may be transacted at a special meeting other than the business specified in the notice.

19 Procedure at meetings

All resolutions passed at a meeting of a trust board must be sealed with the common seal of the trust.

20 Duties of secretary

It is the duty of the secretary of a trust board:

- (a) to issue notices convening meetings of the trust board and to attend all such meetings, and
- (b) to keep minutes of all meetings of the trust board.

21 Duties of treasurer

It is the duty of the treasurer of a trust board:

- (a) to maintain all books and documents relating to the trust accounts, and
- (b) to receive and account for all money received by or on behalf of the trust, and
- (c) to deposit all money received by or on behalf of the trust with such authorised deposit-taking institution as the trust may from time to time appoint, and

Commons Management Regulation 2001	Clause 21
Trust boards	Part 3
Procedure of trust boards	Division 2

- (d) to ensure that all payments authorised by the trust are duly made, and
- (e) to prepare monthly accounts for inspection by the trust board at the ordinary meetings of the trust board.

22 Cheques

In the case of a trust whose affairs are managed by a trust board, all cheques drawn on the trust's account with an authorised deposit-taking institution must be signed by a member of the trust board and by the treasurer of the trust board.

Clause 23 Commons Management Regulation 2001

Part 4 Trusts generally

Part 4 Trusts generally

23 Custody and use of trust's common seal

- (1) A trust's common seal is to be kept in the custody of the relevant trust officer.
- (2) A trust's common seal may be affixed to an instrument or document only:
 - (a) following a resolution to do so passed at a meeting of the trust, and
 - (b) in the presence of the relevant trust officer, and
 - (c) with an attestation by the signature of the relevant trust officer of the fact of the affixing of the seal.
- (3) If an administrator of a trust has been appointed, the trust's common seal may be affixed and attested by the administrator alone.

24 Trust accounts

- (1) For the purposes of section 42 (4) of the Act, a trust's accounts must include:
 - (a) particulars of the purposes for which the common is used, and
 - (b) particulars of any disclosures recorded in the book referred to in clause 6 (3) of Schedule 2 to the Act.
- (2) The accounts for a trust whose affairs are managed by a trust board or an administrator must also include:
 - (a) receipts for all money received, and
 - (b) documentation of all expenditure, and
 - (c) cash books, and
 - (d) deposit books, and
 - (e) a plant and asset register.
- (3) The accounts for a trust whose affairs are managed by a local authority must also include such records relating to those affairs as the local authority is required to keep under the *Local Government Act 1993*.

Commons Management Regulation 2001

Clause 24

Trusts generally

Part 4

- (4) Records of the kind referred to in subclause (3) must be kept in a manner that allows the following information to be readily extracted:
- (a) information concerning all financial matters regarding each common from which the local authority receives revenue of any nature,
 - (b) information concerning all improvements effected on each such common,
 - (c) information concerning all leases and licences granted or in force in respect of each such common.

25 Livestock registers

- (1) Each trust must keep a livestock register for the common or, if the common is divided into several enclosed portions, for each enclosed portion of the common.
- (2) The register must contain:
 - (a) the names and addresses of the commoners enrolled on the commoners' roll, and
 - (b) a description of all stock depastured on the common, or enclosed portion of the common, that belongs to a commoner, and
 - (c) a description of the brand or brands with which the stock is marked.
- (3) The register must be kept at the office of the relevant trust officer for inspection by any person during normal business hours.

26 Duties of relevant trust officer

- (1) It is the duty of the relevant trust officer:
 - (a) to issue notices convening meetings of the trust and to attend all such meetings, and
 - (b) to keep minutes of all meetings of the trust, and
 - (c) to maintain the commoners' roll and all other books and documents necessary for the conduct of the affairs of the trust, and
 - (d) to inform the ranger of the trust of the names of the persons authorised by the trust to use the common.

Clause 26 Commons Management Regulation 2001

Part 4 Trusts generally

- (2) In the case of a trust whose affairs are administered otherwise than by a trust board, it is also the duty of the relevant trust officer:
- (a) to receive and account for all money received by or on behalf of the trust, and
 - (b) to deposit all money received by or on behalf of the trust with such authorised deposit-taking institution as the trust may from time to time appoint, and
 - (c) to ensure that all payments authorised by the trust are duly made.

Commons Management Regulation 2001

Clause 27

Miscellaneous

Part 5

Part 5 Miscellaneous

27 Particulars to be included in notice of sale

For the purposes of section 16 (6) (c) of the Act, the prescribed particulars in relation to land proposed to be sold are:

- (a) such particulars (such as lot and deposited plan numbers) as are necessary to identify each parcel of land concerned, and
- (b) the aggregate area (in hectares) of the land, and
- (c) the name of the parish and county in which the land is situated, and
- (d) any other references (such as folio identifier numbers) relevant to the title to the land.

28 Particulars to be included in applications concerning certain land transactions

For the purposes of section 16 (12) of the Act, the prescribed particulars to be included in an application for an authority to enter into land transactions of a specified kind are such of the following particulars as are relevant to that kind of transaction:

- (a) a description of the kind of transaction proposed to be entered into by the trust,
- (b) the purposes for which the trust proposes to enter into that kind of transaction,
- (c) the parties with whom the trust proposes to enter into that kind of transaction,
- (d) the duration for which the trust proposes to exercise the authority.

29 Temporary licences

- (1) For the purposes of section 22 (1) of the Act, 3 months is prescribed as the longest period for which a temporary licence may be granted.
- (2) For the purposes of section 22 (2) of the Act, any purpose that is consistent with the plan of management for the common is a prescribed purpose.

Clause 30 Commons Management Regulation 2001

Part 5 Miscellaneous

30 Draft management plans

For the purposes of section 25 (4) of the Act, a draft management plan must comply with the following requirements:

- (a) it must specify the purposes for which the common may be used,
- (b) it must specify who is to be allowed to use the common for those purposes,
- (c) it must specify how and by whom the common is to be maintained,
- (d) it must specify how and by whom the expenses of maintaining the common are to be funded.

31 Maximum charge for copy of minutes of trust meetings

For the purposes of section 39 (5) (a) of the Act, the prescribed maximum amount that a trust may charge for providing a commoner with a copy of the minutes of its meetings is the relevant amount specified in Schedule 2.

32 Qualifications for auditors

For the purposes of section 43 of the Act, a person is a qualified auditor if the person is a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth or has other approved qualifications.

33 Inquiries into affairs of trust

For the purposes of section 48 (1) (c) of the Act, an inquiry into the affairs of a trust must be conducted, on request by the Minister, by the local land board constituted for the land district in which the common concerned is located.

34 Fees for inspection of book of pecuniary interests

For the purposes of clause 6 (3) (b) of Schedule 2 to the Act, the prescribed amount of the maximum fee payable to a trust for inspection of the book of pecuniary interests is the relevant amount specified in Schedule 2.

Commons Management Regulation 2001

Clause 35

Miscellaneous

Part 5

35 Quorum for adjourned meetings of commoners

For the purposes of clause 1 (4) of Schedule 4 to the Act, the following number or percentage of commoners enrolled on the commoners' roll constitutes a quorum for the transaction of business at an adjourned meeting of commoners:

- (a) if the number of commoners enrolled on the commoners' roll is 30 or fewer—3 commoners,
- (b) if the number of commoners enrolled on the commoners' roll is more than 30—10 per cent of the number of commoners (or, if 10 per cent is not a whole number, the next lowest whole number).

36 Fees for use of common

For the purposes of clause 9 (3) of Schedule 5 to the Act, the prescribed fees payable in respect of the uses of a common as referred to in that subclause are the relevant fees specified in Schedule 2.

37 Savings

Any act, matter or thing that, immediately before the repeal of the *Commons Management Regulation 1996* by the operation of section 10 (2) of the *Subordinate Legislation Act 1989*, had effect under that Regulation continues to have effect under this Regulation.

Commons Management Regulation 2001

Schedule 1 Model by-law

Schedule 1 Model By-law

(Clause 5)

1 Name of By-law

This By-law is the *Commons By-law 1991*.

2 Application

This By-law applies to all commons in existence on 1 September 1991 for which a by-law is not in force under section 9 (2) of the *Commons Management Act 1989*.

3 Rights of commoners

Subject to paying the appropriate fees and charges fixed by the trust from time to time, a commoner has the right to use the common for the purpose or purposes specified in the management plan for the common.

4 Regulation of conduct within common

Unless authorised by the trust, a person must not within the common:

- (a) carry or have in that 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 the person is a police officer acting in accordance with the person's duties as such, or
- (b) light a fire:
 - (i) at any time when the lighting of fires within a common is prohibited by the trust by signs erected within the common, or
 - (ii) at any other time, except in a fire-place provided by the trust, or
- (c) carry, have in that person's possession or deploy any explosive, net, trap or hunting device, or
- (d) destroy, capture, injure, annoy or interfere with any animal or animal's egg or interfere with the habitat of any animal, or

Commons Management Regulation 2001

Model by-law

Schedule 1

-
- (e) damage, dismantle or remove any machinery, equipment, building or facility on the common which is provided for the use of commoners.

Maximum penalty: 5 penalty units.

5 Trust may remove pests or weeds

The trust:

- (a) may destroy, control or remove feral animals that are on the common, and
- (b) may eradicate noxious weeds that grow on the common.

6 Removal of timber

- (1) A commoner must not, except with the written permission of the trust and on payment to the trust of such charge as the trust may determine, remove from the common dead timber, logs or tree stumps, whether they are in the ground or not.

Maximum penalty: 5 penalty units.

- (2) The trust must not permit a commoner to remove dead timber from any part of the common that is within Crown-timber lands within the meaning of the *Forestry Act 1916* unless the commoner has obtained the concurrence of the Forestry Commission.

7 Annual fees

- (1) The trust may levy such annual fees as the commoners have agreed to at the annual general meeting for any of the purposes set out in the management plan for the common.
- (2) The trust must serve on each commoner written notice of any annual fee payable by the commoner.
- (3) Annual fees must be paid quarterly in advance on or before the first day of January, April, July and October in each year.
- (4) If an instalment of an annual fee is not paid by the due date, the trust may charge interest at a rate not exceeding the rate prescribed by clause 43 of the *Crown Lands Regulation 2000*.
- (5) If a commoner has not paid the annual fee for more than 12 months, the trust may withdraw the commoner's right to use the common.

Commons Management Regulation 2001

Schedule 1 Model by-law

8 Charges

The trust may impose such charges as it considers appropriate with respect to:

- (a) the use of the common by commoners and other persons, and
- (b) the use and parking of vehicles on the common, and
- (c) the use of the common or any part of the common as a dwelling or camping place.

9 Disposal of fees and charges

The trust may use the fees and charges received by it under this By-law:

- (a) for defraying the trust's administrative costs and expenses, and
- (b) for maintaining and improving the common, and
- (c) for any other purposes specified in the management plan for the common.

Commons Management Regulation 2001

Fees

Schedule 2

Schedule 2 Fees

(Clauses 8, 12, 31, 34, 36)

For application for enrolment as a commoner (clause 8)	\$50.00
For notice of appeal to a local land board against refusal of application for enrolment (clause 12)	\$50.00
For copy of minutes of proceedings of meetings (clause 31):	
For minutes not exceeding 10 pages	\$20.00
For each additional page	\$1.00
For inspection of book recording disclosure of pecuniary interest (clause 34)	\$20.00
For pasturage of stock (clause 36):	
Sheep	\$0.25 per head per day
Other stock	\$1.50 per head per day

Community Land Management Amendment (Residential Tribunal) Regulation 2001

under the

Community Land Management Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Community Land Management Act 1989*.

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

On the commencement of section 91A of the *Community Land Management Act 1989 (the CLM Act)* (as inserted by Schedule 1.4 [8] to the *Statute Law (Miscellaneous Provisions) Act (No 2) 2000*), the provisions of the *Residential Tribunal Act 1998* and the regulations made under that Act will apply in relation to proceedings under the CLM Act before the Residential Tribunal, subject to any modifications prescribed by the regulations under the CLM Act.

The object of this Regulation is to amend the *Community Land Management Regulation 2000* to provide that:

- (a) certain provisions of the *Residential Tribunal Act 1998* and the *Residential Tribunal Regulation 1999* that relate to representation of parties, costs and other procedural matters do not apply to proceedings under the CLM Act before the Residential Tribunal, and

Community Land Management Amendment (Residential Tribunal) Regulation 2001

Explanatory note

(b) section 25 (2) of the *Residential Tribunal Act 1998* (which concerns service of process) applies to those proceedings, but in a modified manner.

This Regulation is made under the *Community Land Management Act 1989*, including sections 91A and 122 (the general regulation-making power).

Community Land Management Amendment (Residential Tribunal)
Regulation 2001

Clause 1

Community Land Management Amendment (Residential Tribunal) Regulation 2001

1 Name of Regulation

This Regulation is the *Community Land Management Amendment (Residential Tribunal) Regulation 2001*.

2 Commencement

This Regulation commences on the commencement of Schedule 1.4 to the *Statute Law (Miscellaneous Provisions) Act (No 2) 2000*.

3 Amendment of Community Land Management Regulation 2000

The *Community Land Management Regulation 2000* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Community Land Management Amendment (Residential Tribunal)
Regulation 2001

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 18 Conduct of proceedings before Tribunal

Insert after clause 18 (2):

- (3) This clause is a modification of the provisions of the *Residential Tribunal Act 1998*, and of the regulations under that Act, for the purposes of section 91A (1) of the *Community Land Management Act 1989*.

[2] Clause 18A

Insert after clause 18:

18A Modification of applied provisions of Residential Tribunal Act 1998 and regulations: section 91A (1)

- (1) The following provisions do not apply in relation to proceedings before the Tribunal under the Act:
 - (a) sections 27 (5) (g) and (h), 33 and 48 of the *Residential Tribunal Act 1998*,
 - (b) Part 5 (being clauses 11 to 15) and clauses 16 and 26 of the *Residential Tribunal Regulation 1999*.
- (2) Section 25 (2) of the *Residential Tribunal Act 1998* applies in relation to notices of application for an order in addition to section 70B of the *Community Land Management Act 1989*, and for that purpose the words “this section” in that subsection are taken to refer to section 70B (1) of the *Community Land Management Act 1989*.

Note. Section 91A (1) of the Act provides that the provisions of the *Residential Tribunal Act 1998*, and of the regulations made under that Act, apply in relation to proceedings under the *Community Land Management Act 1989* before the Residential Tribunal, subject to any modifications prescribed by the regulations.

Various provisions of the Act (for example, Divisions 1–3 of Part 4 of the Act) do not relate to proceedings before the Residential Tribunal and therefore are not affected by section 91A (1).

Conveyancers Licensing Regulation 2001

under the

Conveyancers Licensing Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Conveyancers Licensing Act 1995*.

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

This Regulation replaces the *Conveyancers Licensing Regulation 1993* which is repealed on 1 September 2001 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters:

- (a) provisions in relation to the licensing of conveyancers, including exemption in certain circumstances from the requirement to have an approved policy of professional indemnity insurance, the fees payable in relation to a licence and the keeping of a register (Part 2),
- (b) requirements in relation to the stationery of a conveyancing business and attendance by a licensee at premises where such a business is conducted (Part 3),
- (c) requirements in relation to trust money and controlled money, including the keeping of records and accounts and the lodging, with the Director-General of the Department of Fair Trading, of a registered company auditor's report with respect to money received by a licensee on behalf of another person in the course of conducting a conveyancing business (Part 4),

Conveyancers Licensing Regulation 2001

Explanatory note

(d) other miscellaneous, minor or consequential matters (Parts 1 and 5).

This Regulation is made under the *Conveyancers Licensing Act 1995*, including section 91 (the general power to make regulations) and the sections referred to in the Regulation.

Conveyancers Licensing Regulation 2001

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Conveyancers Licensing Regulation 2001

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Conveyancers Licensing Regulation 2001

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Clause 1 Conveyancers Licensing Regulation 2001

Part 1 Preliminary

Conveyancers Licensing Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Conveyancers Licensing Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Conveyancers Licensing Regulation 1993* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

registered company auditor has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

the Act means the *Conveyancers Licensing Act 1995*.

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

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Conveyancers Licensing Regulation 2001

Clause 5

Licensing
Exemptions

Part 2
Division 1

Part 2 Licensing

Division 1 Exemptions

5 Exemptions from requirement for professional indemnity insurance

A person is exempt from the requirement for professional indemnity insurance (as referred to in section 7 (1) (e) of the Act) if the person carries out conveyancing work only in the capacity of an employee of a solicitor:

- (a) who is the holder of a practising certificate under the *Legal Profession Act 1987* or a current interstate practising certificate within the meaning of section 48N of that Act, and
- (b) in respect of whom there is in force an approved insurance policy under section 41 of that Act or appropriate indemnity insurance within the meaning of section 48U (4) of that Act.

Division 2 Licences

6 Application fee for licence

- (1) The application fee to accompany an application under section 9 of the Act for a licence of 12 months duration is \$192.
- (2) The application fee to accompany an application under section 9 of the Act for a licence of less than 12 months duration is a proportionate amount of \$192, calculated on a monthly basis with part of a month being treated as a whole month.
- (3) The proportion prescribed for the purposes of section 9 (6) of the Act (being the proportion of the application fees received under that section that is required to be paid to the trustees of the Public Purpose Fund under the *Legal Profession Act 1987*) is 25%.

7 Notification of change in particulars

- (1) A licensee must notify the Director-General, in writing, of any change in the particulars relating to the licensee as disclosed in the licensee's last application for a licence within 21 days after the event effecting the change.

Clause 7 Conveyancers Licensing Regulation 2001

Part 2 Licensing

Division 2 Licences

- (2) The notification must include such particulars as the Director-General may require of any change or dissolution of partnership, the formation of a new partnership or the acquisition of the conveyancing business of another licensee.

8 Surrender and replacement of licence

- (1) The Director-General may accept from a licensee the surrender of a licence and an application for a new licence and may issue a new licence for the balance of the term of the surrendered licence.

Note. Section 9 of the Act makes provision with respect to an application for a licence.

- (2) The Director-General may refund such part of the fee paid in respect of the surrendered licence as the Director-General may determine if the Director-General is of the opinion that a refund should be made.

9 Register of licensees

For the purposes of section 87 (2) of the Act, the prescribed fee for inspection of the register of licensees is \$22.

10 Information to be included in the register

The Director-General is to include in the register such of the information furnished by licensees in their applications for licences as the Director-General considers appropriate.

11 Removal of name from the register

- (1) The Director-General is to remove a licensee's name from the register if the Director-General is requested, in writing, to do so by the licensee and the licensee surrenders his or her licence for cancellation.
- (2) The Director-General may refund such part of the fee paid in respect of the surrendered licence as the Director-General may determine if the Director-General is of the opinion that a refund should be made.

Conveyancers Licensing Regulation 2001

Clause 12

Conveyancing practice

Part 3

Part 3 Conveyancing practice

12 Licensee's stationery

- (1) A licensee must show on the letterhead of the conveyancing business:
 - (a) the name of each licensed conveyancer who is a proprietor of the conveyancing business, and
 - (b) the address at which the conveyancing business is conducted, and
 - (c) the words "licensed conveyancers" or "licensed property conveyancers" (or, if the licensee is practising on his or her own account, "licensed conveyancer" or "licensed property conveyancer").
- (2) The Director-General may, subject to such conditions (if any) as the Director-General may determine, excuse a licensee from complying with subclause (1).
- (3) A licensee may show on the licensee's stationery or that of the licensee's firm, under appropriate designations, the names of:
 - (a) licensees employed by the firm, and
 - (b) any conveyancing business or businesses to which the licensee or the licensee's business has succeeded.
- (4) A licensee may show on the licensee's stationery or that of the licensee's firm such other information as the Director-General may from time to time approve, either generally or in relation to a particular licensee or firm.

13 Nature of conveyancing business

A licensee must not falsely represent, or permit any other person to falsely represent, that another person is a partner of the licensee.

14 Attendance at business premises

A licensee must not permit conveyancing work to be carried out at any premises at which the licensee conducts a conveyancing business unless the licensee, or some other licensee, gives reasonable attendance at those premises.

Clause 15 Conveyancers Licensing Regulation 2001

Part 3 Conveyancing practice

15 Business names

- (1) A licensee must not conduct a conveyancing business under a business name that is not approved by the Director-General.
- (2) The Director-General is not to approve a proposed business name for a conveyancing business if the name is so similar to that of another business name under which another conveyancing business is conducted as to suggest that there is a relationship between the two businesses.
- (3) A licensee must not enter into any arrangement under which some other person, whether or not a licensee, is authorised by the licensee to conduct a conveyancing business under the same business name, or under a substantially similar business name, as that under which the licensee conducts a conveyancing business.

Conveyancers Licensing Regulation 2001

Clause 16

Trust money and controlled money
General

Part 4
Division 1

Part 4 Trust money and controlled money

Division 1 General

16 Definitions

(1) In this Part:

associate, in relation to a licensee, has the same meaning as it has in Part 5 of the Act.

computer control records means the records required to be kept under clause 18.

controlled money has the same meaning as it has in the Dictionary at the end of the Act.

controlled money records means a Controlled Money Register maintained under clause 32, a controlled money ledger maintained under clause 33, a listing of accounts under clause 34 and any passbooks, statements or other documents relating to controlled money.

outline bill means a statement in writing sufficient to identify the general nature of conveyancing work or services, whether performed or to be performed, and the amount and purpose of any disbursement.

trust money has the same meaning as it has in the Dictionary at the end of the Act.

trust records includes records of the following:

- (a) receipts,
- (b) bank, building society or credit union deposits,
- (c) cheques,
- (d) withdrawals by electronic funds transfer,
- (e) bank, building society or credit union statements,
- (f) daily receipt and cheque transactions,
- (g) ledger account journal transfers and adjustments,
- (h) ledger transactions,
- (i) ledger trial balance statements,
- (j) monthly reconciliations.

Clause 16 Conveyancers Licensing Regulation 2001

Part 4 Trust money and controlled money

Division 1 General

visible form means any record of information by means of which the information can be produced on demand in permanent legible form in the English language.

- (2) A reference in this Part to money received, in relation to a licensee, has the same meaning as it has in the Dictionary at the end of the Act.
- (3) A reference in this Part to an account or deposit of controlled money includes a reference to:
 - (a) an account established in respect of controlled money at a bank, building society, credit union or other financial institution, and
 - (b) an interest bearing deposit or other deposit of controlled money.

17 Keeping of records

- (1) A licensee must maintain, or cause to be maintained, in visible form at an office at which the licensee's conveyancing business is conducted and of which the Director-General has been notified:
 - (a) trust records and controlled money records, and
 - (b) if those records are maintained by means of a computer system—computer control records.
- (2) A licensee may, at any other office at which the licensee's conveyancing business is conducted and of which the Director-General has been notified, maintain, or cause to be maintained, for that office in visible form separate records of the kind referred to in subclause (1).
- (3) A licensee who maintains records under subclause (2) must, within 21 days after the end of each named month:
 - (a) compile with the records kept under subclause (1) the original (or a copy certified by the licensee to be a true copy) of each trial balance statement prepared by the licensee in accordance with clauses 28 and 34 for that month, and
 - (b) maintain a monthly summary of the total of trust money and controlled money disclosed in the trial balance statements.
- (4) A licensee who has custody of a record, statement or summary referred to in subclause (1), (2) or (3) must retain it for not less than 6 years after it is made.

Conveyancers Licensing Regulation 2001

Clause 18

Trust money and controlled money

Part 4

General

Division 1

18 Computer systems control

- (1) Without limiting the generality of any other provision of this Part, if a licensee maintains trust records or controlled money records by means of a computer system, the licensee must comply with this clause in relation to the records.
- (2) The licensee must maintain a record, compiled in chronological sequence, of all changes (by creation, amendment or deletion) to any of the following information:
 - (a) client name,
 - (b) client address,
 - (c) matter number,
 - (d) matter description,
 - (e) client number,
 - (f) bank account number,
 - (g) details referred to in clause 33 (2), (3), (4) and (5),disclosing the details of the information before and after the change.
- (3) The licensee must ensure in respect of any journal:
 - (a) that entries balance before entries are made to the ledger, and
 - (b) that any journal reference numbers are allocated in sequence under program control.
- (4) The licensee must ensure in respect of any ledger that no program is capable of accepting the entry of a transaction resulting in a debit balance to an account unless a contemporaneous record of the transaction is made in such a manner as to enable the production in visible form, of a separate chronological report of all such occurrences.
- (5) The licensee must ensure in respect of any ledger that no program enables the deletion of an account unless:
 - (a) the balance of the account is zero, and
 - (b) details of the account when deleted are retained in visible form.
- (6) The licensee must ensure that any entry in a record produced in visible form appears in chronological sequence.

Clause 18 Conveyancers Licensing Regulation 2001

Part 4 Trust money and controlled money

Division 1 General

- (7) The licensee must ensure that a report, or each page or entry in a report, is numbered sequentially under program control in a manner which enables the completeness of the records required to be kept by this Part to be conveniently verified.
- (8) The licensee must ensure that no amendment to the particulars of a transaction already recorded can be made otherwise than by a separate transaction effecting the amendment.
- (9) The licensee must ensure that each program requires input in each field of a data entry screen intended to receive information required by this Part to be included in trust records or controlled money records.
- (10) The licensee must ensure:
 - (a) that a back-up copy of all records to which this clause refers is made not less frequently than once each month, and
 - (b) that the most recent back-up copy is kept in a separate location such that any incident which could adversely affect the records would not also affect the back-up copy.

19 Money in transit

- (1) A licensee who is authorised or instructed by another person, from whom or on whose behalf the licensee has received money, to pay or deliver the money to a third party (not an associate of the licensee) free of the licensee's control must comply with subclause (2).
- (2) The licensee complies with this subclause if the money is paid or delivered:
 - (a) before the end of the next banking day or, if that is not practicable, as soon as practicable after the next banking day, or
 - (b) no later than the day allowed by the licensee's authority or instructions if it is a day that is later than the day allowed under paragraph (a).

20 Statements of account

- (1) A licensee who is required to maintain a trust ledger or a controlled money ledger must furnish to each person for whom, or on whose behalf, money is held or controlled by the licensee, a separate statement of account in respect of each ledger account maintained for the person.

Conveyancers Licensing Regulation 2001

Clause 20

Trust money and controlled money
General

Part 4
Division 1

- (2) A statement of account must be furnished under subclause (1) as soon as practicable after each of the following:
- (a) the licensee receives a written request for the statement,
 - (b) completion of the matter to which the ledger account relates,
 - (c) the closure and removal of the account from the relevant ledger,
 - (d) except as provided by subclause (4)—31 March and 30 September in each year.
- (3) The statement of account must contain particulars of:
- (a) the money received and held or controlled by the licensee for or on behalf of the person in the course of the licensee's conveyancing business, and
 - (b) the disbursement of the money, and
 - (c) the remaining balance of the money,
- and must identify the transactions to which the particulars relate.
- (4) A licensee is not required to furnish a statement of account under subclause (2) (d) if, at the relevant day:
- (a) the account has been open for less than 6 months, or
 - (b) the balance of the account is zero and no transaction affecting the account has taken place within the last preceding 6 months, or
 - (c) a statement of account has been furnished within the last preceding 6 months and there has been no subsequent transaction affecting the account, or
 - (d) the licensee has received a notice under subclause (4) waiving compliance with the requirement and has not received notice of revocation of the waiver.
- (5) A person for whom, or on whose behalf, money is held or controlled by a licensee:
- (a) may, by written notice to the licensee in accordance with Form 1, waive compliance by the licensee with the requirements of subclause (2) (d), and
 - (b) may, by written notice to the licensee, revoke the waiver.
- (6) A licensee must retain a copy of a statement of account with the file to which it relates.

Clause 21 Conveyancers Licensing Regulation 2001

Part 4 Trust money and controlled money

Division 1 General

21 Receipt and withdrawal of money for costs and disbursements

- (1) This clause prescribes the procedure to be followed as referred to in section 25 (3) (a) of the Act.
- (2) A licensee must, on receipt, or as soon as practicable after receipt, of money from which the licensee is authorised to withdraw money for costs or disbursements, deliver to the client an outline in writing of the anticipated costs or disbursements that are likely to arise and to be deducted from trust or controlled money (*an outline of deductions*) unless a bill or account of the costs or disbursements has been delivered to the client before receipt of the money by the licensee.
- (3) A licensee must not withdraw trust money or controlled money for any costs or disbursements unless:
 - (a) the person for whom the money is held has authorised the withdrawal and the licensee has delivered to the person an outline of deductions, or
 - (b) the licensee has delivered to the person an outline of deductions together with written notice that, unless the person objects, the licensee intends to withdraw the money and apply it towards payment of the bill at the expiration of 1 month, and the month has expired without any objection being made, or
 - (c) the licensee, having received from the person an objection to an outline of deductions delivered under paragraph (b), has served on the person a bill of costs, or an account, in a form which would enable it to be assessed under the provisions of an applicable Act, rule or regulation and the person has not, within the time limited by the provisions, applied for assessment of the bill or account.

Division 2 Trust accounts

22 Deposits

- (1) A licensee who receives trust money must pay it into his or her trust bank account:
 - (a) before the end of the next banking day after the day of its receipt, if that is practicable, or
 - (b) if that is not practicable, as soon as practicable after that day.

Conveyancers Licensing Regulation 2001

Clause 22

Trust money and controlled money

Part 4

Trust accounts

Division 2

- (2) A licensee who makes a deposit to his or her trust bank account must ensure:
- (a) that a bank deposit record is produced to the bank at the time the deposit is made, and
 - (b) that the particulars referred to in subclause (3) are then entered in the record.
- (3) A bank deposit record must include provision for the entry of particulars of:
- (a) the date of the deposit, and
 - (b) the amount of the deposit, and
 - (c) whether the deposit consists of cheques, notes or coins, and
 - (d) in the case of cheques, the name of the drawer, bank and branch and the amount of each cheque.
- (4) A bank deposit record is not required in the case of money credited directly to a bank account electronically.

23 Receipts

- (1) A licensee must, as soon as practicable after receipt of trust money (not being a transfer by journal entry), make out, or cause to be made out, a receipt that complies with subclause (2).
- (2) Receipts must be in duplicate, must be machine numbered in series, must contain the name of the licensee's conveyancing business and the expression "Trust Account" or "Trust A/c" and must include provision for, and on being made out must include:
- (a) the date of receipt, and
 - (b) the amount of money received and the form in which it is received, and
 - (c) the name of the person from whom, and of the client on whose behalf, the money is received, and
 - (d) details identifying the ledger account to be credited, and
 - (e) particulars sufficient to identify the purpose for which the money is received.

Clause 23 Conveyancers Licensing Regulation 2001

Part 4 Trust money and controlled money

Division 2 Trust accounts

- (3) If the licensee maintains an accounting system which (at the same time as that at which, and in the same operation as that in which, a receipt is made out) causes the particulars required by subclause (2) to be entered in the cash book required to be kept under clause 25, the entry of the particulars in the cash book is a sufficient compliance with the requirement of subclause (2) for a duplicate receipt.
- (4) A licensee must issue the original of a receipt on demand or, if the original is not issued, must retain it for 6 years after it is made out.

24 Payment of trust money by cheque or electronic funds transfer

- (1) Trust money must not be drawn from a licensee's trust bank account otherwise than by cheque or electronic funds transfer.
- (2) A cheque must:
 - (a) be machine numbered in series, and
 - (b) be crossed, and
 - (c) not be payable to cash, and
 - (d) contain the name of the licensee's firm and the expression "Trust Account" or "Trust A/c", and
 - (e) be signed by the licensee, a partner of the licensee or 2 persons authorised under clause 29 to sign the cheque.
- (3) The licensee must ensure that, for each cheque, a record is kept of:
 - (a) details identifying the ledger account to be debited and the name of the client on whose behalf the cheque is drawn, and
 - (b) brief particulars of the subject-matter and purpose for which the cheque is drawn, and
 - (c) particulars of the date of issue, the payee and the amount.
- (4) If the licensee maintains an accounting system which (at the same time as that at which, and in the same operation as that in which, a cheque is drawn) causes the particulars required by subclause (3) to be entered directly in the cash book required to be kept under clause 25, the entry of the particulars in the cash book is a sufficient compliance with subclause (3).
- (5) An electronic funds transfer is to be effected by, or under the direction or with the authority of:
 - (a) the licensee, or
 - (b) a partner of the licensee, or

Conveyancers Licensing Regulation 2001

Clause 24

Trust money and controlled money

Part 4

Trust accounts

Division 2

- (c) 2 persons authorised under clause 29 to effect an electronic funds transfer from the trust account concerned.
- (6) The licensee must ensure that, for each electronic funds transfer, a record is kept of the following particulars:
 - (a) the name of the person effecting the transfer and, if the transfer is effected under the direction or with the authority of some other person, of the person under whose direction or with whose authority the transfer is effected,
 - (b) details identifying the ledger account debited and the name of the person on whose behalf the amount is transferred,
 - (c) brief particulars of the subject-matter and purpose for which the money is transferred,
 - (d) the reference number or other means of identification of the transfer,
 - (e) the name or style of the bank account to which the money is transferred, its number and the identifying numbers of the receiving bank and its branch,
 - (f) the date of the transfer and the amount transferred.

25 Daily receipt and payment transactions

- (1) A licensee must keep a record of daily receipt and payment transactions.
- (2) The record must be in the nature of a cash book the pages of which are consecutively numbered and on the respective pages of which are shown the consecutive numbers of receipts issued or cheques drawn or, in the case of money received or disbursed by means of electronic funds transfer, the reference number or other means of identification of the transfer.
- (3) The licensee must:
 - (a) in respect of a receipt of money—enter in the cash book the particulars required by clause 23 (2) to be entered in a receipt for the money together with the date of deposit of the money to the trust bank account and the amount of the deposit, and
 - (b) in respect of a payment of money—enter in the cash book the particulars required by clause 24 (3) to be recorded for a cheque or required by clause 24 (6) to be recorded for an electronic funds transfer.

Clause 25 Conveyancers Licensing Regulation 2001

Part 4 Trust money and controlled money

Division 2 Trust accounts

- (4) At the end of each named month, the licensee must balance the cash book and:
 - (a) carry forward the balance to the commencement of the next month, or
 - (b) carry forward the balance to a ledger account provided for the purpose.
- (5) The licensee must, at the end of each named month, prepare a statement reconciling the balance of his or her trust bank account with the balance of the related cash book.

26 Journal

- (1) A licensee must record in a journal all transfers between accounts in a ledger that are not effected by cheque.
- (2) The recording must include:
 - (a) the date of the transfer, and
 - (b) the amount transferred to and from each ledger account, and
 - (c) the names of all ledger accounts to be debited or credited, and
 - (d) the relevant reference number or other identification, and
 - (e) sufficient particulars to identify the transfer and the reason for the transfer.

27 Ledger

- (1) A licensee must maintain a separate ledger account for each matter for each client in respect of trust money.
- (2) The ledger account must include the name of the client, a reference number or other identification and particulars of each transaction affecting trust money in relation to the matter, including:
 - (a) the date of the transaction, and
 - (b) a description of the transaction, and
 - (c) sufficient particulars to identify the trust record originating the transaction, and
 - (d) the amount of the transaction, and
 - (e) the current balance of account after the transaction.

Conveyancers Licensing Regulation 2001

Clause 28

Trust money and controlled money

Part 4

Trust accounts

Division 2

28 Ledger trial balance statement

- (1) A licensee must, within 21 days after the end of each named month, prepare a trial balance statement of all ledger accounts effective as at the end of that month.
- (2) The trial balance statement must:
 - (a) state the month to which it refers and the date of its preparation, and
 - (b) list each ledger account that does not have a zero balance at the end of that month by stating the name of the client, the reference number or other identification and the balance of the account at the end of that month, and
 - (c) show the total of the ledger account balances at the end of that month, and
 - (d) show a comparison between that total and the balance in the cash book reconciled with the balance in the trust bank account as required by clause 25 (5).

29 Delegation

- (1) A licensee may delegate his or her authority to sign a cheque drawn on, or to effect an electronic funds transfer from, the trust bank account maintained by the licensee or his or her conveyancing business under section 25 of the Act:
 - (a) if the licensee is practising on his or her own account or there is no partner of the licensee available to sign the cheque or effect the transfer with due expedition, and
 - (b) if subclause (2) is complied with, and
 - (c) if the Director-General is immediately notified of the delegation.
- (2) The delegation must be in writing signed by the licensee and must be to any 2 of the following persons:
 - (a) a licensee,
 - (b) a registered company auditor,
 - (c) a bank manager,
 - (d) any other person approved or nominated by the Director-General.

Clause 29 Conveyancers Licensing Regulation 2001

Part 4 Trust money and controlled money

Division 2 Trust accounts

- (3) A delegation does not authorise the signing of a cheque or the effecting of an electronic funds transfer unless:
 - (a) the delegator is unable to sign the cheque or effect the transfer with due expedition because of his or her illness, injury or absence for good reason, and
 - (b) the cheque is signed or the transfer is effected by 2 delegates.
- (4) A delegation ceases to have effect if the Director-General notifies the delegate that the delegation has been cancelled by the Director-General.
- (5) A notification of such a cancellation of a delegation may be given by the Director-General at any time and with or without notice to the delegator.

30 Account in the name of a licensee

- (1) A licensee may maintain in his or her trust ledger an account in his or her name:
 - (a) for the purpose of aggregating in the account, by transfer from other accounts in the trust ledger, money properly due to the licensee for costs and disbursements, and
 - (b) in respect of money in which the licensee has a personal and beneficial interest as a vendor, purchaser, mortgagor, mortgagee, lessor, lessee or other like capacity.
- (2) A licensee must withdraw money held in an account under subclause (1) (a) not later than 7 days after the day on which the money is transferred to the account.
- (3) A licensee must withdraw money held in an account under subclause (1) (b):
 - (a) at the conclusion of any matter to which the money relates, or
 - (b) if it comprises rent, interest, instalments of principal or other periodic payment—not later than 6 months after the date on which the money was credited to the account.

Conveyancers Licensing Regulation 2001	Clause 31
Trust money and controlled money	Part 4
Controlled money	Division 3

Division 3 Controlled money

31 Notice to client

- (1) A licensee must, as soon as practicable after receiving controlled money, issue to the client on whose behalf it was received, a notice that is in or to the effect of Part 1 of Form 2 and contains the particulars required to complete the Form.
- (2) If the licensee, as authorised or instructed by the client, pays any controlled money to a third party while continuing to control the money directly or through an associate, the licensee must, as soon as practicable after the payment, complete in duplicate, and issue to the client the original of, a notice that is in or to the effect of Part 2 of Form 2 and contains the particulars required to complete the Form.
- (3) A notice under subclause (2) must, if practicable, be included as part of the notice under subclause (1).
- (4) If:
 - (a) a licensee pays controlled money to a third party as referred to in subclause (2), and
 - (b) while the licensee continues to control the money directly or through an associate, a change occurs in the arrangements under which the money is held or deposited,the licensee must, as soon as practicable after the change, complete in duplicate, and issue to the client the original of, a notice in or to the effect of Form 2 containing such of the particulars specified in Parts 1 and 2 of that Form as are applicable.
- (5) Forms of notice kept by a licensee for issue under this clause:
 - (a) must comprise both Parts 1 and 2 of Form 2, and
 - (b) must be in duplicate, and
 - (c) must be machine numbered in series.
- (6) A licensee need not issue to a client a notice under subclause (1) or (2) in respect of money received by way of interest or for deposit, if:
 - (a) the money is, as soon as practicable, credited to, or deposited in, an account for which an initial notice has been issued and for which a ledger account has been opened, and

Clause 31 Conveyancers Licensing Regulation 2001

Part 4 Trust money and controlled money

Division 3 Controlled money

- (b) the particulars of the money received are recorded in the ledger account as soon as practicable.

32 Controlled Money Register

A licensee must maintain a Controlled Money Register comprising a compilation in numerical sequence of the duplicate copies of the notices issued under clause 31.

33 Controlled money ledger for money received

- (1) A licensee must, for each client and in accordance with this clause, open and maintain a separate ledger account for each account or deposit of controlled money received on behalf of, or held for, the client.
- (2) The ledger account must bear the name of the client and any relevant reference number or other identification.
- (3) If the controlled money received is a specific sum, the initial entry to the ledger account must record:
 - (a) the amount of money, its source and the date of receipt, and
 - (b) the date and amount of any payment or deposit from the money to or with a third party, the identity of the third party and the terms on which the money was so paid or deposited.
- (4) The entry made under subclause (3) (b) must include particulars of:
 - (a) the term and duration of the deposit, and
 - (b) the rate of interest, and
 - (c) the date from which the interest is calculated and the dates on which interest is payable, and
 - (d) a description of the security (if any) held for the deposit.
- (5) If controlled money is comprised in one or more accounts or deposits in respect of which a licensee or an associate has a power or authority exercisable independently of the licensee's client, or jointly and severally with the client or a nominee of the client, the initial entry to the ledger account must record particulars of the nature, description and date of the power or authority and particulars of the accounts or deposits including:
 - (a) the name and address of the person holding each account or deposit, and

Conveyancers Licensing Regulation 2001	Clause 33
Trust money and controlled money	Part 4
Controlled money	Division 3

- (b) the name in which each account or deposit is maintained and any relevant identifying number, and
 - (c) if applicable, the particulars required by subclause (4).
- (6) All transactions affecting the receipt or disbursement of controlled money by the licensee or an associate must be recorded in the ledger by the entry in the relevant account of:
- (a) the date of each transaction, and
 - (b) a description of each transaction, and
 - (c) a reference to the source of each transaction, and
 - (d) the amount of each transaction, and
 - (e) if it is ascertainable from the licensee's records, the current balance of the account.
- (7) If controlled money is deposited with a person who issues to the licensee a document of record or passbook which remains in the possession of the licensee and in which are recorded all transactions affecting the money in a manner which, together with other written records of the licensee, shows the required particulars of the transactions, those documents collectively may constitute a ledger account for the purposes of this clause.

34 Listing of accounts

- (1) A licensee must, within 21 days after the end of each named month, prepare a statement in the nature of a trial balance statement that relates to the ledger accounts required to be maintained under clause 33 and is effective as at the end of that month.
- (2) The statement must:
 - (a) state the period to which it refers and the date of preparation, and
 - (b) list each ledger account by name of client and reference number or other identification and by balance of account at the end of the month if that is indicated in the account.
- (3) If controlled money is deposited with a person who issues periodical statements of account, those statements must be maintained with the trial balance statements prepared for the periods to which they relate and they form part of the licensee's controlled money records.

Clause 35	Conveyancers Licensing Regulation 2001
Part 4	Trust money and controlled money
Division 3	Controlled money

35 Payment of controlled money by cheque

Controlled money must not be withdrawn or received from any account in which it is held or deposited otherwise than by cheque or electronic funds transfer.

36 Delegation under clause 29

Clause 29 applies in relation to an account in which controlled money is held or deposited by a licensee in the same way as it applies in relation to a trust bank account maintained by the licensee.

Division 4 Registered company auditor's report

37 Registered company auditor's report to be lodged with Director-General

- (1) If a licensee received money referred to in section 25 (1) of the Act at any time during the year ending on 31 March that last preceded an application by the licensee for the issue or renewal of a licence, the licensee must ensure that, on or before the making of the application, there is lodged with the Director-General a registered company auditor's report in respect of:
 - (a) each conveyancing business at any time during that year conducted by the licensee as a sole practitioner, and
 - (b) each business of which the licensee was a partner at any time during that year.
- (2) The registered company auditor's report must be in or to the effect of Form 3.
- (3) If the Director-General so requires, a licensee must:
 - (a) obtain, and pay for, another report that complies with subclause (2), and
 - (b) immediately on its receipt, lodge the report with the Director-General.
- (4) The Director-General may require the report under subclause (3) to be made by a registered company auditor nominated by the Director-General.
- (5) It is a sufficient compliance with this clause by a licensee practising in partnership if one registered company auditor's report is lodged for the partnership.

Conveyancers Licensing Regulation 2001	Clause 38
Trust money and controlled money	Part 4
Registered company auditor's report	Division 4

38 Check list to be provided

The registered company auditor who makes a report under clause 37 must, at the time of making the report, complete and leave in the custody of the licensee a check list in a form approved by the Director-General.

39 Duties regarding check list

A licensee must:

- (a) retain a completed check list provided under clause 38 with his or her trust account records and controlled money records for the same period of time as those records are required to be retained, and
- (b) permit a trust account inspector appointed by the Director-General to inspect the check list at any time.

40 Adverse or qualified reports

A registered company auditor who makes an adverse or qualified report under clause 37 must, within 7 days after completing the report, forward a copy to the Director-General.

41 Cessation of practice or change of partnership

- (1) This clause applies to a licensee who:
 - (a) ceases to practise as a licensee, or
 - (b) enters into partnership with another licensee, or
 - (c) is a party to a dissolution or change of partnership.
- (2) If a licensee to whom this clause applies:
 - (a) ceases to operate a trust account and the trust account is not continued, or
 - (b) ceases to hold or control controlled money and the controlled money is not held or controlled by a former partner who is, or former partners of the licensee who are, continuing to practise,the licensee must, within 21 days after ceasing to operate the trust account or to hold or control controlled money, lodge with the Director-General a report by a registered company auditor that complies with clause 37 in respect of all trust money and controlled money held or controlled by the licensee on behalf of another person.

Clause 41	Conveyancers Licensing Regulation 2001
Part 4	Trust money and controlled money
Division 4	Registered company auditor's report

- (3) The report must be lodged in addition to the notification of change in the particulars of the conveyancing business to be provided to the Director-General under clause 7.

42 Information to be provided to Director-General

A licensee must, at such time as the Director-General determines, furnish to the Director-General such information as the Director-General requires with respect to:

- (a) the amount of trust money or controlled money held or controlled by the licensee, and
- (b) the accounts or institutions in which the money is held, and
- (c) the licensee's records and books of account that relate to the money.

43 Suspicion of irregularities or dishonesty concerning trust money or controlled money

- (1) If a licensee has reasonable grounds for suspecting that another licensee has dealt with trust money or controlled money in a manner that may be dishonest or irregular, the licensee must, as soon as practicable, notify the Director-General, in writing, of the name and address of the other licensee and of the grounds on which the suspicion is based.
- (2) The Director-General must cause the matter to be investigated.

Conveyancers Licensing Regulation 2001

Clause 44

Miscellaneous

Part 5

Part 5 Miscellaneous

44 Saving

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

Conveyancers Licensing Regulation 2001

Schedule 1 Forms

Schedule 1 Forms

(Clause 3 (2))

Form 1 Waiver

(Clause 20)

(Conveyancers Licensing Act 1995)
(Conveyancers Licensing Regulation 2001)

To
Licensed Conveyancer,

(address)

Re:

I/We acknowledge that I/we have instructed you to hold or control money on my/our behalf.

I/We am/are aware that while you continue to hold or control my/our money I/we am/are entitled to receive from you a periodical statement of account in accordance with the provisions of clause 20 of the *Conveyancers Licensing Regulation 2001*, the terms of which are set out on, or attached to, this form.

I/We do not require you to furnish to me/us the periodical statement of account provided for by clause 20 (2) (d) of the Regulation.

*This waiver continues until (specify date) unless revoked earlier in writing.

*This waiver continues until revoked in writing.

Signature:

Date:

*Delete as appropriate.

Conveyancers Licensing Regulation 2001

Forms

Schedule 1

Form 2 Notice to client

(Clause 31)

(Conveyancers Licensing Act 1995)
(Conveyancers Licensing Regulation 2001)

Part 1

(This notice is issued when a licensee acquires control of a client's money or deposits or invests money for a client and retains control of the money.)

- 1 Name and address of client:
- 2 *[Where specific sum of money received]
 - (a) Amount of money received:
 - (b) When money received:
 - (c) From whom money received:
 - (d) How/where money is held by licensee:

*[Where licensee has power or authority over money in client's accounts/deposits]

- (e) Names and numbers of accounts/deposits:
- (f) Names and addresses of financial institutions or persons where or with whom accounts or deposits are held:
- (g) Date, registration particulars (if any) and nature of instrument granting power or authority to licensee:

*Delete as appropriate.

- 3 Licensee's instructions received from:
on:
to deal with money received or held in accounts/deposits noted in paragraph 2,
as follows:

Conveyancers Licensing Regulation 2001

Forms

Schedule 1

Form 3 Registered company auditor's report

(Clause 37)

(Conveyancers Licensing Act 1995)

(Conveyancers Licensing Regulation 2001)

For the period to

To: The Director-General of the Department of Fair Trading

1 (a) Business Name:

The name(s) of the licensee(s) who at any time during the period carried on practice solely or in partnership under the above name and the period of practice are as follows:

Name	Period	
	From	To
	From	To
	From	To
	From	To

(b) The Trust Records referred to in this report relate to *that/those Bank Account(s) conducted under the above business name and described in Schedule 1 to this report.

(c) The Controlled Money Records referred to in this report relate to the accounts and money recorded in any controlled money ledger accounts closed during the 12 months ended 31/3/20 and in any ledger accounts current at that date.

2 The limited examination of the Trust Records and Controlled Money Records conducted for the purpose of completing this Report does not constitute an audit.

Conveyancers Licensing Regulation 2001

Schedule 1 Forms

-
- 3 In my opinion, based on appropriate examinations and sampling techniques, throughout the period covered by the report and subject to the qualifications (if any) noted below:
- (a) The accounting systems and internal controls used by the licensee(s) to ensure that Trust Money has been properly accounted for were:
 - (i) *Appropriate/inappropriate for the business conducted, and
 - (ii) *Operated/did not operate satisfactorily.
 - (b) The methods and controls used by the licensee(s) to record the receipt and disbursement of Controlled Money were:
 - (i) *Appropriate/inappropriate for the business conducted, and
 - (ii) *Operated/did not operate satisfactorily.
 - (c) Trust Money and Controlled Money recorded as received, held *and/or disbursed during the period *have/have not been accurately recorded in the manner prescribed.
 - (d) The records prescribed for the recording of Trust Money and Controlled Money *have/have not been maintained regularly and properly.
- 4 I have completed and signed the Reporting Auditor's Check List in the form approved by the Director-General of the Department of Fair Trading.
- 5 Copies of the Summary of Breaches of Regulation and of the Summary Review Memorandum concluding the Check List certified by me as true copies are respectively Schedules 3 and 4 to this report.
- 6 The qualifications referred to in paragraph 3, or my reasons for reporting adversely in that paragraph, are set out in Schedule 4 to this report.
- (Where qualifications are made or an adverse report is given, a copy of this report is to be forwarded direct to the Director-General of the Department of Fair Trading.)
- *Delete as appropriate.

Signature:

Date:

Full name (Block letters):

Certificate of Registration No:

Firm Name (if any):

Address:

Phone No:

Conveyancers Licensing Regulation 2001

Forms

Schedule 1

Schedule 1

Business Name:

1 Trust Bank Account Number:

Bank:

Branch Address:

Period from. to

Reconciled Trial Balance total as at 31/3/20 : \$

Number of Trust Ledger Accounts as at 31/3/20 :

2* Trust Bank Account number:

Bank:

Branch Address:

Period from to

Reconciled Trial Balance total as at 31/3/20 : \$

Number of Trust Ledger Accounts as at 31/3/20 :

* Delete as appropriate/attach separate list if space is insufficient.

Schedule 2

Business Name:

Controlled money

Controlled Money Ledger

1. Trial balance total as at 31/3/20 : \$

2. Number of Ledger Accounts as at 31/3/20 : \$

Schedule 3

Summary of breaches of Regulation

Business Name:

Period Ended:

Checklist Item Reference	Regulation	Description and Extent of Breach
--------------------------------	------------	-------------------------------------

Attach additional schedule if space is insufficient.

Conveyancers Licensing Regulation 2001

Schedule 1 Forms

Schedule 4**Summary review memorandum**

Business Name:

Period Ended:

This memorandum should document the Reporting Auditor's reasons for qualification/non-qualification of the Auditor's Report or reporting adversely after consideration of the matters noted on the Summary of Breaches of Regulation Schedule.

Signature:

Date:

Attach additional schedule if space is insufficient.

Crimes (Administration of Sentences) Regulation 2001

under the

Crimes (Administration of Sentences) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Crimes (Administration of Sentences) Act 1999*.

JOHN WATKINS, M.P.,
Minister for Corrective Services

Explanatory note

The objects of this Regulation are to make provision with respect to the following matters:

- (a) full-time imprisonment (Chapter 2), including:
 - (i) admission procedures (Part 1), and
 - (ii) case management and classification (Part 2), and
 - (iii) correctional centre routine (Part 3), and
 - (iv) visits and communications (Part 4), and
 - (v) correctional centre discipline (Part 5), and
 - (vi) inmates' requests and complaints (Part 6), and
 - (vii) release procedures (Part 7), and
 - (viii) other miscellaneous matters (Part 8),
- (b) periodic detention (Chapter 3), including:
 - (i) admission procedures (Part 2), and
 - (ii) periodic detention routine (Part 3), and
 - (iii) work site routine (Part 4), and
 - (iv) leave of absence (Part 5), and

Crimes (Administration of Sentences) Regulation 2000

Explanatory note

- (v) other miscellaneous matters (Parts 1 and 6),
- (c) home detention (Chapter 4),
- (d) community service work (Chapter 5),
- (e) parole (Chapter 6),
- (f) revocation by the Parole Board of certain orders (Chapter 7),
- (g) administration (Chapter 8), including:
 - (i) correctional officers and Departmental officers (Part 1), and
 - (ii) Corrections Health Service matters (Part 2), and
 - (iii) use of firearms (Part 3), and
 - (iv) the giving of awards to correctional and Departmental officers (Part 4), and
 - (v) the Review Council (Part 5), and
 - (vi) other miscellaneous matters (Part 6).

This Regulation replaces, with variations, the provisions of:

- (a) the *Crimes (Administration of Sentences) (Correctional Centre Administration) Regulation 1995*, and
- (b) the *Crimes (Administration of Sentences) (Correctional Centre Routine) Regulation 1995*, and
- (c) the *Crimes (Administration of Sentences) (Periodic Detention, Home Detention, Community Service Work and Parole) Regulation 1995*.

Those Regulations will be repealed on 1 September 2001 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation is made under the *Crimes (Administration of Sentences) Act 1999* including section 271 (the general power to make regulations) and various other sections referred to in the Regulation.

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Crimes (Administration of Sentences) Regulation 2001
Preliminary

Clause 1
Chapter 1

Crimes (Administration of Sentences) Regulation 2001

Chapter 1 Preliminary

1 Name of Regulation

This Regulation is the *Crimes (Administration of Sentences) Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

3 Definitions

- (1) Words and expressions that are defined in the Dictionary have the meanings set out in the Dictionary.
- (2) For the purposes of this Regulation:
 - (a) a person who has a thing in his or her custody or under his or her control is taken to have the thing in his or her possession, and
 - (b) a correctional officer who is temporarily relieving another correctional officer at a post is taken to be stationed at the post.
- (3) In this Regulation:
 - (a) a reference to a correctional centre includes a reference to a correctional complex, and
 - (b) a reference to a Form is a reference to a Form set out in Schedule 4.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Clause 5	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 1	Admission procedures
Division 1	Recording and provision of information

Chapter 2 Full-time imprisonment

Part 1 Admission procedures

Division 1 Recording and provision of information

5 Information to be recorded in relation to inmates (cf clause 21 of *Correctional Centre Routine Regulation 1995*)

- (1) As soon as practicable after an inmate is received into a correctional centre, the governor must cause to be recorded in relation to the inmate:
 - (a) such of the information referred to in Schedule 1 as is relevant to the inmate, and
 - (b) such other information as the Commissioner considers appropriate to be recorded.
- (2) An inmate must not furnish any information for the purposes of this clause knowing it to be false or misleading in a material particular.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

6 Inmates to be notified of rights and obligations (cf clause 26 of *Correctional Centre Routine Regulation 1995*)

As soon as practicable after an inmate is first received into a correctional centre, the governor must cause the inmate to be informed of:

- (a) the correctional centre rules (that is, the terms of any general directions given under Part 2 of the Act or under this Chapter), and
- (b) the inmate's obligations as to discipline and conduct, and
- (c) the inmate's rights as to legal representation and appeal, and
- (d) the case management process, and
- (e) the authorised methods of seeking information and making complaints, and
- (f) the role of an Official Visitor, and

Crimes (Administration of Sentences) Regulation 2001	Clause 6
Full-time imprisonment	Chapter 2
Admission procedures	Part 1
Recording and provision of information	Division 1

- (g) the functions of the Review Council in relation to the segregation and protective custody of inmates, and
- (h) any other matter necessary to enable the inmate to understand the inmate's rights and obligations and adapt to living in the centre.

7 Information for inmates who are nationals of other countries (cf clause 28 of *Correctional Centre Routine Regulation 1995*)

- (1) As soon as possible after an inmate who is a national of another country is received into a correctional centre, the governor must cause the inmate to be informed that, if the inmate makes a written application for that purpose, the diplomatic or consular representative of that country will be informed of the inmate's imprisonment.
- (2) If the inmate makes such an application, the governor must inform the consular representative without delay.

Division 2 Surrender of property

8 Surrender of property by inmate

On being received into a correctional centre, an inmate must surrender to an authorised officer all property that is then in the inmate's possession.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

9 Delivery of property by police and other persons

 (cf clause 31 (1) of *Correctional Centre Routine Regulation 1995*)

If, at the time of an inmate's reception into a correctional centre, any of the inmate's property is brought to the centre by:

- (a) a police officer or correctional officer, or
 - (b) any other person of a class specified by the Commissioner,
- that property is to be delivered to the governor.

Clause 10	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 1	Admission procedures
Division 2	Surrender of property

10 How property surrendered on reception to be dealt with (cf clause 29 of *Correctional Centre Routine Regulation 1995*)

- (1) On receiving property surrendered or delivered in connection with an inmate's reception into a correctional centre, the governor must determine which items of property may, and which may not, be retained at the centre.
- (2) Property that the governor determines may be retained at a correctional centre:
 - (a) may be returned to the inmate for use in the centre unless to do so would, in the governor's opinion, constitute a security or safety risk, or
 - (b) may be retained by the governor for return to the inmate on the inmate's release from custody.
- (3) Property that the governor determines may not be retained at a correctional centre is to be made available for collection by such person as the inmate nominates, and the person so nominated is to be notified that the property is available for collection and should be collected within the next 30 days.
- (4) If the inmate fails to nominate a person to collect the property, or if the person so nominated fails to collect the property within 30 days after being notified of its availability for collection, the property may be disposed of in such manner as the governor considers appropriate, and, if sold, the proceeds of sale are to be held to the credit of the inmate.
- (5) Despite any other provision of this clause:
 - (a) any money surrendered by an inmate is to be held to the credit of the inmate, and
 - (b) any unhygienic or infectious clothing surrendered by an inmate is to be destroyed if the governor is satisfied that its value is less than the cost of getting it cleaned.

11 Property records (cf clause 30 of *Correctional Centre Routine Regulation 1995*)

- (1) The governor of a correctional centre must cause a record to be kept of all property surrendered or delivered in connection with an inmate's reception into the centre.
- (2) Such a record must contain the following information:
 - (a) a description of the property,
 - (b) the date on which the property was received,

Crimes (Administration of Sentences) Regulation 2001	Clause 11
Full-time imprisonment	Chapter 2
Admission procedures	Part 1
Surrender of property	Division 2

- (c) whether the property was retained, collected or disposed of,
- (d) if the property was collected:
 - (i) the date on which it was collected, and
 - (ii) the name, address and signature of the person by whom it was collected,
- (e) if the property was disposed of:
 - (i) the date on which it was disposed of, and
 - (ii) the manner in which it was disposed of, and
 - (iii) if it was sold, the amount for which it was sold,
- (f) any other incidental particulars.

Clause 12	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 2	Case management and classification
Division 1	Case management

Part 2 Case management and classification

Division 1 Case management

12 Case plans to be prepared for all inmates

- (1) A case plan is to be prepared and adopted for each inmate in a correctional centre.
- (2) The Commissioner must ensure that the first case plan is prepared and adopted as soon as practicable after the inmate is received into the correctional centre.
- (3) Subsequent case plans are to be prepared and adopted:
 - (a) not later than 6 months after the previous case plan was adopted, and
 - (b) if the sentencing court's comments in relation to an inmate are unavailable when the first case plan is prepared, as soon as practicable after any such comments become available, and
 - (c) if a report is sent to the Commissioner under clause 18, as soon as practicable after the report is received, and
 - (d) at such other times as the Commissioner may determine.
- (4) The procedure for preparing and adopting a case plan is as set out in this Division.

13 Contents of case plan

- (1) An inmate's case plan must indicate:
 - (a) the inmate's classification for the time being, and
 - (b) the correctional centre at which the inmate is to be held for the time being, and
 - (c) the services and programs in which the inmate should be encouraged to participate.
- (2) An inmate's case plan may deal with any matter relating to the management of the inmate, including:
 - (a) the provision of health care services to the inmate, and

Crimes (Administration of Sentences) Regulation 2001	Clause 13
Full-time imprisonment	Chapter 2
Case management and classification	Part 2
Case management	Division 1

- (b) in the case of an inmate who appears to be at risk of self-harm, the preparation of a strategy to minimise the likelihood of self-harm occurring, and
 - (c) in the case of an inmate who has a disability, the preparation of a strategy to minimise any disadvantage suffered by the inmate on account of the disability, particularly in relation to the inmate's suitability to carry out work, and
 - (d) in the case of an inmate who is an Aboriginal person, the implementation in relation to the inmate of the recommendations contained in the report of the Royal Commission into Aboriginal Deaths in Custody, and
 - (e) the provision of services and programs to the inmate under Division 5 of Part 3 of this Chapter, and
 - (f) the provision of pre-release and post-release assistance to the inmate (such as advice on the availability within the community of financial, accommodation and employment assistance and of medical and counselling services and alcohol and other drug treatment programs).
- (3) In preparing an inmate's case plan, regard is to be had to the following matters:
- (a) the sentencing court's comments in relation to the inmate,
 - (b) any assessment that has been made as to the inmate's physical or mental health,
 - (c) whether or not the inmate is likely to be deported from Australia,
 - (d) the inmate's criminal record and correctional centre history,
 - (e) any assessment that has been made (whether by officers of the Department or of any other government department or public authority) as to:
 - (i) the level of risk that the inmate poses to good order and security, and
 - (ii) the likelihood that the inmate may try to escape from custody, and
 - (iii) the underlying causes of the inmate's criminal behaviour, and
 - (iv) the likelihood of the inmate committing further offences, whether of the same or of a different kind,
 - (f) the need to protect the community,

Clause 13	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 2	Case management and classification
Division 1	Case management

- (g) the resources available to the Department in relation to the implementation of the plan.

14 Case management team to prepare recommendations (cf clause 14 of *Correctional Centre Routine Regulation 1995*)

- (1) Recommendations with respect to an inmate's case plan are to be prepared by a case management team.
- (2) A case management team must take all reasonable steps to enable the inmate to participate in the development of its recommendations.
- (3) Having prepared its recommendations, the case management team must refer the recommendations to the governor of the correctional centre concerned for comment.
- (4) If inconsistent with the sentencing court's comments in relation to the inmate, the recommendations must draw attention to, and give reasons for, the inconsistency.
- (5) A case management team must take all reasonable steps to ensure that its recommendations with respect to an inmate are submitted to the relevant case management committee (together with any comments by the governor) within 21 days after it is called on to prepare them.
- (6) If the Commissioner so decides in particular circumstances or a particular class of circumstances, the functions of a case management team under this clause are to be exercised instead by a case management committee, in which case the committee's recommendations (together with any comments by the governor) are to be submitted directly to the Commissioner.

15 Consideration of recommendations by case management committee

- (1) The recommendations prepared by a case management team with respect to an inmate's case plan are to be reviewed by a case management committee, which is to prepare a report on those recommendations, having regard to any comments by the governor.
- (2) Such a report is to include copies of the recommendations and any comments by the governor.
- (3) A case management committee must take all reasonable steps to ensure that its report with respect to an inmate is submitted:
 - (a) to the Commissioner, and

Crimes (Administration of Sentences) Regulation 2001	Clause 15
Full-time imprisonment	Chapter 2
Case management and classification	Part 2
Case management	Division 1

- (b) in the case of a report that relates to a serious offender, or an inmate who has a high security or extreme high security designation, to the Review Council,

within 28 days after it receives the case management team's recommendations.

- (4) This clause does not apply to a case plan that has been prepared by a case management committee in the circumstances referred to in clause 14 (6).

16 Consideration of certain case plans by Review Council

- (1) The Review Council is to review any report prepared by a case management committee in relation to a serious offender, or an inmate who has a high security or extreme high security designation.
- (2) The Review Council may furnish to the Commissioner such submissions with respect to any such report as it considers appropriate.

17 Adoption of case plan by Commissioner

- (1) After considering:
- (a) the case management committee's report with respect to an inmate's case plan, and
- (b) any advice by the Review Council in relation to the report, the Commissioner must adopt a case plan for the inmate.
- (2) The Commissioner is not bound to follow the recommendations in the report or the advice of the Review Council.

18 Governor's report as to inmate's placement (cf clause 19 of *Correctional Centre Routine Regulation 1995*)

If the governor of a correctional centre considers that an inmate in the centre, or an inmate transferred, or proposed to be transferred, to the centre, is unsuitable for placement or for continued placement in the centre, the governor must cause a report to be sent:

- (a) to the Commissioner, and

Clause 18	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 2	Case management and classification
Division 1	Case management

- (b) in the case of a report that relates to a serious offender, or an inmate who has a high security or extreme high security designation, to the Review Council,

setting out the reasons why the inmate should not be placed, or continue to be placed, in the centre.

19 Consideration of certain reports by Review Council

- (1) The Review Council is to review any report prepared by the governor of a correctional centre with respect to the placement, or continued placement, in the centre of an inmate who is a serious offender, or an inmate who has a high security or extreme high security designation.
- (2) The Review Council may furnish to the Commissioner such submissions with respect to any such report as it considers appropriate.

20 Decision by Commissioner as to inmate's placement

- (1) After considering:
 - (a) any report prepared by the governor of a correctional centre with respect to the placement, or continued placement, in the centre of an inmate who is a serious offender, or an inmate who has a high security or extreme high security designation, and
 - (b) any submissions by the Review Council in relation to the report,

the Commissioner must make a decision with respect to the inmate's placement, or continued placement, in the centre.
- (2) The Commissioner is not bound to follow the recommendations in the report.

21 Linguistic and cultural factors to be considered (cf clause 20 of *Correctional Centre Routine Regulation 1995*)

- (1) On becoming aware that an inmate who is being interviewed for the purposes of this Part may be disadvantaged by linguistic or cultural factors, an interviewer must take all reasonable steps to ensure that the inmate has the assistance of a person who can act as an appropriate interpreter or cultural representative.
- (2) Such a person need not be present at the interview so long as he or she is available to the inmate by telephone during the interview.

Crimes (Administration of Sentences) Regulation 2001	Clause 21
Full-time imprisonment	Chapter 2
Case management and classification	Part 2
Case management	Division 1

- (3) If the interviewer makes a report that assesses an inmate for the purposes of this Part, the interviewer:
- (a) must take into consideration any linguistic or cultural factors that may disadvantage the inmate, and
 - (b) must refer in the report to the extent to which, in the interviewer's opinion, those factors are significant in relation to the assessment.

Division 2 Classification and designation of inmates

22 **Classification of male inmates** (cf clause 10 of *Correctional Centre Routine Regulation 1995*)

- (1) Each male inmate is to be classified in one of the following categories for the purposes of security and the provision of appropriate development programs:

Category A1, being the category of inmates who, in the opinion of the Commissioner, represent a special risk to good order and security and should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment.

Category A2, being the category of inmates who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier that includes towers, other highly secure perimeter structures or electronic surveillance equipment.

Category B, being the category of inmates who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier.

Category C1, being the category of inmates who, in the opinion of the Commissioner, should be confined by a physical barrier unless in the company of a correctional officer or some other person authorised by the Commissioner.

Category C2, being the category of inmates who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times but who need some level of supervision by a correctional officer or some other person authorised by the Commissioner.

Category C3, being the category of inmates who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times and who need not be supervised.

Clause 22	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 2	Case management and classification
Division 2	Classification and designation of inmates

- (2) Subject to clause 27, the Commissioner may at any time vary or revoke a classification under this clause.

23 Classification of female inmates (cf clause 10 of *Correctional Centre Routine Regulation 1995*)

- (1) Each female inmate is to be classified in one of the following categories for the purposes of security and the provision of appropriate development programs:

Category 4, being the category of inmates who, in the opinion of the Commissioner, should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment.

Category 3, being the category of inmates who, in the opinion of the Commissioner, should be confined by a physical barrier unless in the company of a correctional officer or some other person authorised by the Commissioner.

Category 2, being the category of inmates who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times but who need some level of supervision by a correctional officer or some other person authorised by the Commissioner.

Category 1, being the category of inmates who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times and who need not be supervised.

- (2) Subject to clause 27, the Commissioner may at any time vary or revoke a classification under this clause.

24 Escape-risk classifications (cf clause 11 of *Correctional Centre Routine Regulation 1995*)

- (1) Each inmate (male or female) who commits an escape offence in New South Wales or elsewhere (whether or not he or she is prosecuted or convicted in respect of the offence) is, for the first case plan following the commission of the offence, to be classified in one of the following categories:

Category E1, being the category of inmates who, in the opinion of the Commissioner, represent a special risk to security and should at all times be confined:

- (a) in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment, or

Crimes (Administration of Sentences) Regulation 2001	Clause 24
Full-time imprisonment	Chapter 2
Case management and classification	Part 2
Classification and designation of inmates	Division 2

- (b) by a secure physical barrier that includes towers, other highly secure perimeter structures or electronic surveillance equipment.

Category E2, being the category of inmates who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier.

- (2) An inmate's classification under this clause overrides the inmate's classification under clause 22 or 23.
- (3) Despite subclause (2), the Commissioner may determine that an inmate not be classified under this clause if the inmate was under the age of 18 years when the escape offence was committed.
- (4) Subject to clause 27, the Commissioner may at any time vary or revoke a classification under this clause.
- (5) In this clause, **escape offence** means an offence of escaping from lawful custody or an offence of attempting or conspiring to escape from lawful custody.

25 Designation of high security and extreme high security inmates
(cf clause 20B of *Correctional Centre Routine Regulation 1995*)

- (1) The Commissioner may designate an inmate as a high security inmate if of the opinion that the inmate constitutes:
- (a) a danger to other people, or
- (b) a threat to good order and security.
- (2) The Commissioner may designate an inmate as an extreme high security inmate if of the opinion that the inmate constitutes:
- (a) an extreme danger to other people, or
- (b) an extreme threat to good order and security.
- (3) Subject to clause 27, the Commissioner may at any time vary or revoke a designation under this clause.

26 Management of high security and extreme high security inmates
(cf clause 20C of *Correctional Centre Routine Regulation 1995*)

The Commissioner may make determinations with respect to the following:

- (a) the placement in correctional centres of high security and extreme high security inmates,

Clause 26	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 2	Case management and classification
Division 2	Classification and designation of inmates

- (b) the movement of high security and extreme high security inmates for any purpose,
- (c) any additional security arrangements to be imposed in respect of high security and extreme high security inmates,
- (d) case plans for high security and extreme high security inmates,
- (e) any other matter that is relevant to the management of high security and extreme high security inmates.

27 Variation of classification and designation of certain inmates

(1) The Commissioner:

- (a) must not cause an inmate who has an escape-risk classification to cease to have such a classification, and
- (b) must not cause an inmate who has a high security or extreme high security designation:
 - (i) to have that designation varied to another such designation, or
 - (ii) to cease to have such a designation, and
- (c) must not cause a serious offender to have his or her classification changed,

without seeking and considering the recommendations of the Review Council in that regard.

(2) In the case of an inmate who has an escape-risk classification, the Review Council:

- (a) is not to make a recommendation for the purposes of subclause (1) (a) unless it is satisfied that there are special circumstances that, in the opinion of the Review Council, justify the reclassification, and
- (b) need not entertain any application made to it by an inmate for the purposes of subclause (1) (a) if, on the face of the application and any document submitted in support of it, it appears to the Council that the application:
 - (i) is not substantially different from a previous application, made by or on behalf of the same inmate, that the Council has rejected, or
 - (ii) is frivolous or vexatious.

Crimes (Administration of Sentences) Regulation 2001	Clause 27
Full-time imprisonment	Chapter 2
Case management and classification	Part 2
Classification and designation of inmates	Division 2

- (3) If the Commissioner varies the classification or designation of an inmate under this clause in a manner that is contrary to the recommendations of the Review Council, the Commissioner must cause notice of that fact to be given to the Review Council.

28 High security classification of inmates for purposes of interstate leave permits (cf clause 11A of *Correctional Centre Routine Regulation 1995*)

Male inmates classified as A1, A2, E1 or E2, and female inmates classified as Category 4, E1 or E2, are taken to have high security classifications for the purposes of section 29 of the Act.

Division 3 Case management teams and committees

29 Case management teams (cf clause 12 of *Correctional Centre Routine Regulation 1995*)

- (1) The Commissioner may appoint case management teams comprising:
- (a) a case manager, who is to be the presiding member at meetings of the team, and
 - (b) such other persons (either correctional officers or Departmental officers) as the Commissioner determines.
- (2) A case management team is to consist of such number of members as the Commissioner determines.
- (3) A case management team is to function in accordance with procedures determined by the Commissioner.

30 Case management committees (cf clause 12 of *Correctional Centre Routine Regulation 1995*)

- (1) The Commissioner may appoint case management committees comprising:
- (a) a classification manager, who is to be the presiding member at meetings of the committee, and
 - (b) such other persons (either correctional officers or Departmental officers) as the Commissioner determines.
- (2) The quorum for a meeting of a committee is 3 members, of whom one must be the presiding member.

Clause 30	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 2	Case management and classification
Division 3	Case management teams and committees

- (3) A decision supported by a majority of the votes cast at a meeting of a committee at which a quorum is present (including the vote of the presiding member) is the decision of the committee.
- (4) A member of a committee who dissents from a decision of the committee is entitled to have the reasons for his or her dissent annexed to the record of the committee's decision.

31 Persons may not be members of case management teams and case management committees

A person may not be simultaneously a member of a case management team and a member of a case management committee.

Crimes (Administration of Sentences) Regulation 2001	Clause 32
Full-time imprisonment	Chapter 2
Correctional centre routine	Part 3
Separation and accommodation	Division 1

Part 3 Correctional centre routine

Division 1 Separation and accommodation

32 Separation of different classes of inmates (cf clause 8 of *Correctional Centre Routine Regulation 1995*)

- (1) For the purposes of this clause, each inmate is to be included in one of the following classes:
 - (a) convicted inmate,
 - (b) unconvicted inmate,
 - (c) civil inmate.
- (2) As far as practicable inmates of any class are to be kept separate from inmates of any other class.
- (3) Within each class, the Commissioner may direct that the following inmates be kept separate from other inmates:
 - (a) those inmates who have not previously been imprisoned,
 - (b) those inmates who would be at risk if not separated from other inmates,
 - (c) those inmates who are forensic patients within the meaning of the *Mental Health Act 1990*,
 - (d) those inmates who are imprisoned:
 - (i) pursuant to a warrant issued by the State Debt Recovery Office under section 87 of the *Fines Act 1996*, or
 - (ii) as fine defaulters under the laws of the Commonwealth or the Australian Capital Territory.

33 Separation of sexes (cf clause 7 of *Correctional Centre Routine Regulation 1995*)

Female inmates must be kept separate from male inmates except in such circumstances and under such supervision as the Commissioner determines.

34 Separation for health reasons (cf clause 9 of *Correctional Centre Routine Regulation 1995*)

Inmates found or suspected to be in an infectious or verminous condition may be kept separate from other inmates.

Clause 35	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 3	Correctional centre routine
Division 1	Separation and accommodation

35 Information concerning review of extension directions (cf clause 27 of *Correctional Centre Routine Regulation 1995*)

As soon as practicable after an inmate is directed:

- (a) to be held in segregated custody under section 10 of the Act, or
- (b) to be held in protective custody under section 11 of the Act (otherwise than at the inmate's request),

the inmate is to be provided with information concerning the inmate's rights under the Act to a review of any direction by the Commissioner to extend that period of custody.

36 Accommodation (cf clause 5 of *Correctional Centre Routine Regulation 1995*)

- (1) Each inmate must be housed in and occupy a cell by himself or herself, unless for medical or other sufficient reason it is necessary for inmates to be associated.
- (2) If it is necessary for inmates to be associated, the inmates required to be associated (whether in a cell or in dormitory accommodation) must be carefully selected.
- (3) Each inmate must be provided with a separate bed and sufficient clean bedding to suit the climatic conditions.

Division 2 Correctional centre routine

37 Hours of work and general routine (cf clause 38 of *Correctional Centre Routine Regulation 1995*)

- (1) The Commissioner is to determine the hours of work and general routine for each correctional centre.
- (2) The Commissioner may determine different hours of work and different general routines for different parts of a correctional centre.

38 Restriction on work that civil inmates and unconvicted inmates may be required to perform (cf clause 56 of *Correctional Centre Routine Regulation 1995*)

- (1) Civil inmates and unconvicted inmates are not to be required to work otherwise than as provided by this clause.
- (2) The governor of a correctional centre may require a civil inmate or unconvicted inmate to ensure that any yard or other section of the correctional centre that he or she uses is kept clean.

Crimes (Administration of Sentences) Regulation 2001	Clause 38
Full-time imprisonment	Chapter 2
Correctional centre routine	Part 3
Correctional centre routine	Division 2

- (3) A civil inmate or unconvicted inmate must comply with any requirement under this clause.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

39 Inmates to comply with correctional centre routine (cf clause 39 of *Correctional Centre Routine Regulation 1995*)

An inmate must comply with the hours of work and general routine for the correctional centre or part of the correctional centre in which the inmate is detained.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

40 Inmates not to enter other cells (cf clause 6 of *Correctional Centre Routine Regulation 1995*)

An inmate must not enter a cell that has not been allocated for use by the inmate otherwise than:

- (a) with the permission of the governor or a correctional officer, or
- (b) in compliance with a direction given by the governor or a correctional officer.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

41 Calls to muster (cf clause 40 (1) of *Correctional Centre Routine Regulation 1995*)

An inmate must immediately attend at any place designated by the governor, either generally or in a particular case, as a place for mustering inmates:

- (a) when required orally to do so by the governor or a correctional officer, or
- (b) when summoned by a bell, hooter, siren or whistle used for that purpose.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

42 Misuse of bells, hooters, sirens and whistles (cf clause 40 (2) of *Correctional Centre Routine Regulation 1995*)

An inmate must not operate a bell, hooter, siren or whistle used:

- (a) for calling to muster, or

Clause 42	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 3	Correctional centre routine
Division 2	Correctional centre routine

(b) for giving notice of a fire or other emergency, or of a fire or other emergency drill, or

(c) for giving notice of any other correctional centre routine, unless the inmate is authorised to do so by the governor or a correctional officer or does so with other reasonable excuse.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

43 Avoidance of correctional centre routine (cf clause 41 of *Correctional Centre Routine Regulation 1995*)

An inmate must not pretend to be ill or injured for the purpose of avoiding the inmate's obligations under the Act and this Regulation.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

44 Delivery of articles to and from inmates (cf clause 106 of *Correctional Centre Routine Regulation 1995*)

(1) Except as otherwise provided by this Part, an inmate must not deliver anything to or receive anything from any other inmate.

(2) With the approval of an authorised officer, an inmate may deliver an article to another inmate.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

45 Possession or creation of prohibited goods

(1) An inmate must not have in his or her possession:

(a) any money, or

(b) any threatening, offensive, indecent, obscene or abusive written or pictorial matter, or

(c) any offensive, indecent or obscene article.

(2) An inmate must not create:

(a) any threatening, offensive, indecent, obscene or abusive written or pictorial matter, or

(b) any offensive, indecent or obscene article.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Crimes (Administration of Sentences) Regulation 2001	Clause 46
Full-time imprisonment	Chapter 2
Correctional centre routine	Part 3
Correctional centre routine	Division 2

46 Searching of inmates (cf clause 24 of *Correctional Centre Routine Regulation 1995*)

- (1) A correctional officer may search an inmate at such times as the governor directs and at such other times as the correctional officer considers appropriate.
- (2) Except in the case of an emergency, an inmate must not be searched by or in the presence of a person of the opposite sex.
- (3) The searching of an inmate must be conducted with due regard to dignity and self-respect and in as seemly a manner as is consistent with the conduct of an effective search.
- (4) An inmate must not resist or impede the conduct of such a search.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

47 Property to be kept in a tidy and orderly manner (cf clause 33 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must keep his or her property in a tidy and orderly manner and so as not to impede a search of the inmate's cell.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

- (2) The quantity of property that an inmate keeps in his or her cell is not to exceed such quantity as the governor may determine and, if it does, the governor may confiscate such of the property as is necessary to reduce the excess.
- (3) Anything confiscated under this clause:
 - (a) is to be dealt with as if it had been surrendered on reception into a correctional centre, or
 - (b) is to be disposed of by the governor in such a manner as is reasonable in the circumstances (taking into account the nature of the material).

48 Books and other material (cf clauses 60 and 61 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate may purchase:
 - (a) any book, newspaper or magazine, and
 - (b) any record, cassette or compact disk.

Clause 48	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 3	Correctional centre routine
Division 2	Correctional centre routine

- (2) Despite subclause (1), the governor may refuse to allow an inmate to purchase, and may confiscate, any such book, newspaper, magazine, record, cassette or compact disk if of the opinion that it contains:
 - (a) anything that, in the opinion of a nominated officer, is likely to prejudice the good order and security of the correctional centre, or
 - (b) any threatening, offensive, indecent, obscene or abusive written or pictorial matter, or
 - (c) any offensive, indecent or obscene article.
- (3) Anything confiscated under this clause:
 - (a) is to be dealt with as if it had been surrendered on reception into a correctional centre, or
 - (b) is to be disposed of by the governor in such a manner as is reasonable in the circumstances (taking into account the nature of the material).

49 Transfer of property (cf clause 37 (1) of *Correctional Centre Routine Regulation 1995*)

The property of an inmate who is transferred from one correctional centre to another is to be delivered to the governor of the new correctional centre, together with a copy of any record kept by the governor of the former correctional centre in relation to the property.

Division 3 Food

50 Diet (cf clause 43 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must be supplied each day with food in accordance with a diet designed to provide a dietary intake generally in accordance with the dietary intakes recommended for the time being, and published, by the National Health and Medical Research Council.
- (2) The diet:
 - (a) must be varied, and
 - (b) must provide adequate amounts of each essential nutrient from basic foods, and
 - (c) must be planned to ensure optimal nutritional health.

Crimes (Administration of Sentences) Regulation 2001	Clause 50
Full-time imprisonment	Chapter 2
Correctional centre routine	Part 3
Food	Division 3

- (3) The diet of an inmate having special dietary needs is to be planned having regard to those needs.

51 Complaints about correctional centre food (cf clause 46 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate wishing to complain about the quantity or quality of the food supplied by a correctional centre must do so promptly.
- (2) The inmate is responsible for substantiating the complaint.

52 Purchase of food by inmates (cf clauses 44, 45, 47 and 48 of *Correctional Centre Routine Regulation 1995*)

- (1) The governor of a correctional centre may permit an inmate:
- (a) to purchase food available for purchase at the centre or outside the centre, or
- (b) to arrange for the supply of food from outside the centre.
- (2) An inmate must not purchase food, or arrange for the supply of food from outside a correctional centre, unless permitted to do so as referred to in subclause (1).
- (3) An inmate must not receive or have in his or her possession any food other than food supplied by a correctional centre or food that he or she is permitted to purchase or be supplied with under this clause.
- (4) An inmate supplied with food from outside a correctional centre must ensure that none of it is received by another inmate.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Division 4 Health and cleanliness

53 Daily exercise (cf clause 53 of *Correctional Centre Routine Regulation 1995*)

- (1) Each inmate (other than one who is confined to cell under section 53 or 56 of the Act) is to be allowed at least 2 hours each day for exercise in the open air.
- (2) Each inmate who is confined to cell under section 53 or 56 of the Act is to be allowed at least 1 hour each day for exercise in the open air.

Clause 53	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 3	Correctional centre routine
Division 4	Health and cleanliness

- (3) An inmate's entitlement to exercise under this clause is subject to such practical limitations as may from time to time arise in connection with the administration of the correctional centre concerned.

54 Dental and optical treatment and artificial medical appliances (cf clause 52 of *Correctional Centre Routine Regulation 1995*)

Dental treatment, optical treatment and hearing aids and other artificial medical appliances are to be supplied to inmates in such manner and to such extent as the Chief Executive Officer, Corrections Health Service, from time to time determines.

55 Destruction of unhygienic property (cf clause 51 of *Correctional Centre Routine Regulation 1995*)

- (1) Any food, personal effects or articles of clothing belonging to an inmate at a correctional centre may be destroyed if the governor considers it necessary for the maintenance of hygiene.
- (2) Before any such property is destroyed, the governor must, if practicable, cause the inmate to be informed of the proposed destruction and the reason.

56 Personal cleanliness (cf clause 49 of *Correctional Centre Routine Regulation 1995*)

An inmate must obey directions given by or with the authority of the governor, either generally or individually, in regard to washing, showering, bathing, shaving and hair cutting.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

57 Wearing of correctional centre clothing (cf clause 54 of *Correctional Centre Routine Regulation 1995*)

- (1) Unless otherwise authorised by the governor, an inmate must at all times wear the uniform clothing and footwear issued to the inmate, and must not at any time wear any other clothing.
- (2) This clause does not apply to an inmate while attending court.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Crimes (Administration of Sentences) Regulation 2001	Clause 58
Full-time imprisonment	Chapter 2
Correctional centre routine	Part 3
Health and cleanliness	Division 4

58 Cleanliness of cells and their contents (cf clause 50 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must keep the inmate's cell, utensils, clothing, bedding and any other issued articles clean, tidy and in good order and in accordance with any directions given by a correctional officer.
- (2) An inmate must not wilfully damage, destroy or deface the inmate's cell.
- (3) An inmate must not dispose of, or wilfully alter, damage or destroy, any clothing, bedding or other article issued to the inmate.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

59 Condoms and dental dams (cf clause 56A–56D of *Correctional Centre Routine Regulation 1995*)

- (1) Condoms (together with plastic disposal bags) are to be made available free of charge in each correctional centre in which there are male inmates, and disposal units are to be installed in each such correctional centre for their disposal.
- (2) Dental dams (together with plastic disposal bags) are to be made available free of charge in each correctional centre in which there are female inmates, and disposal units are to be installed in each such correctional centre for their disposal.
- (3) An inmate must not obtain possession of any condom or dental dam otherwise than:
 - (a) from a dispensing machine installed in the correctional centre for use by inmates, or
 - (b) in accordance with such other arrangements as are approved by the governor of that correctional centre.
- (4) An inmate must not use a condom or dental dam otherwise than for the purpose of sexual activity.
- (5) As soon as practicable after using a condom or dental dam, an inmate must dispose of it:
 - (a) by placing it in a plastic disposal bag, and
 - (b) by placing the plastic disposal bag in a disposal unit.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Clause 60	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 3	Correctional centre routine
Division 5	Inmate services and programs

Division 5 Inmate services and programs

60 Inmate services and programs (cf clauses 57 and 58 of *Correctional Centre Routine Regulation 1995*)

- (1) The Commissioner may provide an inmate with services and programs that offer the inmate an opportunity to develop skills, behaviours and attitudes that lessen the likelihood of the inmate re-offending.
- (2) Without limiting subclause (1), such services and programs may include:
 - (a) welfare services,
 - (b) services for inmates who have disabilities,
 - (c) alcohol and other drug counselling services,
 - (d) psychological counselling services,
 - (e) literacy and numeracy programs,
 - (f) educational and vocational training programs, including the provision of libraries,
 - (g) pre-release and post-release programs to enable inmates to adapt to normal lawful community life.
- (3) In the exercise of a function under this clause, the Commissioner must give special attention to the needs of inmates who are illiterate or who have a disability.
- (4) Services and programs may be provided by correctional officers or by other persons approved by the Commissioner.
- (5) A person employed or otherwise engaged in the provision of a service or program:
 - (a) is subject to the directions of the Commissioner in respect of the nature and scope of the service or program and its method of delivery, and
 - (b) is subject to the directions of the governor in respect of any matter affecting the good order and security of the correctional centre.

Crimes (Administration of Sentences) Regulation 2001	Clause 61
Full-time imprisonment	Chapter 2
Correctional centre routine	Part 3
Inmate services and programs	Division 5

61 Behaviour of inmates participating in services and programs
(cf clause 59 of *Correctional Centre Routine Regulation 1995*)

While participating in a service or program provided under this Part, an inmate must comply with any lawful and reasonable direction of the person employed or otherwise engaged in the provision of the service or program.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Division 6 Spiritual welfare

62 Accreditation of spiritual advisors (cf clause 68 of *Correctional Centre Routine Regulation 1995*)

- (1) On the recommendation of the appropriate spiritual authority, the Commissioner may, by instrument in writing, accredit a spiritual advisor of that authority's denomination to be a full-time or part-time spiritual advisor to inmates and correctional officers at a correctional centre.
- (2) The Commissioner may, at any time, by instrument in writing, revoke any such accreditation.

63 Privileges of accredited spiritual advisors (cf clause 69 of *Correctional Centre Routine Regulation 1995*)

- (1) With the approval of the governor, an accredited spiritual advisor:
 - (a) may, when visiting a correctional centre, be accompanied by assistants, whether spiritual advisors or lay persons who are wholly or partly engaged in duties of a spiritual nature, and
 - (b) may arrange for inmates to be visited by persons suitably qualified in counselling, vocational guidance or other services, and
 - (c) may authorise, in writing, another spiritual advisor to act in his or her place during his or her absence.
- (2) A person who is authorised to act for an accredited spiritual advisor is taken to be an accredited spiritual advisor for the purposes of this Division.
- (3) An accredited spiritual advisor is answerable to the Commissioner for the conduct of any assistant who accompanies the accredited spiritual advisor when visiting a correctional centre.

Clause 64	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 3	Correctional centre routine
Division 6	Spiritual welfare

64 Responsibilities of accredited spiritual advisors (cf clause 70 of *Correctional Centre Routine Regulation 1995*)

- (1) An accredited spiritual advisor is responsible for the spiritual care of inmates at the correctional centre to which he or she is accredited.
- (2) An accredited spiritual advisor's responsibilities include:
 - (a) visiting inmates who are sick, confined to cell or segregated from other inmates, and
 - (b) visiting inmates (or arranging for them to be visited by another spiritual advisor of the same denomination) in circumstances in which they are suffering from a potentially fatal illness or injury.

65 Powers of accredited spiritual advisors (cf clause 71 of *Correctional Centre Routine Regulation 1995*)

- (1) On Sundays or other recognised days of spiritual observance, and on such other days as the governor may permit, an accredited spiritual advisor:
 - (a) may hold or conduct such rites, services or assemblies as pertain to the accredited spiritual advisor's denomination, or
 - (b) with the permission of the governor, may hold or conduct combined services in association with spiritual advisors of other denominations.
- (2) An accredited spiritual advisor may minister to an inmate who is not of the accredited spiritual advisor's denomination, but only with the consent of the inmate and, if an accredited spiritual advisor of the inmate's denomination has been appointed to the correctional centre, that accredited spiritual advisor.
- (3) With the approval of the governor, an accredited spiritual advisor may pursue such matters as the accredited spiritual advisor considers to be in the interests of the welfare of inmates at the correctional centre to which he or she is accredited.

66 Access to inmates (cf clauses 72 and 73 of *Correctional Centre Routine Regulation 1995*)

- (1) An accredited spiritual advisor is entitled:
 - (a) to visit the correctional centre to which he or she is accredited at all reasonable times, but not so as to disturb the ordinary routine of the centre, and

Crimes (Administration of Sentences) Regulation 2001	Clause 66
Full-time imprisonment	Chapter 2
Correctional centre routine	Part 3
Spiritual welfare	Division 6

- (b) to have access to inmates of the accredited spiritual advisor's denomination for the purpose of private and confidential spiritual ministrations.
- (2) With the approval of the governor, a spiritual advisor of a particular denomination who is not accredited in relation to a particular correctional centre:
 - (a) may visit the centre, and
 - (b) may have access to inmates of that denomination, if no other spiritual advisor of that denomination has been accredited for the centre.
- (3) On request by an inmate of a denomination for which no spiritual advisor has been accredited, the governor may arrange for the inmate to be visited by a spiritual advisor of that denomination.
- (4) A spiritual advisor is entitled to have access to an inmate under this clause beyond the hearing (but within the sight) of a correctional officer.
- (5) An inmate's objection to being visited by a spiritual advisor is to be fully respected.

67 Participation of inmates in spiritual observances (cf clause 75 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate may attend the following rites, services and assemblies conducted at the correctional centre:
 - (a) rites, services or assemblies of the inmate's denomination,
 - (b) combined rites, services or assemblies conducted by spiritual advisors of the inmate's denomination in association with spiritual advisors of other denominations,
 - (c) with the approval of the governor, rites, services or assemblies of other denominations.
- (2) Spiritual books, recognised objects of spiritual devotion and similar items belonging to an inmate are to be treated as approved personal property acquired with the permission of the governor.

Clause 68	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 3	Correctional centre routine
Division 6	Spiritual welfare

68 Use of sacred spaces (cf clause 76 of *Correctional Centre Routine Regulation 1995*)

- (1) A sacred space or a part of a sacred space that is used for the conduct of rites, services or assemblies may be used for such other purposes as may be determined by the governor after consultation with the relevant accredited spiritual advisors.
- (2) On request by an accredited spiritual advisor, the governor of a correctional centre must make available:
 - (a) a suitable part of the centre as a sacred space for the conduct of rites, services or assemblies, and
 - (b) suitable facilities for the safekeeping of books and other objects used in connection with the conduct of rites, services or assemblies,
 if no such sacred space or facilities currently exist.
- (3) An inmate must not desecrate or abuse any books or other objects used in connection with the rites, services or assemblies of a spiritual denomination.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

69 Accredited spiritual advisors may advise committees (cf clause 77 of *Correctional Centre Routine Regulation 1995*)

- (1) With the approval of the governor, an accredited spiritual advisor:
 - (a) may attend meetings of any committee concerned with the management of the correctional centre to which he or she is accredited, and
 - (b) at any such meeting, may offer advice in relation to the welfare of inmates.
- (2) An accredited spiritual advisor is not entitled to vote on any motion or proposal put before such a committee or otherwise to participate in its decisions.

70 Accredited spiritual advisory services generally (cf clause 78 of *Correctional Centre Routine Regulation 1995*)

- (1) The accredited spiritual advisors, in collaboration with the Commissioner and the appropriate spiritual authorities, may assist in:
 - (a) the development of community support for corrective services, and

Crimes (Administration of Sentences) Regulation 2001	Clause 70
Full-time imprisonment	Chapter 2
Correctional centre routine	Part 3
Spiritual welfare	Division 6

- (b) the development and extension of accredited spiritual advisory services in correctional centres.
- (2) In consultation with the accredited spiritual advisors and appropriate spiritual authorities, the Commissioner must from time to time review the effectiveness of the accredited spiritual advisory services in correctional centres.

71 Exclusion of spiritual advisors on grounds of security (cf clause 79 of *Correctional Centre Routine Regulation 1995*)

The Commissioner may prohibit:

- (a) a particular spiritual advisor, or
- (b) a spiritual advisor of a particular denomination,

from visiting a correctional centre if of the opinion that it would be prejudicial to the good order and security of the centre to allow such a visit.

72 Inmates' religious affiliation (cf clause 74 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate who wishes to become a member of a religious denomination, or who wishes to change his or her religious denomination, is to cause written notice of those wishes to be given to the governor of the correctional centre:
 - (a) setting out the inmate's reasons for wishing to become a member of that denomination, and
 - (b) requesting any relevant records kept at the centre to be amended accordingly.
- (2) If satisfied (after consultation with the relevant accredited spiritual advisor) that the request is made in good faith, the governor is to cause the relevant records to be amended in accordance with the request.
- (3) For the purposes of this Part, an inmate is to be treated as belonging to the religious denomination (if any) that is for the time being shown in the relevant records in relation to the inmate.
- (4) If asked to do so by an accredited spiritual advisor, the governor must inform the advisor of the names of all inmates at the correctional centre who are for the time being shown in the relevant records as belonging to the advisor's denomination.

Clause 73	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 4	Visits and communications
Division 1	Visits to inmates

Part 4 Visits and communications

Division 1 Visits to inmates

73 Visits generally (cf clause 80 of *Correctional Centre Routine Regulation 1995*)

The governor of a correctional centre may permit a person to visit the centre, either generally or for the purpose of seeing a particular inmate at the centre.

74 Visiting hours (cf clauses 81 and 82 of *Correctional Centre Routine Regulation 1995*)

- (1) The periods during which a person may visit a correctional centre are to be as determined by the Commissioner.
- (2) The governor of a correctional centre is to ensure that the visiting hours are clearly displayed on a notice outside the centre.
- (3) If it is not practicable for a person to visit during visiting hours, the governor may permit a visit outside those hours, subject to the convenience of the routine of the correctional centre.
- (4) A visit is to be permitted to continue for at least 30 minutes, unless it is terminated or unless it would otherwise extend beyond visiting hours.

75 Number of visits (cf clauses 83 and 84 of *Correctional Centre Routine Regulation 1995*)

- (1) An unconvicted inmate may be visited once as soon as practicable after reception into a correctional centre and afterwards twice weekly.
- (2) A convicted inmate may be visited once as soon as practicable after conviction and afterwards at such intervals as the governor determines.
- (3) A civil inmate may be visited daily, as often and for so long as the governor determines.
- (4) The governor of a correctional centre may permit additional visits to an inmate, particularly in the case of an inmate who is dangerously ill.

Crimes (Administration of Sentences) Regulation 2001	Clause 76
Full-time imprisonment	Chapter 2
Visits and communications	Part 4
Visits to inmates	Division 1

76 Maximum number of visitors (cf clause 85 of *Correctional Centre Routine Regulation 1995*)

- (1) Up to 4 visitors may be present with an inmate at the same time.
- (2) The governor of a correctional centre may permit additional visitors to be present with an inmate at the same time, particularly in the case of an inmate who is dangerously ill.

77 Visits by Commissioner and other officials (cf clauses 87 and 88 of *Correctional Centre Routine Regulation 1995*)

- (1) The Commissioner may visit and must be admitted to a correctional centre at any time.
- (2) No other person may be admitted to a correctional centre without the prior authority of the Commissioner, except for the following persons:
 - (a) a correctional officer or Departmental officer employed at the centre,
 - (b) the Minister, the Inspector-General or an Official Visitor for the centre,
 - (c) a member of the Review Council or of any committee of the Review Council,
 - (d) a Judge of the Supreme Court or District Court, a Magistrate or a coroner,
 - (e) a government official engaged on official duties,
 - (f) any person in the exercise of a power conferred by or under an Act (including a Commonwealth Act).

78 Inmate may refuse visits (cf clause 89 of *Correctional Centre Routine Regulation 1995*)

An inmate may refuse to receive a visitor, other than a government official engaged on official duties.

79 Inmate confined to cell not entitled to visits (cf clause 90 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate who is confined to cell is not entitled to be visited except in the case of:
 - (a) a visit to discuss or transact legal business, or
 - (b) a visit by a diplomatic or consular representative, or

Clause 79	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 4	Visits and communications
Division 1	Visits to inmates

- (c) a visit by a field officer of the Aboriginal Legal Service or a similar organisation approved by the Commissioner, or
 - (d) a visit by a government official on official duties, or
 - (e) a visit by an Official Visitor.
- (2) Despite subclause (1), the governor of a correctional centre may permit an inmate who is confined to cell to receive visits from the inmate's family and friends if, in the governor's opinion, it is appropriate to do so to avoid hardship (such as where family or friends have travelled a long way to make the visit).

80 Record of visits (cf clause 91 of *Correctional Centre Routine Regulation 1995*)

- (1) The governor of a correctional centre must cause a record to be kept of all visits to inmates at the centre.
- (2) The record must contain the following particulars in relation to each visit:
 - (a) the date of the visit,
 - (b) the name of the inmate,
 - (c) the name, address and date of birth of each visitor,
 - (d) the form of identification used by each visitor as evidence of his or her name and address,
 - (e) the relationship between each visitor and the inmate,
 - (f) the purpose of (and, where appropriate, the authority for) the visit,
 - (g) the form (contact or non-contact) in which the visit is permitted,
 - (h) the name of the correctional officer who supervised the visit,
 - (i) if the visit was terminated by a correctional officer, the fact that the visit was so terminated and the reason for its termination.
- (3) The record must also contain the following particulars as to each visit that has been refused:
 - (a) the date on which the visit was refused,
 - (b) the name, address and date of birth (if known) of the visitor,
 - (c) the reason for the visit being refused.
- (4) Copies of the record are to be kept in such manner and for such period as the Commissioner determines.

Crimes (Administration of Sentences) Regulation 2001	Clause 81
Full-time imprisonment	Chapter 2
Visits and communications	Part 4
Special visits: legal business, foreign nationals, Aboriginal persons	Division 2

Division 2 **Special visits: legal business, foreign nationals, Aboriginal persons**

81 Visits to transact legal business (cf clause 92 of *Correctional Centre Routine Regulation 1995*)

In addition to any other visit authorised by this Regulation, an inmate is entitled to be visited by the inmate's legal practitioner.

82 Visits to foreign nationals (cf clause 93 of *Correctional Centre Routine Regulation 1995*)

In addition to any other visit authorised by this Regulation, an inmate who is a national of a foreign country may be visited by:

- (a) a diplomatic or consular representative in Australia or New South Wales of the foreign country, or
- (b) a diplomatic or consular representative in Australia or New South Wales of another foreign country that assumes responsibility for the inmate's interests, or
- (c) if the inmate is a refugee or stateless person, a representative of a national or international organisation (such as Amnesty International) that is recognised by the Commonwealth Government as having as an object the protection of the interests of such an inmate.

83 Visits to Aboriginal persons (cf clause 94 of *Correctional Centre Routine Regulation 1995*)

(1) In addition to other visits authorised by this Regulation, an inmate who is an Aboriginal person may be visited by:

- (a) a field officer of the Aboriginal Legal Service, or
- (b) a field officer of any other organisation that provides legal or other assistance to Aboriginal persons and that is approved by the Commissioner.

(2) In this clause, *Aboriginal person* has the same meaning as *Aboriginal* has in the *Aboriginal Land Rights Act 1983*.

84 Prior appointment necessary (cf clause 95 of *Correctional Centre Routine Regulation 1995*)

A prior appointment for a visit under this Division must be made with the governor.

Clause 85	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 4	Visits and communications
Division 2	Special visits: legal business, foreign nationals, Aboriginal persons

85 Time, duration and number of visits (cf clause 96 of *Correctional Centre Routine Regulation 1995*)

- (1) Visits to an inmate under this Division are not to be restricted in duration or number but must be made during normal visiting hours.
- (2) The governor of a correctional centre may extend normal visiting hours to permit such a visit if, in the governor's opinion:
 - (a) it is convenient and practicable to do so, and
 - (b) the governor is able to make satisfactory security arrangements.

Division 3 Permits to visit correctional centres

86 Permit for visits (cf clause 97 of *Correctional Centre Routine Regulation 1995*)

- (1) A visitor's permit may be issued authorising a person to visit a specified correctional centre for any official, scientific, spiritual, educational, sociological or other purpose approved by the Commissioner.
- (2) A visitor's permit:
 - (a) may be issued by the Commissioner, and
 - (b) may be issued unconditionally or subject to conditions specified in the permit.
- (3) An application for a visitor's permit is to be made in writing to the Commissioner, and the Commissioner's decision as to whether or not to grant the permit is final.

87 Cancellation of permits (cf clause 98 of *Correctional Centre Routine Regulation 1995*)

The Commissioner may cancel a visitor's permit at any time.

88 Return of expired or cancelled permits (cf clause 99 of *Correctional Centre Routine Regulation 1995*)

A person to whom a visitor's permit is issued must return it to the Commissioner as soon as the permit expires or is cancelled.

Maximum penalty: 5 penalty units.

Crimes (Administration of Sentences) Regulation 2001	Clause 89
Full-time imprisonment	Chapter 2
Visits and communications	Part 4
Permits to visit correctional centres	Division 3

89 Preliminary requirements for visits (cf clause 100 of *Correctional Centre Routine Regulation 1995*)

A person to whom a visitor's permit is issued:

- (a) is not entitled to visit a correctional centre without the prior approval of an authorised officer, and
- (b) must, before the visit takes place, inform an authorised officer of the purpose of the visit.

90 Restrictions on holders of visitors' permits (cf clauses 101 and 102 of *Correctional Centre Routine Regulation 1995*)

(1) A person to whom a visitor's permit is issued:

- (a) must not enter any part of a correctional centre to which entry is forbidden by the correctional officer supervising the visit, and
- (b) must comply with any reasonable direction given by the correctional officer supervising the visit.

(2) While visiting a correctional centre pursuant to a visitor's permit, a person must not communicate with an inmate, or come into physical contact with an inmate, unless authorised to do so:

- (a) by the conditions of the permit, or
- (b) by an authorised officer.

Maximum penalty: 5 penalty units.

Division 4 Control of visits to correctional centres and inmates

91 Application of Division

This Division applies to all visits under Division 1, 2 or 3.

92 Proof of identity of visitor and purpose of visit may be required (cf clause 103 of *Correctional Centre Routine Regulation 1995*)

(1) An authorised officer may require a visitor:

- (a) to produce evidence, satisfactory to the authorised officer, of the person's name and address, and
- (b) to state the purpose of the visit.

Clause 92	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 4	Visits and communications
Division 4	Control of visits to correctional centres and inmates

- (2) A visitor must not produce evidence, or make a statement, in response to a requirement under subclause (1) knowing the evidence or statement to be false or misleading in a material particular.

Maximum penalty: 10 penalty units.

- (3) An authorised officer may refuse to allow a person to visit a correctional centre if the person fails to comply with a requirement under subclause (1).

93 Searching of visitors (cf clauses 103A and 104 of *Correctional Centre Routine Regulation 1995*)

- (1) An authorised officer or the principal security officer may require a visitor:

- (a) to submit to an inspection and search of personal possessions, to scanning by means of an electronic scanning device and to being sniffed by a drug detector dog, and
- (b) to empty the pockets of the visitor's clothing, and
- (c) to make available for inspection and search any vehicle under the visitor's control that is on the premises of a correctional centre.

- (2) Except as otherwise provided by this Regulation or as permitted by an authorised officer, a visitor must, while the visit is taking place, leave anything that the visitor has brought into a correctional centre in storage facilities provided for the purpose at the centre.

Maximum penalty: 5 penalty units.

- (3) An authorised officer or the principal security officer may confiscate, for the duration of the visit, anything that a visitor has brought into the correctional centre but not left in storage facilities as required by subclause (2).
- (4) Subclause (3) does not limit any other power that an authorised officer or principal security officer may have apart from this clause to seize or detain anything of the kind referred to in that subclause, such as a power to seize any such thing from a person following the person's lawful arrest.

Crimes (Administration of Sentences) Regulation 2001	Clause 94
Full-time imprisonment	Chapter 2
Visits and communications	Part 4
Control of visits to correctional centres and inmates	Division 4

94 Hindering or obstructing dogs

A visitor must not hinder or obstruct a dog being used to assist in maintaining the good order and security of a correctional centre.

Maximum penalty: 5 penalty units.

95 Smoking by visitors in non-smoking areas prohibited (cf clause 104A of *Correctional Centre Routine Regulation 1995*)

A visitor must not:

- (a) smoke in a non-smoking area, or
- (b) alter, damage or remove any sign or notice relating to a non-smoking area.

Maximum penalty: 1 penalty unit.

96 Unauthorised use of cameras or recording equipment (cf clause 105 of *Correctional Centre Routine Regulation 1995*)

- (1) A visitor must not take photographs of, or operate video or audio recording equipment at, a correctional centre without the prior approval of the governor.

Maximum penalty: 20 penalty units.

- (2) The governor may confiscate any photograph, film, tape or other recording taken or made by a person in contravention of this clause.
- (3) The governor may destroy any part of a confiscated photograph, film, tape or recording which the governor is satisfied is likely to prejudice the security of a correctional centre or place anyone's personal safety at risk.
- (4) Any part of the photograph, film, tape or recording that the governor is satisfied is not likely to prejudice the security of a correctional centre or place anyone's personal safety at risk must be returned to the person from whom it was taken.
- (5) Before returning any photograph, film, tape or recording, the governor may charge the person for payment of any costs incurred in processing or developing it.

Clause 97	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 4	Visits and communications
Division 4	Control of visits to correctional centres and inmates

97 Delivery of articles to and from visitors (cf clause 106 of *Correctional Centre Routine Regulation 1995*)

- (1) Except as otherwise provided by this Part:
- (a) a visitor must not deliver anything to or receive anything from an inmate at a correctional centre, and
 - (b) an inmate at a correctional centre must not deliver anything to or receive anything from a visitor.

Note. Failure by an inmate to comply with the requirements of subclause (1) (b) is a correctional centre offence.

- (2) With the approval of an authorised officer:
- (a) a visitor may deliver an article to a correctional officer at a correctional centre for delivery to an inmate, and
 - (b) an inmate may deliver an article to a correctional officer for delivery to a visitor.

98 Prevention of physical contact with inmates (cf clause 107 of *Correctional Centre Routine Regulation 1995*)

- (1) Visits to inmates may be either “contact” visits, in which the inmate and the visitor are permitted physical contact with each other, or “non-contact” visits, in which the visit takes place in an environment in which physical contact is prevented.
- (2) The governor of a correctional centre may, either before or during a visit, direct that the visit is to be or to continue as a non-contact visit if of the opinion that the visitor is likely:
 - (a) to introduce into the centre prohibited goods or any other property that an inmate is not authorised by this Regulation to possess, or
 - (b) to act in a threatening, offensive, indecent, obscene, abusive or improper manner.

99 Visits to be within sight of correctional officer (cf clause 108 of *Correctional Centre Routine Regulation 1995*)

- (1) A visit must take place within sight of a correctional officer unless the governor permits otherwise.
- (2) Subclause (1) does not apply to the holder of a visitor’s permit under Division 3 who is authorised by the conditions of the permit to interview or examine an inmate out of sight of a correctional officer.

Crimes (Administration of Sentences) Regulation 2001	Clause 100
Full-time imprisonment	Chapter 2
Visits and communications	Part 4
Control of visits to correctional centres and inmates	Division 4

100 Special arrangements for legal documents (cf clause 110 of *Correctional Centre Routine Regulation 1995*)

- (1) An authorised officer may inspect or examine, but not read, documents or other recorded material taken into a correctional centre by an inmate's legal practitioner for the purpose of discussing or transacting legal business.
- (2) The governor of a correctional centre must ensure that arrangements are made for an inmate and the inmate's legal practitioner to have joint access to documents or other recorded material taken into the centre for the purpose of discussing or transacting legal business.

101 Termination of visits (cf clause 111 (2)–(4) of *Correctional Centre Routine Regulation 1995*)

- (1) An authorised officer may terminate any visit (whether or not the visitor is entitled to make the visit) if of the opinion:
 - (a) that the visitor has contravened any provision of the Act or this Regulation, or
 - (b) that the visitor (or inmate being visited by the visitor) is or has been acting in a threatening, offensive, indecent, obscene or abusive or improper manner, or
 - (c) that the continuation of the visit would prejudice the good order and security of the correctional centre.
- (2) If a visit is terminated under this clause, the authorised officer must cause notice of that fact to be given to the governor.
- (3) The governor must cause a copy of the notice to be sent to the Commissioner.
- (4) A person whose visit is terminated under this clause may be removed from the correctional centre if he or she fails to leave when requested.

Division 5 General restrictions on persons who may visit

102 Application of Division

This Division applies to all visits under Division 1, 2 or 3.

Clause 103	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 4	Visits and communications
Division 5	General restrictions on persons who may visit

103 General power of governor or correctional officer to prevent visits
(cf clause 111 (1) of *Correctional Centre Routine Regulation 1995*)

The governor of a correctional centre may refuse to allow a person to visit the centre or an inmate if of the opinion that such a visit would prejudice the good order and security of the centre.

104 Visitors under the influence of alcohol or drugs (cf clause 112 of *Correctional Centre Routine Regulation 1995*)

An authorised officer may refuse to allow a person to visit a correctional centre or an inmate if of the opinion that the person is under the influence of alcohol or a drug.

105 Commissioner may bar persons from visiting correctional centres
(cf clause 114 of *Correctional Centre Routine Regulation 1995*)

- (1) The Commissioner may direct that a particular person be prevented from entering any correctional centre, or from visiting an inmate at any such centre, if of the opinion:
 - (a) that such a visit would prejudice the good order and security of any such correctional centre, or
 - (b) that the visitor has, during the current visit or during a previous visit, acted in a threatening, offensive, indecent, obscene, abusive or improper manner.
- (2) A direction under this clause has effect for such period as it may specify or, if no such period is specified, until it is revoked by a further direction.
- (3) Despite the direction, the Commissioner may permit the person to whom the direction applies to visit a particular correctional centre or particular inmate.

106 Unauthorised persons not to be admitted to correctional centres
(cf clause 113 of *Correctional Centre Routine Regulation 1995*)

A person who is not otherwise authorised by this Regulation to be admitted to a correctional centre must not be admitted to the centre without the prior authority of the Commissioner.

Crimes (Administration of Sentences) Regulation 2001	Clause 107
Full-time imprisonment	Chapter 2
Visits and communications	Part 4
Written communications with inmates	Division 6

Division 6 Written communications with inmates

107 **Correspondence generally** (cf clause 116 of *Correctional Centre Routine Regulation 1995*)

- (1) Subject to this Division:
 - (a) an inmate may send letters or parcels to, and receive letters or parcels from, any other person, and
 - (b) a letter or parcel sent to or by an inmate is not to be censored.
- (2) An inmate must not send or receive any letter or parcel otherwise than through the hands of an authorised officer.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

108 **Certain articles prohibited** (cf clause 117 of *Correctional Centre Routine Regulation 1995*)

An inmate must not send from a correctional centre:

- (a) any threatening, offensive, indecent, obscene or abusive written or pictorial matter, or
- (b) any offensive, indecent or obscene article.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

109 **Opening of letters and parcels generally** (cf clauses 119 and 120 of *Correctional Centre Routine Regulation 1995*)

- (1) The governor of a correctional centre or a nominated officer may open, inspect and read a letter or parcel sent to or by an inmate and, if it contains prohibited goods, may confiscate the letter or parcel and its contents and deal with them in accordance with the directions of the Commissioner.
- (2) The inmate is to be informed of the confiscation of any letter, parcel or prohibited goods.
- (3) A nominated officer may direct that any written or pictorial matter contained in a letter or parcel opened, inspected or read under this clause be copied before the letter or parcel containing the matter is delivered to the addressee.

Clause 109	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 4	Visits and communications
Division 6	Written communications with inmates

- (4) Such a direction may be given only if the nominated officer is of the opinion that the written or pictorial matter to be copied:
- (a) contains anything likely to prejudice the good order and security of any correctional centre, or
 - (b) is threatening, offensive, indecent, obscene or abusive.
- (5) This clause does not apply to a letter or parcel addressed to, or received from, an exempt body or exempt person.

110 Certain letters and parcels privileged (cf clause 118 of *Correctional Centre Routine Regulation 1995*)

- (1) As soon as practicable after receiving from an inmate any letter or parcel addressed to an exempt body or exempt person, an authorised correctional officer must post the letter or parcel to the addressee, without opening, inspecting or reading it.
- (2) As soon as practicable after receiving from an exempt body or exempt person any letter or parcel addressed to an inmate, an authorised officer must deliver the letter or parcel to the inmate, without opening, inspecting or reading it.
- (3) Subclause (2) applies only to a letter or parcel that is contained in an envelope or package that is addressed to the governor together with a note to the effect that the letter or parcel is to be delivered to the inmate without being opened, inspected or read by any person other than the inmate.
- (4) In the case of a letter or parcel from an exempt person, a nominated officer may require the letter or parcel to be opened by the inmate in his or her presence if of the opinion that it may contain prohibited goods and, if it does so, may confiscate the letter or parcel and its contents and deal with them in accordance with the directions of the Commissioner.

111 Correspondence with legal practitioner (cf clause 121 of *Correctional Centre Routine Regulation 1995*)

This Regulation is not to be construed so as to limit correspondence between an inmate and the inmate's legal practitioner in respect of matters affecting the inmate's trial, conviction or imprisonment.

Crimes (Administration of Sentences) Regulation 2001	Clause 112
Full-time imprisonment	Chapter 2
Visits and communications	Part 4
Use of telephones and facsimile machines by inmates	Division 7

Division 7 Use of telephones and facsimile machines by inmates

112 Permission required (cf clauses 122, 123, 124 and 127 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not make a telephone call or send a facsimile message without the permission of an authorised officer.
- (2) An inmate must not make more telephone calls or send more facsimile messages in any week than the maximum number fixed by the Commissioner for the inmate or the class of inmates to which the inmate belongs.
- (3) An inmate must not have telephone or facsimile communication with an inmate of another correctional centre without the permission of the governors of both correctional centres.
- (4) A correctional officer may terminate an inmate's telephone call or facsimile communication if of the opinion that the continuation of the call or communication will prejudice good order and security of any correctional centre.
- (5) As soon as practicable after terminating an inmate's telephone call or facsimile communication, a correctional officer must cause details of the reason for the termination to be recorded and reported to the governor.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

113 Cost of telephone calls and facsimile messages (cf clause 125 of *Correctional Centre Routine Regulation 1995*)

- (1) The cost of a telephone call made by an inmate (including the telephone component of the cost of sending a facsimile message) is to be met by the inmate.
- (2) Subclause (1) does not apply to:
 - (a) the first local call made in any week by a convicted inmate, or
 - (b) the first 3 local calls made in any week by an unconvicted inmate or civil inmate, or
 - (c) any call made to the Office of the Ombudsman, the Independent Commission Against Corruption, the Legal Aid Commission or the Inspector-General, or

Clause 113	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 4	Visits and communications
Division 7	Use of telephones and facsimile machines by inmates

- (d) any call of a kind that the Commissioner directs is to be met by the Department, or
 - (e) any call whose cost is met by the receiver.
- (3) An inmate must pay an amount per page, to be determined by the Commissioner, for any facsimile message sent to, and accepted by, the inmate.
- (4) In this clause, *local call* means a telephone call that is charged for at local call rates.

Division 8 **General**

114 **Supply of information concerning offences to police** (cf clause 131 of *Correctional Centre Routine Regulation 1995*)

- (1) A nominated officer who finds that a letter, parcel or other article contains information or any other thing that the officer has reasonable grounds to believe:
- (a) is likely to prejudice the good order and security of a correctional centre, or
 - (b) relates to a criminal offence which has been or may be committed,
- must as soon as practicable report the circumstances to the governor.
- (2) If of the opinion that a letter, parcel or other article the subject of such a report contains information that may be required for the purpose of the administration of justice, the governor:
- (a) may furnish particulars of the information to a police officer, and
 - (b) may deliver the letter, parcel or article to a police officer.

115 **Property brought to correctional centre by other persons** (cf clause 31 (2) of *Correctional Centre Routine Regulation 1995*)

Any property sent to an inmate, or delivered to the governor of a correctional centre to be given to an inmate, is to be dealt with by the governor in accordance with clause 10 as if the property had been surrendered by the inmate on being received into the centre.

Crimes (Administration of Sentences) Regulation 2001	Clause 116
Full-time imprisonment	Chapter 2
Correctional centre discipline	Part 5
Preliminary	Division 1

Part 5 Correctional centre discipline

Division 1 Preliminary

116 Definition of “correctional centre offence” (cf clause 145 of *Correctional Centre Routine Regulation 1995*)

A contravention by an inmate (whether by act or omission) of a provision of this Regulation specified in Part 1 or 2 of Schedule 2 is declared to be a correctional centre offence for the purposes of Division 6 of Part 2 of the Act.

117 Definition of “major offence” (cf clause 146 of *Correctional Centre Routine Regulation 1995*)

A contravention by an inmate (whether by act or omission) of a provision of this Regulation specified in Part 1 of Schedule 2 is declared to be a major offence for the purposes of Division 6 of Part 2 of the Act.

Note. Correctional centre offences specified in Part 2 of Schedule 2 are minor offences for the purposes of Division 6 of Part 2 of the Act.

118 Attempts

An attempt by an inmate to commit a correctional centre offence is to be dealt with in the same way as that offence and, for that purpose, is itself declared to be a correctional centre offence and (if appropriate) a major offence for the purposes of Division 6 of Part 2 of the Act.

Division 2 Maintenance of order and discipline

119 Maintenance of order and discipline generally (cf clause 147 of *Correctional Centre Routine Regulation 1995*)

- (1) Order and discipline in a correctional centre are to be maintained with firmness, but with no more restriction or force than is required for safe custody and well-ordered community life within the centre.
- (2) A correctional officer must endeavour to control inmates by showing them example and leadership and by enlisting their willing co-operation.

Clause 119	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 5	Correctional centre discipline
Division 2	Maintenance of order and discipline

- (3) At all times the treatment of inmates is to be such as to encourage self-respect and a sense of personal responsibility.

120 Directions relating to order or discipline (cf clause 148 of *Correctional Centre Routine Regulation 1995*)

- (1) Directions for the purpose of maintaining good order and discipline:
- (a) may be given to inmates by the Commissioner, by the governor of a correctional centre or by a correctional officer, and
 - (b) may be given orally or in writing.
- (2) An inmate must not refuse or fail to comply with a direction under this clause.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

121 Use of force in dealing with inmates (cf clause 149 of *Correctional Centre Routine Regulation 1995*)

- (1) In dealing with an inmate, a correctional officer may use no more force than is reasonably necessary in the circumstances, and the infliction of injury on the inmate is to be avoided if at all possible.
- (2) The nature and extent of the force that may be used in relation to an inmate are to be dictated by circumstances, but must not exceed such force as is necessary for control and protection, having due regard to the personal safety of correctional officers and others.
- (3) If an inmate is satisfactorily restrained, the only force that may be used against the inmate is such as is necessary to maintain that restraint.
- (4) Subject to subclauses (1), (2) and (3), a correctional officer may have recourse to force for the following purposes:
- (a) to search, where necessary, an inmate or to seize a dangerous or harmful article,
 - (b) to prevent the escape of an inmate,
 - (c) to prevent an unlawful attempt to enter a correctional centre by force or to free an inmate,
 - (d) to defend himself or herself if attacked or threatened with attack, but only if the officer cannot otherwise protect himself or herself from harm,

Crimes (Administration of Sentences) Regulation 2001	Clause 121
Full-time imprisonment	Chapter 2
Correctional centre discipline	Part 5
Maintenance of order and discipline	Division 2

- (e) to protect other persons (including correctional officers, Departmental officers, inmates and members of the public) from attack or harm, but only if there are no other immediate or apparent means available for their protection,
 - (f) to avoid an imminent attack on the correctional officer or some other person, but only if there is a reasonable apprehension of such an attack,
 - (g) to prevent an inmate from injuring himself or herself,
 - (h) to ensure compliance with a proper order, or maintenance of discipline, but only if an inmate is failing to co-operate with a lawful correctional centre requirement in a manner that cannot otherwise be adequately controlled,
 - (i) to move inmates who decline or refuse to move from one location to another in accordance with a lawful order,
 - (j) to achieve the control of inmates acting in a defiant manner,
 - (k) to avoid imminent violent or destructive behaviour by inmates,
 - (l) to restrain violence directed towards the correctional officer or other persons by an uncontrollable or disturbed inmate,
 - (m) to prevent or quell a riot or other disturbance,
 - (n) to deal with any other situation that has a degree of seriousness comparable to that of the situations referred to in paragraphs (a)–(m).
- (5) Subclause (4) does not limit the operation of any law with respect to the force that may be used to effect an arrest.

122 Use of equipment for restraining inmates (cf clause 150 of *Correctional Centre Routine Regulation 1995*)

- (1) With the concurrence of the governor, a correctional officer may use handcuffs for the purpose of restraining inmates.
- (2) With the concurrence of the Commissioner, a correctional officer may also use the following equipment for the purpose of restraining inmates:
 - (a) anklecuffs, security belts, batons, chemical aids and firearms,
 - (b) such other articles (other than chains or irons) as may be approved by the Commissioner for use for that purpose.

Clause 123	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 5	Correctional centre discipline
Division 2	Maintenance of order and discipline

123 Report on use of force (cf clause 151 of *Correctional Centre Routine Regulation 1995*)

- (1) Any correctional officer who uses force on an inmate must immediately furnish a report about the use of force to the governor.
- (2) The report:
 - (a) must be in writing, and
 - (b) must specify the name or names of the inmate or inmates and the name or names of the correctional officer or correctional officers involved in the use of force, and
 - (c) must specify the location where the use of force occurred, and
 - (d) must describe the nature of the force used and the circumstances requiring its use, and
 - (e) must be signed by the correctional officer involved in the use of force.
- (3) This clause does not require a correctional officer to furnish information in a report if it is impossible or impracticable for the officer to obtain the information.

Division 3 Particular offences

124 Contravention of conditions of leave

An inmate the subject of a local leave order, local leave permit or interstate leave permit must not contravene any condition to which the order or permit is subject.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

125 Concealment for escape (cf clauses 152 and 153 of *Correctional Centre Routine Regulation 1995*)

An inmate must not conceal himself or herself for the purpose of effecting an escape or enabling any other inmate to effect an escape.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Crimes (Administration of Sentences) Regulation 2001	Clause 126
Full-time imprisonment	Chapter 2
Correctional centre discipline	Part 5
Particular offences	Division 3

126 Concealment of certain items

An inmate must not make, conceal or have in possession anything for use for the purpose of effecting an escape or committing an offence, or enabling any other inmate to effect an escape or commit an offence.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

127 Intimidation (cf clause 154 (1), (4) and (5) of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not use insulting, abusive or threatening language to or in the presence of another person.
- (2) An inmate must not threaten to damage or destroy any property of another person.
- (3) An inmate must not otherwise behave in a threatening manner towards another person.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

128 Indecency (cf clause 154 (2) and (3) of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not act indecently, or behave in an obscene manner, in the presence of or towards any other person.
- (2) An inmate must not engage in unwelcome conduct of a sexual nature in relation to any other person in circumstances that are likely to cause the other person to feel humiliated, intimidated or offended.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

129 Riots (cf clause 158 of *Correctional Centre Routine Regulation 1995*)

An inmate must not participate in a riot or incite any other inmate to participate in a riot.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

130 Physical aggression (cf clauses 156, 157 and 161 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not assault any other person or incite any other inmate to assault any other person.

Clause 130	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 5	Correctional centre discipline
Division 3	Particular offences

- (2) An inmate must not engage in wrestling, sparring, fighting or other physical combat with any other inmate.
- (3) An inmate must not throw an article, or operate a device from which an article is projected, so as to cause a risk of injury to any person or of damage to any property.
- (4) Subclauses (2) and (3) do not prevent an inmate from engaging in any activity as a necessary incident of taking part in training or a contest or other sporting event organised for inmates by an authorised officer.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

131 General property offences (cf clauses 160, 163 and 164 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not steal the property of any other person.
- (2) An inmate must not damage or destroy any property (other than property of the inmate).
- (3) An inmate must not introduce into food or drink intended for human consumption anything liable to render it unpalatable or unwholesome.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

132 Hindering or obstructing dogs

An inmate must not hinder or obstruct a dog being used to assist in maintaining the good order and security of a correctional centre.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

133 Causing harm to animal, bird or reptile (cf clause 159 of *Correctional Centre Routine Regulation 1995*)

An inmate must not cause harm to any animal, bird or reptile.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Crimes (Administration of Sentences) Regulation 2001	Clause 134
Full-time imprisonment	Chapter 2
Correctional centre discipline	Part 5
Particular offences	Division 3

134 Correctional centre property offences (cf clause 162 of *Correctional Centre Routine Regulation 1995*)

Unless authorised to do so by the Commissioner, the governor of the correctional centre or a correctional officer, an inmate must not alter, remove or otherwise interfere with or be in possession of:

- (a) any lock, key, bolt, bar, ventilator or other correctional centre fixture or fitting, or
- (b) any fire extinguisher, firehose, restraining equipment, electrical installation or any other appliance, equipment or property in or used in the correctional centre or the structure of the correctional centre, or
- (c) any notice exhibited at the correctional centre, or
- (d) any inmate's cell card, or
- (e) any other document or thing used by the governor or a correctional officer for the purpose of administration of the centre,

except in so far as it is reasonably necessary to do so in observing the normal routine of the centre.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

135 Tattooing (cf clause 165 of *Correctional Centre Routine Regulation 1995*)

An inmate must not:

- (a) make a tattoo on himself or herself or any other inmate, or
- (b) consent to being tattooed by any other inmate.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

136 Gambling (cf clause 166 of *Correctional Centre Routine Regulation 1995*)

An inmate must not organise or participate in any form of gambling.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

137 Alcohol (cf clause 167 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not consume, or have in his or her possession, any alcohol or other intoxicating substance or any substance reasonably capable of becoming (by fermentation or distillation) an intoxicating substance.

Clause 137	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 5	Correctional centre discipline
Division 3	Particular offences

- (2) An inmate must not prepare or manufacture alcohol or any other intoxicating substance.
- (3) An inmate is not to be regarded as contravening subclause (1):
- (a) if the inmate has the alcohol or other substance in his or her possession for consumption or use on the advice of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons, or
 - (b) if the inmate consumes the alcohol or other substance:
 - (i) in accordance with the instructions of the medical practitioner, dentist or nurse, or
 - (ii) as an ordinary incident of participating in a spiritual service conducted at a correctional centre with the consent of the governor.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

138 Possession of drugs (cf clause 168 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not have any drug in his or her possession.
- (2) An inmate is not to be regarded as having contravened this clause if the inmate has the drug in his or her possession for use on the advice of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

139 Administration of drugs (cf clause 168 (1) and (4) of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not:
- (a) administer any drug to himself or herself or any other person, or
 - (b) consent to being administered any drug by any other person.
- (2) An inmate is not to be regarded as having contravened this clause if the drug has been administered by or in accordance with the instructions of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Crimes (Administration of Sentences) Regulation 2001	Clause 140
Full-time imprisonment	Chapter 2
Correctional centre discipline	Part 5
Particular offences	Division 3

140 Possession of drug implements (cf clause 168 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not have in his or her possession any needle, syringe, smoking accessory or other implement intended for use in the administration of a drug.
- (2) An inmate is not to be regarded as having contravened this clause if the implement has been in the possession of the inmate for the purposes of:
 - (a) the administration of a drug in accordance with the instructions of a registered medical practitioner or registered dentist given for medical or dental reasons, or
 - (b) taking a drug lawfully supplied by a registered medical practitioner, registered dentist or registered nurse for medical, dental or nursing reasons.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

141 Self-intoxication (cf clause 168 (4) of *Correctional Centre Routine Regulation 1995*)

An inmate must not deliberately consume or inhale any intoxicating substance.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

142 Failing prescribed urine tests (cf clause 168 (1) of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate contravenes this clause if the result of a prescribed urine test:
 - (a) shows the presence of a drug in the inmate's urine, and
 - (b) indicates that the drug has been administered to the inmate (whether by the inmate or by another person) while the inmate has been an inmate.
- (2) An inmate is not to be regarded as having contravened this clause if the drug has been administered by or in accordance with the instructions of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons.

Clause 142	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 5	Correctional centre discipline
Division 3	Particular offences

- (3) In this clause, *prescribed urine test* means a urine test carried out in accordance with directions given by the governor of a correctional centre or a correctional officer holding office or acting in a rank that is of or above the rank of Assistant Superintendent.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

143 Smoking (cf clause 168A of *Correctional Centre Routine Regulation 1995*)

An inmate must not:

- (a) smoke in a non-smoking area, or
- (b) alter, damage or remove any sign or notice relating to a non-smoking area or to an authorised smoking area.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

144 Bribery (cf clause 169 of *Correctional Centre Routine Regulation 1995*)

An inmate must not:

- (a) offer, make or give to a correctional officer or Departmental officer any payment, gratuity or present, or
- (b) offer to provide or provide a service to a correctional officer or Departmental officer,

in consideration or for the purpose that the officer will neglect his or her duty, give preferred treatment or act in any other way that is inconsistent with the proper discharge of the person's duties.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

145 Obstruction (cf clause 155 of *Correctional Centre Routine Regulation 1995*)

An inmate must not wilfully hinder or obstruct a correctional officer in the performance of the officer's duties.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Crimes (Administration of Sentences) Regulation 2001	Clause 146
Full-time imprisonment	Chapter 2
Correctional centre discipline	Part 5
Testing for alcohol or drugs	Division 4

Division 4 Testing for alcohol or drugs

146 Breath testing (cf clause 172 of *Correctional Centre Routine Regulation 1995*)

- (1) On forming a suspicion that an inmate has recently consumed or is under the influence of alcohol or any other intoxicating substance, a correctional officer or other person having supervision of the inmate may require the inmate to undergo a breath test.
- (2) An inmate must not refuse or fail to comply with a requirement under this clause.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.

147 Evidence as to presence of alcohol or intoxicating substance (cf clause 173 of *Correctional Centre Routine Regulation 1995*)

- (1) In any proceedings for a correctional centre offence that are being dealt with under the Act by the governor or a Visiting Justice, being proceedings in which it is alleged that an inmate has consumed alcohol or any other intoxicating substance, a certificate signed by an authorised officer to the effect that:
 - (a) an inmate named in the certificate submitted to a breath test, and
 - (b) the breath test was given on the day and completed at the time stated in the certificate, and
 - (c) there was a measurable quantity of alcohol or any other intoxicating substance present in the inmate's blood, as determined by the breath test, on the date and at the time stated in the certificate,
- (2) In any such proceedings, evidence of:
 - (a) the condition of the device by means of which the breath test was carried out, or
 - (b) the manner in which the breath test was carried out,

is admissible in evidence of the facts so certified.

is not required unless evidence that the device was not in proper condition or that the test was not properly carried out has been adduced.

Clause 148	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 5	Correctional centre discipline
Division 4	Testing for alcohol or drugs

148 Urine sample where drug use suspected (cf clause 174 of *Correctional Centre Routine Regulation 1995*)

- (1) On forming a suspicion that an inmate:
 - (a) has been administered (whether by himself or herself or otherwise) with a drug, or
 - (b) is under the influence of a drug,
 a correctional officer of or above the rank of Assistant Superintendent may require the inmate to supply a sample of urine for testing or analysis.
- (2) The directions may require the inmate to comply with directions given by a correctional officer as to how the sample is to be supplied.
- (3) An inmate must not refuse or fail to comply with a direction under this clause.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.
- (4) In any proceedings for a correctional centre offence that are being dealt with under the Act by the governor or a Visiting Justice, being proceedings in which it is alleged that a requirement was made under subclause (1), a certificate signed by an authorised officer to the effect that such a requirement was made:
 - (a) for a specified inmate, or
 - (b) for all inmates of a specified class,
 is admissible in evidence of the facts so certified.

149 Urine sample whether or not drug use suspected (cf clause 175 of *Correctional Centre Routine Regulation 1995*)

- (1) A correctional officer of or above the rank of Assistant Superintendent may require an inmate to supply for testing or analysis a sample of urine and give directions as to how the sample is to be supplied.
- (2) The directions may require the inmate to comply with directions given by a correctional officer as to how the sample is to be supplied.
- (3) An inmate must not refuse or fail to comply with a direction under this clause.

Note. Failure by an inmate to comply with the requirements of this subclause is a correctional centre offence.
- (4) A urine test must be carried out by a government analyst.

Crimes (Administration of Sentences) Regulation 2001	Clause 149
Full-time imprisonment	Chapter 2
Correctional centre discipline	Part 5
Testing for alcohol or drugs	Division 4

- (5) A sample may be required under this clause and tested for the presence of a drug even though the inmate concerned may not be reasonably suspected of having administered a drug to himself or herself or of being under the influence of a drug.

150 Evidence as to use of drugs (cf clause 176 of *Correctional Centre Routine Regulation 1995*)

- (1) In any proceedings for a correctional centre offence that are being dealt with under the Act by the governor or a Visiting Justice, being proceedings in which it is alleged that an inmate has been under the influence of a drug or that a drug has been present in the inmate's urine, a certificate signed by an authorised officer to the effect that:
- (a) the correctional officer received a sample of urine obtained in a specified manner, or
 - (b) the correctional officer arranged for the sample to be submitted for analysis by a government analyst to determine the presence of any drugs in the inmate's body or urine, or
 - (c) the container was sealed, and marked or labelled, in a specified manner,
- is admissible in evidence of the facts so certified.
- (2) In any such proceedings, a certificate signed by a government analyst to the effect that, on a specified day:
- (a) the analyst received for analysis a container holding a sample of urine, or
 - (b) the container, when received, was sealed with an unbroken seal, and was marked or labelled in a specified manner, or
 - (c) the analyst carried out an analysis of the sample to determine the presence of drugs in the urine, or
 - (d) the analyst determined that a specified drug was present or was present to a specified extent in the urine, or
 - (e) the analyst was, at the time of the analysis, a government analyst,
- is admissible in evidence of the facts so certified.

Clause 150	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 5	Correctional centre discipline
Division 4	Testing for alcohol or drugs

(3) In any such proceedings:

- (a) evidence that a government analyst received a container holding a sample of urine, being a container that was marked or labelled to indicate that it held a sample of urine obtained from a specified inmate on a specified day, is evidence that the sample was a sample of urine obtained from that inmate on that day, and
- (b) evidence that the container, when received, was sealed with an unbroken seal is evidence that the sample had not been tampered with before it was received by the government analyst.

151 Supply of test results to Corrections Health Service (cf clause 177 of *Correctional Centre Routine Regulation 1995*)

The Commissioner may provide results of positive urine tests to:

- (a) the Chief Executive Officer, Corrections Health Service, and
- (b) in the case of tests on serious offenders, the Review Council.

Division 5 Punishments

152 Definition of “withdrawable privilege” (cf clause 170 of *Correctional Centre Routine Regulation 1995*)

The following privileges or amenities are declared to be withdrawable privileges for the purposes of Division 6 of Part 2 of the Act:

- (a) attendance at the showing of films or videos or at concerts or other performances,
- (b) participation in or attendance at any other organised leisure time activity,
- (c) use of, or access to, films, video tapes, records, cassettes or compact disks,
- (d) use of, or access to, television, radio or video, cassette or compact disk players, whether for personal use or for use as a member of a group,
- (e) use of, or access to, a musical instrument, whether for personal use or for use as a member of a group,
- (f) use of library facilities,

Crimes (Administration of Sentences) Regulation 2001	Clause 152
Full-time imprisonment	Chapter 2
Correctional centre discipline	Part 5
Punishments	Division 5

- (g) use of swimming pool facilities,
- (h) ability to purchase goods,
- (i) keeping of approved personal property,
- (j) pursuit of a hobby,
- (k) use of telephone, except for calls to legal practitioners,
- (l) participation in contact visits,
- (m) permission to be absent from a correctional centre under a local leave permit or interstate leave permit.

153 Prohibited punishments (cf clause 171 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not:
 - (a) be put in a dark cell, or under mechanical restraint, as a punishment, or
 - (b) be subjected to:
 - (i) solitary confinement, or
 - (ii) corporal punishment, or
 - (iii) torture, or
 - (iv) cruel, inhuman or degrading treatment, or
 - (c) be subjected to any other punishment or treatment that may reasonably be expected to adversely affect the inmate's physical or mental health.
- (2) For the purposes of subclause (1) (b) (i):
 - (a) segregating an inmate from other inmates under section 10 of the Act, and
 - (b) confining an inmate to cell in accordance with an order under section 53 or 56 of the Act, and
 - (c) keeping an inmate separate from other inmates under this Regulation, and
 - (d) keeping an inmate alone in a cell, where a nursing officer considers that it is desirable in the interest of the inmate's health to do so,
 are not solitary confinement.

Clause 154	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 6	Inmates' requests and complaints
Division 1	Official Visitors

Part 6 Inmates' requests and complaints

Division 1 Official Visitors

154 Notice of availability of Official Visitors (cf clause 132 of *Correctional Centre Routine Regulation 1995*)

- (1) The governor of a correctional centre must notify:
 - (a) all correctional centre officers and Departmental officers at the centre, and
 - (b) all inmates at the centre,
 of the date and time when the Official Visitor to the centre will be at the centre and available for interviews.
- (2) If aware that an inmate considers a complaint or inquiry made by the inmate has not been dealt with satisfactorily by a correctional centre officer or Departmental officer, the governor must advise the inmate that the inmate may request an Official Visitor to deal with it.

155 Complaints and inquiries (cf clause 133 of *Correctional Centre Routine Regulation 1995*)

- (1) An Official Visitor who receives a complaint or inquiry:
 - (a) may clarify details of the complaint or inquiry:
 - (i) with a correctional officer, Departmental officer, medical officer or nursing officer, or
 - (ii) with the inmate concerned, and
 - (b) must record details of the complaint or inquiry in the Official Visitor's official diary, and
 - (c) must ascertain:
 - (i) from a correctional officer, Departmental officer, medical officer or nursing officer, or
 - (ii) from the inmate concerned,
 what action has been taken or information provided in response to the complaint or inquiry, and
 - (d) must complete and send to the Commissioner an Official Visitor's record form (containing particulars of action taken in relation to the complaint or inquiry) for statistical purposes.

Crimes (Administration of Sentences) Regulation 2001	Clause 155
Full-time imprisonment	Chapter 2
Inmates' requests and complaints	Part 6
Official Visitors	Division 1

- (2) An Official Visitor must deal with a complaint or inquiry as follows:
- (a) if of the opinion that the complaint or inquiry can be resolved quickly by bringing it to the attention of the governor, the Official Visitor may inform the governor of that fact and attempt to have it resolved at that level, or
 - (b) the Official Visitor may advise:
 - (i) a correctional officer, Departmental officer, medical officer or nursing officer, or
 - (ii) the inmate concerned,
 of any other action that the Official Visitor thinks could be taken in relation to the complaint or inquiry, or
 - (c) with the consent of the officer or inmate concerned, the Official Visitor may refer the complaint or inquiry on behalf of the officer or inmate to such person as the Official Visitor considers appropriate.
- (3) In dealing with a complaint or inquiry at any level, an Official Visitor:
- (a) must not interfere with the management or discipline of a correctional centre, and
 - (b) must not give any instructions to any correctional officer, Departmental officer, medical officer, nursing officer or inmate.
- (4) If more than one Official Visitor is appointed to a correctional centre, each Official Visitor must inform the other Official Visitors of the persons they have interviewed at the centre and of the nature and substance of any complaints or inquiries received.

156 Reports by Official Visitors (cf clause 134 of *Correctional Centre Routine Regulation 1995*)

- (1) An Official Visitor's periodic report to the Minister under section 228 (4) (d) of the Act must be in writing.
- (2) An Official Visitor may report to the Minister at any time if of the opinion that a complaint or inquiry received by the Official Visitor requires the immediate attention of the Minister.

Clause 157	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 6	Inmates' requests and complaints
Division 2	General

Division 2 General

157 **Requests to governor** (cf clause 135 of *Correctional Centre Routine Regulation 1995*)

- (1) A correctional officer to whom an oral or written request by an inmate for permission to speak with the governor is addressed or delivered must, without unreasonable delay, convey it to the governor.
- (2) The governor of a correctional centre:
 - (a) to whom such a request is conveyed, or
 - (b) to whom an oral or written request by an inmate for permission to speak with the governor is addressed or delivered directly,
 must give the inmate an opportunity to speak with the governor on the day on which the request is conveyed or made or as soon as is practicable after that day.
- (3) The governor must consider what the inmate has to say and, having done so, must orally inform the inmate of any action that the governor has taken or proposes to take or that the governor does not propose to take any action, as the case may be.

158 **Requests to Minister, Commissioner or Official Visitors** (cf clause 136 of *Correctional Centre Routine Regulation 1995*)

- (1) On receiving an oral or written request by an inmate for permission to speak with the Minister, the Commissioner or the Official Visitor about a specific matter, a correctional officer must refer the request to the governor without unnecessary delay.
- (2) On receiving an oral or written request by an inmate for permission to speak with the Minister, the Commissioner or the Official Visitor about a specific matter, whether directly from the inmate or referred by a correctional officer, the governor must make a written record of the fact that the request has been made.
- (3) If the request relates to a matter that the governor can dispose of personally, the governor:
 - (a) must dispose of the matter, as soon as practicable, by taking such action as the governor considers appropriate (which action may consist of or include making a recommendation to the Commissioner), and

Crimes (Administration of Sentences) Regulation 2001	Clause 158
Full-time imprisonment	Chapter 2
Inmates' requests and complaints	Part 6
General	Division 2

- (b) must make a written record of the action taken (which record must include particulars of any such recommendation), and
 - (c) must cause the record to be made available for inspection by the person with whom the inmate wished to speak when that person next attends the correctional centre (if that person so requires).
- (4) If the request relates to a matter which the governor cannot dispose of personally, the governor must cause the person with whom the inmate wished to speak to be informed of the request when that person next attends the correctional centre.

159 Complaints to Minister or Commissioner (cf clause 137 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate at a correctional centre may make a written complaint to the Minister or the Commissioner about:
 - (a) the inmate's treatment in the centre, or
 - (b) the administration or management of the centre.
- (2) An inmate who wishes to complain about a matter that the governor can dispose of personally must first make a request for permission to speak with the governor regarding the matter.
- (3) An inmate may place a complaint in a sealed envelope addressed to the Minister or the Commissioner and deliver it to a correctional officer or the governor.
- (4) The person to whom an inmate delivers such an envelope must, without opening it, send it to the addressee.

160 Mischievous complaints (cf clause 138 of *Correctional Centre Routine Regulation 1995*)

An inmate must not:

- (a) make a complaint knowing that the complaint is baseless, or
- (b) in or in connection with such a complaint, make any statement (whether orally or in writing) that the inmate knows to be false or misleading in a material particular.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Clause 161	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 7	Release procedures

Part 7 Release procedures

161 **Inmate to check personal property and records** (cf clauses 141 and 142 of *Correctional Centre Routine Regulation 1995*)

- (1) Before an inmate is released from a correctional centre, the governor must cause the inmate to be given an opportunity to inspect, in the presence of a correctional officer:
 - (a) such of the inmate's personal property as is in the governor's custody, and
 - (b) such official correctional centre records as relate to money belonging to the inmate.
- (2) The inmate may lodge a written complaint with the correctional officer as to:
 - (a) the condition of, or any deficiency in, the property, or
 - (b) any mistake in the records.
- (3) A correctional officer who receives such a complaint must immediately refer it to the governor.
- (4) The governor must cause the complaint to be investigated, and must cause the result of the investigation to be reported to the inmate at the inmate's pre-release interview.
- (5) If it is brought to the attention of the governor:
 - (a) that the result of any such investigation is not to the satisfaction of the inmate, or
 - (b) that any such investigation has not been completed before the release of the inmate,the governor must, without delay, notify the Commissioner of the complaint and the result of the investigation, or the fact that the investigation has not been completed.
- (6) An inmate must sign a receipt for any personal property or money delivered to the inmate immediately before release from a correctional centre.

Crimes (Administration of Sentences) Regulation 2001
Full-time imprisonment
Release procedures

Clause 162
Chapter 2
Part 7

162 Pre-release interview (cf clauses 139 and 140 of *Correctional Centre Routine Regulation 1995*)

When an inmate is about to be released from a correctional centre, an authorised officer:

- (a) must interview the inmate, and
- (b) must report to the inmate on the results of any investigation by the governor of a complaint made by the inmate under clause 161, and
- (c) if the inmate is being released on parole, good behaviour bond or bail undertaking, must explain to the inmate the terms on which the inmate is being released, and the result that may follow if any of those terms is breached by the inmate.

Note. Clause 214 contains specific provisions with respect to the information to be given to a person who is being released on parole.

Clause 163	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 8	Miscellaneous

Part 8 Miscellaneous

163 Preservation of scenes of serious indictable offences and serious incidents

- (1) The governor of a correctional centre must take all reasonable steps to preserve from interference:
 - (a) any place within the centre:
 - (i) where a serious indictable offence has been, or appears to have been, committed, or
 - (ii) where a serious incident (that is, an incident involving serious personal injury or major property damage) has, or appears to have, occurred, and
 - (b) any article found at or in the vicinity of that place, regardless of whether or not it is, or appears to be, connected with the commission of such an offence or occurrence of such an incident,

for so long as is necessary to enable any investigation into the circumstances of the offence or incident to be carried out by police officers or other persons authorised to conduct such an investigation.

- (2) The governor's obligations under this clause are subject to such practical limitations as may from time to time arise in connection with the administration of the correctional centre.

Note. Section 21 of the *Interpretation Act 1987* defines a serious indictable offence to mean an offence that is punishable by imprisonment for life or for a term of 5 years or more.

164 Payment for work done by inmates (cf clause 178 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate who complies with conditions set by the Commissioner may be paid for work done in accordance with scales determined from time to time by the Commissioner.
- (2) Any such payment is to be held to the credit of the inmate.

165 Prohibited work (cf clause 179 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must not be employed in a disciplinary capacity.
- (2) An inmate must not be employed to perform work for the benefit of the Commissioner or any correctional officer or Departmental officer.

Crimes (Administration of Sentences) Regulation 2001	Clause 166
Full-time imprisonment	Chapter 2
Miscellaneous	Part 8

166 Governor as informant in proceedings before Visiting Justices
(cf clause 180 of *Correctional Centre Routine Regulation 1995*)

In proceedings before a Visiting Justice under Division 6 of Part 2 of the Act, the governor of a correctional centre may act as the informant.

167 Monthly returns of punishments imposed by governors or Visiting Justices (cf clause 181 of *Correctional Centre Routine Regulation 1995*)

The governor of a correctional centre must send to the Commissioner at least once a month a copy of the entries in the record kept under section 61 of the Act in relation to any punishment imposed during the previous month.

168 Lodging of appeals to District Court from decision of Visiting Justice
(cf clause 183 of *Correctional Centre Routine Regulation 1995*)

- (1) An inmate must cause any notice of appeal, or application for leave to appeal, pursuant to section 62 of the Act to be lodged with the governor.
- (2) On receiving such a notice or application from an inmate, the governor must immediately forward a copy of it to the Visiting Justice by whom the relevant penalty was imposed on the inmate.
- (3) On receiving the notice or application from the governor, the Visiting Justice must send it, together with all other relevant papers held by the Visiting Justice, to a registrar of the District Court.
- (4) Section 126 of the *Justices Act 1902* does not apply to the notice or application.

169 Applications for leave of absence (cf clause 184 of *Correctional Centre Routine Regulation 1995*)

- (1) An application under section 26 or 29 of the Act for a local or interstate leave permit is to be made in a form approved by the Commissioner.
- (2) The Commissioner may require that an application be accompanied by a declaration (in a form approved by the Commissioner) by the person in whose company the inmate is to remain while on leave.

Clause 170	Crimes (Administration of Sentences) Regulation 2001
Chapter 2	Full-time imprisonment
Part 8	Miscellaneous

170 Establishment of Ethics Committee

- (1) The Commissioner may establish an Ethics Committee comprising at least 6 members appointed by the Commissioner, of whom:
 - (a) at least 3 are to be Departmental officers, and
 - (b) at least one is to be a member of the public appointed to represent the community, and
 - (c) at least one is to be an accredited spiritual adviser, and
 - (d) at least one is to be a person with experience in post-graduate medical research.
- (2) One of the Departmental officers referred to in subclause (1) (a) is to be appointed as chairperson of the Ethics Committee.
- (3) Three members of the Ethics Committee, of whom one is the chairperson, constitute a quorum of the Committee.
- (4) A decision supported by a majority of the votes at a meeting of the Ethics Committee at which a quorum is present is the decision of the Committee.
- (5) Subject to subclauses (3) and (4), the procedure of the Ethics Committee is to be as determined by the chairperson.

171 Functions of Ethics Committee

The functions of the Ethics Committee are as follows:

- (a) to consider applications for approval to undertake research and make recommendations to the Commissioner as to whether or not such applications should be approved and, if so, on what conditions,
- (b) to advise the Commissioner on the records and information that may be provided to persons undertaking research, as referred to in section 267 of the Act, and the conditions on which any such records and information are to be so provided,
- (c) to advise the Commissioner on the conditions on which such a person may be issued with a visitor's permit under Division 3 of Part 4 of this Chapter,
- (d) to advise the Commissioner on such other matters as the Commissioner may refer to the Committee for advice.

Crimes (Administration of Sentences) Regulation 2001
Full-time imprisonment
Miscellaneous

Clause 172
Chapter 2
Part 8

172 False or misleading information

An inmate must not, in or in connection with a notice or application under this Chapter or under Part 2 of the Act, make any statement (whether orally or in writing) that the inmate knows to be false or misleading in a material particular.

Note. Failure by an inmate to comply with the requirements of this clause is a correctional centre offence.

Clause 173	Crimes (Administration of Sentences) Regulation 2001
Chapter 3	Periodic detention
Part 1	Preliminary

Chapter 3 Periodic detention

Part 1 Preliminary

173 Application of Chapter (cf clause 4 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) This Chapter applies to and in respect of a periodic detainee:
 - (a) while detained in a periodic detention centre for the purpose of serving the detainee's sentence of imprisonment, or
 - (b) while working, in accordance with a work order under the Act, at a place outside a periodic detention centre (a *work site*), or
 - (c) while attending, in accordance with an attendance order under the Act, at a place outside a periodic detention centre (an *attendance site*), or
 - (d) while travelling between a periodic detention centre and a work site or attendance site outside a periodic detention centre, or
 - (e) while travelling between different work sites or attendance sites outside a periodic detention centre.
- (2) In its application to a periodic detainee who is:
 - (a) working, in accordance with a work order under the Act, at a work site, or
 - (b) attending, in accordance with an attendance order under the Act, at an attendance site,

a reference in this Chapter to a periodic detention centre includes a reference to a work site or attendance site.

Crimes (Administration of Sentences) Regulation 2001
Periodic detention
Admission procedures

Clause 174
Chapter 3
Part 2

Part 2 Admission procedures

174 **Personal searches** (cf clause 11 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A correctional officer may search a periodic detainee:
 - (a) each time the detainee reports for periodic detention, and
 - (b) at such other times as the governor responsible for the periodic detention centre directs, and
 - (c) at such other times as the correctional officer considers appropriate.
- (2) Except in the case of an emergency, a periodic detainee must not be searched by or in the presence of a person of the opposite sex.
- (3) The searching of a periodic detainee must be conducted with due regard to dignity and self-respect and in as seemly a manner as is consistent with the conduct of an effective search.
- (4) A periodic detainee must not resist or impede the conduct of such a search.

Note. Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

175 **Periodic detainees to be notified of rights and obligations** (cf clause 12 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

As soon as practicable after a periodic detainee first reports for periodic detention, the governor responsible for the periodic detention centre must cause the detainee to be informed of:

- (a) the periodic detention centre rules (that is, the terms of any general directions given under Part 3 of the Act or under this Chapter), and
- (b) the detainee's obligations as to discipline and conduct, and
- (c) the detainee's rights as to legal representation and appeal, and
- (d) the authorised methods of seeking information and making requests, complaints and applications, and
- (e) the role of an Official Visitor, and

Clause 175	Crimes (Administration of Sentences) Regulation 2001
Chapter 3	Periodic detention
Part 2	Admission procedures

- (f) any other matter necessary to enable the detainee to understand the detainee's rights and obligations and adapt to living in the periodic detention centre.

176 Personal property (cf clause 13 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A periodic detainee must not bring to a periodic detention centre any item of personal property unless it is approved by the governor responsible for the periodic detention centre.
- (2) Each time a periodic detainee reports for periodic detention, the governor responsible for the periodic detention centre may cause the detainee's personal property to be inspected by a correctional officer.
- (3) A correctional officer may at any time inspect any personal property that a periodic detainee has brought to a periodic detention centre.
- (4) On leaving a periodic detention centre at the end of a detention period, a periodic detainee must take away all personal property that he or she has brought to the periodic detention centre.
- (5) A periodic detainee must not conceal anything for the purpose of unlawfully bringing it into a periodic detention centre.

Note. Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

177 Medication (cf clause 14 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A periodic detainee who brings to a periodic detention centre any medication prescribed or lawfully supplied for the detainee's use by a registered medical practitioner, registered dentist or registered nurse (being medication required to be taken during a detention period):
 - (a) must so inform the governor responsible for the periodic detention centre, and
 - (b) if the governor so requires, must surrender the medication to the governor.
- (2) The governor must ensure that any surrendered medication is made available to the detainee in accordance with the relevant prescription.
- (3) At the end of a detention period, the governor must cause any unused medication to be returned to the detainee.

Crimes (Administration of Sentences) Regulation 2001
 Periodic detention
 Periodic detention routine

Clause 178
 Chapter 3
 Part 3

Part 3 Periodic detention routine

178 **Detainees to be sober** (cf clause 32 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) When reporting for periodic detention, a periodic detainee must not be under the influence of a drug, alcohol or any other intoxicating substance.
- (2) Without affecting the generality of subclause (1), a periodic detainee is taken to be under the influence of alcohol if a breath test indicates that the concentration of alcohol present in the detainee's blood is 0.02 grams or more per 100 millilitres.
- (3) This clause does not apply to a periodic detainee if the drug, alcohol or other intoxicating substance concerned has been consumed or administered:
 - (a) on the advice of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons, and
 - (b) in accordance with the instructions of the medical practitioner, dentist or nurse.
- (4) The standards prescribed by this clause are prescribed for the purposes of section 83 of the Act.

Note. Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline. As a consequence of subclause (4), such a failure also constitutes a failure to comply with section 83 of the Act.

179 **Detainees to bring suitable clothing and toiletries** (cf clause 8 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

When reporting for periodic detention, a periodic detainee must bring:

- (a) clothing and footwear suitable to outdoor work, and
- (b) a change of clothing, and
- (c) appropriate personal toiletries.

Note. Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

Clause 180	Crimes (Administration of Sentences) Regulation 2001
Chapter 3	Periodic detention
Part 3	Periodic detention routine

180 Accommodation (cf clause 16 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The governor responsible for a periodic detention centre must ensure that each periodic detainee at the periodic detention centre is housed in accommodation that is adequate for the purpose.
- (2) The governor must ensure that each periodic detainee is provided with a separate bed and sufficient clean bedding to suit the climatic conditions.

181 Separation of sexes (cf clause 17 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

The governor responsible for a periodic detention centre must ensure that female periodic detainees are kept separate from male periodic detainees except in such circumstances and under such supervision as the Commissioner may determine.

182 Visitors (cf clause 20 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

A periodic detainee must not receive visitors at a periodic detention centre except with the approval of the governor responsible for the periodic detention centre.

Note. Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

183 Telephone calls (cf clause 21 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A periodic detainee must not make a telephone call from a periodic detention centre without the approval of the governor responsible for the periodic detention centre.
- (2) A periodic detainee must pay for any call made unless the governor otherwise approves.

Note. Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

Crimes (Administration of Sentences) Regulation 2001
Periodic detention
Periodic detention routine

Clause 184
Chapter 3
Part 3

184 Medical examinations (cf clause 31A of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

A periodic detainee must submit to a medical examination by a medical practitioner nominated by the governor responsible for the periodic detention centre to which he or she is currently required to report if at any time the governor so directs.

Note. Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

185 Application of Part 2 of Act (cf clause 22 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) For the purposes of section 98 (2) of the Act, the following provisions of Part 2 of the Act apply to a periodic detainee to whom this Chapter applies in the same way as they apply to an inmate:
 - (a) sections 5, 6 and 7,
 - (b) sections 9–26,
 - (c) sections 51–65,
 - (d) sections 72–78.
- (2) The following provisions of this Regulation apply to periodic detainees in the same way as they apply to inmates, namely:
 - (a) clauses 39–47,
 - (b) clauses 50–53,
 - (c) clauses 55, 56 and 58,
 - (d) clauses 119–123,
 - (e) clauses 125–151.
- (3) The other provisions of this Chapter prevail to the extent of any inconsistency between them and the provisions applied by subclauses (1) and (2).

Note. Failure by a periodic detainee to comply with the requirements of any provision that is applied to periodic detainees is an offence against discipline.

Clause 186	Crimes (Administration of Sentences) Regulation 2001
Chapter 3	Periodic detention
Part 4	Work site routine

Part 4 Work site routine

186 Working hours (cf clause 23 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The maximum number of hours of work that a periodic detainee may be directed, by a work order, to perform in any one day is 8 hours (inclusive of any tea break or meal break).
- (2) A periodic detainee is entitled to one tea break of 10 minutes in each period of 3 hours work.
- (3) A periodic detainee who has worked continuously for 4 hours (inclusive of any tea break) is entitled to a meal break of 45 minutes.
- (4) The period of 8 hours prescribed by subclause (1) may be extended by an amount of time equal to any extra time necessary to be served in accordance with a direction given under section 88 (3) of the Act in respect of an occasion on which the detainee was late in reporting for periodic detention.

187 Conduct at work sites (cf clause 24 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

While at a work site, a periodic detainee:

- (a) must remain under the supervision of a correctional officer or (if the work order specifies some other person) that other person, and
- (b) must perform work in accordance with the directions of, and to the standard specified by, the detainee's supervisor, and
- (c) must conform to the standards of dress, cleanliness and conduct required by the detainee's supervisor, and
- (d) must keep in good order and condition any working clothes or tools issued to the detainee, and
- (e) must not damage or deface any property, otherwise than in the course of performing work in accordance with the directions of the detainee's supervisor.

Note. Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

Crimes (Administration of Sentences) Regulation 2001
Periodic detention
Work site routine

Clause 188
Chapter 3
Part 4

188 Prohibited work (cf clause 25 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A periodic detainee must not be employed in a disciplinary capacity.
- (2) A periodic detainee must not be employed to perform work for the benefit of the Commissioner or any correctional officer or Departmental officer.

Clause 189	Crimes (Administration of Sentences) Regulation 2001
Chapter 3	Periodic detention
Part 5	Leave of absence

Part 5 Leave of absence

189 Applications for leave of absence (cf clause 28 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) An application by a periodic detainee for leave of absence under section 87 or 88 of the Act:
 - (a) must be made in writing by the detainee (or by some other person for or on behalf of the detainee), and
 - (b) must be accompanied by written particulars of the facts on which the application is based, and
 - (c) must be lodged with the governor responsible for the relevant periodic detention centre.
- (2) The governor must send the application to the Commissioner as soon as practicable after it is lodged.

190 Unavoidable absence (cf clause 29 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) This clause applies to a periodic detainee who is prevented by circumstances from reporting for periodic detention (in accordance with section 83 (1) of the Act) or to a work site or attendance site (in accordance with a work order under section 84 (1) of the Act).
- (2) In these circumstances, the periodic detainee:
 - (a) must immediately notify the governor responsible for the relevant periodic detention centre, by telephone or otherwise:
 - (i) of the detainee's present location, and
 - (ii) of the fact that the detainee is prevented from so reporting, and
 - (iii) of the reason why the detainee is prevented from so reporting, and
 - (b) must as soon as practicable (and, in any case, within the 7 day period referred to in section 87 (3) of the Act) lodge with the governor a written notice confirming the information referred to in paragraph (a).

Crimes (Administration of Sentences) Regulation 2001
Periodic detention
Leave of absence

Clause 190
Chapter 3
Part 5

- (3) If illness or injury is the reason for a periodic detainee's inability to report, the written notice referred to in subclause (2) (b) must be accompanied by a certificate, issued by a medical practitioner, stating the nature of the illness or injury and indicating that its nature or extent is such as to justify the detainee's inability to report.
- (4) The notice referred to in subclause (2) (b) is taken to be an application for leave of absence under section 87 of the Act.

191 Inquiries into applications for leave of absence (cf clause 30 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) Before determining an application for leave of absence under section 87 or 88 of the Act, the Commissioner:
 - (a) may cause such inquiries to be made as the Commissioner thinks fit into the facts on which the application is based, and
 - (b) may direct the applicant to furnish a statement of further particulars in support of the application.
- (2) The Commissioner is to cause written notice of the granting of leave of absence to a periodic detainee to be given to the detainee.

Clause 192	Crimes (Administration of Sentences) Regulation 2001
Chapter 3	Periodic detention
Part 6	Miscellaneous

Part 6 Miscellaneous

192 **Transmission of certain notices** (cf clause 31 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

A notice under Part 3 of the Act, or under this Chapter, may be given to a periodic detainee:

- (a) by serving it or causing it to be served on the detainee personally, or
- (b) by sending it or causing it to be sent by post to the detainee's address as last known to the Commissioner.

193 **Offences against discipline** (cf clause 39 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

A contravention by a periodic detainee (whether by act or omission) of a provision of the Act or this Regulation specified in Schedule 3 is declared to be an offence against discipline for the purposes of Division 3 of Part 3 of the Act.

Note. The provisions set out in Schedule 3 include a number of provisions from Chapter 2 (relating to inmates). These provisions are applied to periodic detainees by clause 185.

194 **Notices of appeal** (cf clause 42 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) Written notice of the lodgment of an appeal by a periodic detainee against the sentence of imprisonment in respect of which the order for periodic detention is in force must be given to the Commissioner:
 - (a) in the case of an appeal under Part 5A of the *Justices Act 1902*, by the registrar of the court in which the periodic detainee was convicted and the sentence imposed, or
 - (b) in any other case, by the registrar of the court in which the appeal is lodged.
- (2) In this clause, **registrar** means:
 - (a) in relation to the Court of Criminal Appeal, the registrar of that court, and
 - (b) in relation to the Supreme Court, the Prothonotary, and
 - (c) in relation to the District Court, the registrar of that court for the place at which that court is sitting, and

Crimes (Administration of Sentences) Regulation 2001
Periodic detention
Miscellaneous

Clause 194
Chapter 3
Part 6

(d) in relation to a Local Court, the Clerk of the Local Court.

195 Orders transferring unruly periodic detainees (cf clause 45 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The governor responsible for a periodic detention centre must not make an order under section 86 of the Act that a periodic detainee be transferred to a correctional centre unless the governor of the correctional centre advises that accommodation (separate from accommodation for inmates other than those serving sentences by way of periodic detention) is available at the centre for the detainee.
- (2) The governor responsible for a periodic detention centre who makes an order under section 86 of the Act that a periodic detainee be transferred to a correctional centre:
 - (a) must send a copy of the order to the governor of the correctional centre, and
 - (b) must arrange for the transfer of the detainee to the centre.

196 Requests, complaints or applications (cf clause 49 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A request, complaint or application by a periodic detainee to the governor responsible for a periodic detention centre may be made orally or in writing.
- (2) A complaint:
 - (a) must specify the grounds on which it is made, and
 - (b) must be made as soon as practicable after the occurrence of the circumstances in respect of which it is made.
- (3) The governor responsible for a periodic detention centre:
 - (a) must ensure that all periodic detainees at the periodic detention centre are given a daily opportunity to make requests, complaints and applications to the governor, and
 - (b) must consider and determine any such request, complaint or application (if practicable, on the day on which it is made) and inform the detainee of the determination made.

Clause 197	Crimes (Administration of Sentences) Regulation 2001
Chapter 3	Periodic detention
Part 6	Miscellaneous

197 Governor to report certain matters (cf clause 50 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

As soon as practicable after receiving from a periodic detainee, or from a person acting on behalf of a periodic detainee, a certificate issued by a registered medical practitioner to the effect that the physical or mental health of the detainee is or may be adversely affected by the detainee's continuing:

- (a) to comply with a work order or attendance order, or
- (b) to serve a sentence by way of periodic detention,

the governor of a periodic detention centre must send the certificate to the Commissioner.

198 Periodic Detention Review Committee (cf clause 41A of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The Commissioner may establish a committee, to be known as the Periodic Detention Review Committee, to advise the Commissioner on such of the following matters as the Commissioner may from time to time direct:
 - (a) the classification of periodic detainees in accordance with categories established by the Commissioner,
 - (b) the management of the different categories of periodic detainees,
 - (c) the management of long-term absentees (that is, periodic detainees who for long periods have been unable to start or complete their periodic detention for health, compassionate or other reasons).
- (2) The Committee is to consist of such number of members as the Commissioner determines.
- (3) The Commissioner is to ensure that the persons appointed as members have expertise or qualifications appropriate to the functions of the Committee.
- (4) The Committee is to function in accordance with procedures determined by the Commissioner.

Crimes (Administration of Sentences) Regulation 2001
Periodic detention
Miscellaneous

Clause 199
Chapter 3
Part 6

199 False or misleading information

A periodic detainee must not, in or in connection with a notice or application under this Chapter or under Part 3 of the Act, make any statement (whether orally or in writing) that the detainee knows to be false or misleading in a material particular.

Note. Failure by a periodic detainee to comply with the requirements of this clause is an offence against discipline.

Clause 200 Crimes (Administration of Sentences) Regulation 2001
Chapter 4 Home detention

Chapter 4 Home detention

200 Standard conditions applying to home detention (cf clause 52 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

For the purposes of section 103 (1) (a) of the Act, the following are standard conditions of home detention:

- (a) the home detainee must be of good behaviour and must not commit any offence,
- (b) the home detainee must advise a supervisor as soon as possible if he or she is arrested or detained by a police officer,
- (c) the home detainee must reside only at premises approved by a supervisor,
- (d) the home detainee must remain at the approved residence at all times otherwise than:
 - (i) when engaged in activities approved or arranged by a supervisor, or
 - (ii) when faced with immediate danger (such as in a fire or medical emergency),
- (e) the home detainee must adhere to an approved activity plan during approved absences from the approved residence,
- (f) the home detainee must advise a supervisor as soon as practicable after leaving the approved residence due to immediate danger,
- (g) the home detainee must accept any visit to the approved residence by a supervisor at any time,
- (h) the home detainee must submit to searches of places or things under his or her immediate control, as directed by a supervisor,
- (i) the home detainee must submit to electronic monitoring of his or her compliance with the home detention order, and must comply with all instructions given by a supervisor in relation to the operation of monitoring systems,
- (j) the home detainee must not tamper with, damage or disable monitoring equipment,
- (k) the home detainee must comply with any direction of the supervisor in relation to association with specified persons,
- (l) the home detainee must not consume alcohol,

Crimes (Administration of Sentences) Regulation 2001
Home detention

Clause 200
Chapter 4

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- (m) the home detainee must not use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained,
 - (n) the home detainee must submit to breath testing, urinalysis or other medically approved test procedures for detecting alcohol or drug use, as directed by a supervisor,
 - (o) the home detainee must authorise his or her medical practitioner, therapist or counsellor to provide information about the home detainee to a supervisor,
 - (p) the home detainee must accept any direction of a supervisor in relation to the maintenance of or obtaining of employment,
 - (q) the home detainee must inform any employer of the home detention order and, if so directed by a supervisor, of the nature of the offence that occasioned it,
 - (r) the home detainee must authorise contact between any employer of the home detainee and a supervisor,
 - (s) the home detainee must engage in personal development activities or in counselling or treatment programs, as directed by a supervisor,
 - (t) when not otherwise employed, the home detainee must undertake community service work (not exceeding 20 hours per week), as directed by a supervisor,
 - (u) the home detainee must not possess or have in his or her control any firearm or other offensive weapon,
 - (v) the home detainee must comply with all reasonable directions of a supervisor.

201 Sanctions for breach of home detention order (cf clause 53 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) For the purposes of section 106 (b) of the Act, a supervisor may deal with a breach of the conditions applying to a home detention order.
- (2) The supervisor may impose any of the following sanctions for such a breach:
 - (a) a formal warning,
 - (b) a more stringent application of the conditions of home detention in accordance with the terms of those conditions, such as:

Clause 201 Crimes (Administration of Sentences) Regulation 2001
Chapter 4 Home detention

- (i) an increase in required hours of community service work,
- (ii) a reduction in the extent of planned or previously permitted out-of-residence activities,
- (iii) further restrictions on association with other persons.

Crimes (Administration of Sentences) Regulation 2001
Community service work

Clause 202
Chapter 5

Chapter 5 Community service work

202 Hours of work (cf clause 55 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

An offender must not be directed:

- (a) to perform more than 8 hours of community service work (including time spent participating in a development program) in any one day, or
- (b) to participate in a development program for more than 5 hours in any one day,

except by agreement between the offender and the assigned officer.

203 Meal breaks and tea breaks (cf clause 56 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

An offender is entitled to:

- (a) a 10-minute tea break during each 3-hour period of community service work, and
- (b) a 45-minute meal break at the end of each 4-hour period of community service work (inclusive of any tea break).

204 Computation of hours (cf clause 57 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The following periods are to be taken to form part of the time spent by an offender in performing community service work:
 - (a) the time spent by the offender at a work site or attendance site in actually carrying out community service work,
 - (b) the time spent by the offender at a work site or attendance site in having any tea break or meal break to which an offender is entitled,
 - (c) the time spent by the offender at a work site or attendance site (otherwise than as referred to in paragraph (a) or (b)) in accordance with a direction of the assigned officer,
 - (d) such of the time spent by the offender in travelling between the offender's residence and work site or attendance site as the assigned officer thinks fit,

Clause 204 Crimes (Administration of Sentences) Regulation 2001
 Chapter 5 Community service work

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- (e) such part of the period between:
 - (i) the offender's early release from community service work on any day, and
 - (ii) the time when the offender would (but for the early release) have been released,
 as the assigned officer thinks fit.
 - (2) If, while at the work site or attendance site, an offender:
 - (a) is under the influence of drugs or alcohol, or
 - (b) conducts himself or herself in an offensive manner,
 the offender's assigned officer may deduct the whole or any part of the time spent by the offender at a work site or attendance site from any calculation of time spent by the offender in performing community service work.
 - (3) The periods of time referred to in subclause (1) (d) and (e) and subclause (2) are to be determined by the offender's assigned officer in accordance with any relevant directions given by the Commissioner.

205 Standard conditions applying to community service work (cf clause 58 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) For the purposes of section 108 (a) of the Act, the following are standard conditions in respect of each community service order:
 - (a) the offender must not report for, or perform, community service work while under the influence of drugs or alcohol,
 - (b) the offender must participate in any activities connected with the administration of the order in which the offender is directed by the assigned officer or supervisor to participate,
 - (c) the offender must perform community service work in accordance with the directions of, and to the standard specified by, his or her assigned officer or supervisor,
 - (d) the offender must furnish his or her assigned officer with written notice of the reasons for any failure by the offender to report to a work site or attendance site in accordance with his or her obligations,
 - (e) the offender must submit to a medical examination by a medical practitioner nominated by his or her assigned officer if at any time the assigned officer so directs,

Crimes (Administration of Sentences) Regulation 2001
Community service work

Clause 205
Chapter 5

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- (f) the offender must receive visits at the offender's home within reasonable hours by the assigned officer or supervisor for any purpose connected with the administration of the order,
 - (g) the offender must comply with such standards of dress, cleanliness and conduct as the assigned officer or supervisor may from time to time determine,
 - (h) the offender must keep in good order and condition such clothing and equipment as may be issued to the offender for the purpose of performing community service work,
 - (i) the offender must observe such standards of safety with respect to his or her performance of community service work as the assigned officer or supervisor may from time to time determine,
 - (j) the offender must sign an attendance register on arrival at and on departure from any work site or attendance site,
 - (k) the offender must not damage or deface property that is on or forms part of a work site or attendance site, otherwise than in the course of performing community service work in accordance with the directions of the assigned officer or supervisor,
 - (l) the offender must not have possession of or consume any alcohol or other intoxicating substance while at a work site or attendance site,
 - (m) the offender must comply with any reasonable direction given orally or in writing to the offender by the assigned officer or supervisor,
 - (n) if the offender is directed to do anything that he or she is incapable of doing, the offender must immediately advise the assigned officer or supervisor of that fact.
- (2) If illness or injury is the reason for an offender's failure to report, as referred to in subclause (1) (d), the written notice referred to in that paragraph must be accompanied by a certificate, issued by a medical practitioner, stating the nature of the illness or injury and indicating that its nature or extent is such as to justify the offender's failure to report.

Clause 206 Crimes (Administration of Sentences) Regulation 2001
Chapter 5 Community service work

206 Offender may be exempted from compliance with certain directions on grounds of incapacity (cf clause 59 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) If satisfied that an offender is incapable of doing something that he or she has been directed to do, the offender's assigned officer or supervisor may exempt the offender from the direction, even if the direction was given by some other assigned officer or supervisor.
- (2) Before exempting an offender from a direction, or as a condition of giving such an exemption, the assigned officer or supervisor may require the offender to furnish a certificate issued by a registered medical practitioner to the effect that the offender is incapable of doing the thing concerned.

207 Transport arrangements (cf clause 60 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

The Commissioner may make arrangements for the provision of transport of offenders to and from any work site or attendance site.

208 Appointments of assigned officers (cf clause 61 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The Commissioner may appoint any person who is, in the opinion of the Commissioner, suitably qualified and of suitable character to exercise the functions of an assigned officer as referred to in paragraph (b) of the definition of *assigned officer* in section 107 of the Act.
- (2) A person appointed under this clause is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Commissioner may determine in respect of the person, unless the person is an officer or temporary employee of the Public Service.

209 Appointment of supervisors (cf clause 62 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The Commissioner may appoint any person who is, in the opinion of the Commissioner, suitably qualified and of suitable character to be a supervisor as referred to in the definition of *supervisor* in section 107 of the Act.
- (2) A person appointed under this clause is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Commissioner may determine in respect of the person, unless the person is an officer or temporary employee of the Public Service.

Crimes (Administration of Sentences) Regulation 2001
Community service work

Clause 210
Chapter 5

210 Supervisor to report to assigned officer (cf clause 63 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

A supervisor must, when required by an assigned officer to do so, report to the assigned officer on any matter relating to an offender under the supervisor's supervision.

211 Application for extension or revocation of order made by court (cf clause 64 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The following applications must be in writing in such form as the Commissioner may from time to time determine:
 - (a) an application under section 114 of the Act for an extension of the period for which a community service order is in force,
 - (b) an application under section 115 of the Act for the revocation of a community service order.
- (2) The court to which such an application is made is to fix a date for the hearing of the application, being a date not earlier than 14 days after, and not later than 3 months after, the date of filing of the application.
- (3) A copy of the application must be given not later than 5 days before the date fixed for hearing of the application:
 - (a) to the offender, if the applicant is an assigned officer, or
 - (b) to the assigned officer, if the applicant is an offender.
- (4) For the purposes of subclause (3), the application may be given to a person by the court or by the applicant:
 - (a) by serving it or causing it to be served on the person personally, or
 - (b) by sending it or causing it to be sent by post to the person's address as last known to the applicant.
- (5) The court may vary or waive the requirements of subclause (2) or (3) with the consent of the offender.

Clause 212 Crimes (Administration of Sentences) Regulation 2001
Chapter 6 Parole

Chapter 6 Parole

212 Consultation required before conditions as to residence or treatment imposed on parole (cf clause 66 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) Before the Parole Board makes a parole order containing terms or conditions relating to residence or treatment:
 - (a) it must consider a report from a probation and parole officer as to the offender's circumstances, and
 - (b) it must satisfy itself, having regard to the probation and parole officer's report, that it is feasible to secure compliance with the terms or conditions.
- (2) Before the Parole Board makes a parole order containing terms or conditions requiring the co-operation of a person other than the offender or a probation and parole officer, it must obtain the consent of the person to the specification of those terms and conditions in so far as they require the person's co-operation.

213 Parole orders (cf clause 67 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A parole order made by the Parole Board must be reduced to writing using Form 1.
- (2) A copy of the order must be given to the offender, and further copies are to be sent to the following persons:
 - (a) the governor of the correctional centre, or the governor responsible for the periodic detention centre, in which the offender is kept,
 - (b) the Commissioner.
- (3) Copies of the order sent to the governor of a correctional centre, or the governor responsible for a periodic detention centre, are, if practicable, to be sent so as to arrive at the centre at or before the time the offender arrives.

Crimes (Administration of Sentences) Regulation 2001
Parole

Clause 214
Chapter 6

214 Offender to be given explanation of parole order (cf clause 68 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) On the offender's day of release from a correctional centre or periodic detention centre, the governor must ensure that:
 - (a) the order is read to the offender, and
 - (b) the effect of the order is explained to the offender in language that is capable of being readily understood by the offender, and
 - (c) the offender indicates that the offender understands the terms and conditions on which the offender is to be released by signing a statement to that effect on a copy of the order, and
 - (d) all copies of the order are endorsed with the offender's date of release, and
 - (e) a copy of the order is given to the offender, and
 - (f) the copy of the order containing the signed statement referred to in paragraph (c) is retained at the centre.
- (2) If an offender is subject to more than one parole order, this clause does not require common provisions in the orders to be read to the offender more than once.
- (3) The requirements of this clause do not apply in circumstances (such as when the offender is seriously ill) in which compliance with them would be obviously ineffectual.

215 Standard conditions applying to parole (cf clause 69 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

For the purposes of section 128 (1) (a) of the Act, the following are standard conditions of parole:

- (a) the offender must be of good behaviour and must not, while on release on parole, commit any offence,
- (b) the relevant parole order may be revoked if the offender contravenes any of the terms and conditions of the order,
- (c) the relevant parole order may be revoked if the Parole Board determines that it has sufficient reason to believe that the offender, having been released from custody, has not adapted to normal lawful community life.

Clause 216 Crimes (Administration of Sentences) Regulation 2001
Chapter 6 Parole

216 Imposition and extension of supervision conditions (cf clause 70 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A condition of a parole order may require the offender to be subject to supervision for up to 3 years from the date on which the offender is released in accordance with the order.
- (2) In the case of a serious offender, the Parole Board may at any time before the end of the period of supervision under such a condition extend that period by up to 3 years at a time.
- (3) For the purposes of section 128 (3) of the Act, the prescribed supervision is supervision by a probation and parole officer.

217 Supervision conditions (cf clause 71 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) This clause applies to an offender whose parole order includes a condition requiring that the offender be subject to supervision.
- (2) While the offender is subject to supervision by a probation and parole officer under such a condition, the offender has the following obligations:
 - (a) to obey all reasonable directions of the officer,
 - (b) to report to the officer (or to another person nominated by the officer) at such times and places as the officer may from time to time direct,
 - (c) to be available for interview at such times and places as the officer (or the officer's nominee) may from time to time direct,
 - (d) to reside at an address agreed on by the officer, and to receive visits at that address by the officer at such times as the officer considers necessary,
 - (e) not to leave New South Wales without the permission of the officer's District Manager,
 - (f) not to leave Australia without the permission of the Parole Board,
 - (g) if unemployed, to enter into employment arranged or agreed on by the officer, or make himself or herself available for employment, training or participation in a personal development program as instructed by the officer,

Crimes (Administration of Sentences) Regulation 2001
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Chapter 6

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- (h) to notify the officer of any intention to change his or her employment:
 - (i) if practicable, before the change occurs, or
 - (ii) otherwise, at his or her next interview with the officer,
 - (i) not to associate with any person or persons specified by the officer,
 - (j) not to frequent or visit any place or district designated by the officer,
 - (k) not to use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained.
- (3) An offender's probation and parole officer may, with the concurrence of the officer's District Manager, direct that the conditions of the offender's parole order in relation to supervision are suspended.
- (4) Such a direction takes effect when notice of the direction is given to the offender.

218 Variation of conditions (cf clause 72 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

If the Parole Board varies the conditions of a parole order so as to make the offender subject to supervision under the order, or so as to affect the supervision of the offender, it must send notice of the variation to the Commissioner.

219 Revocation of parole order before release (cf clause 73 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) For the purposes of section 130 of the Act, the following circumstances are prescribed as circumstances in which the Parole Board may revoke a parole order:
- (a) circumstances in which the offender requests that the order be revoked,
 - (b) circumstances in which the Parole Board decides, before releasing the offender, that the offender is unable to adapt to normal lawful community life.
- (2) The Parole Board must send copies of an order under section 130 of the Act to the governor of the correctional centre, or the governor responsible for the periodic detention centre, in which the offender is kept.

Clause 219 Crimes (Administration of Sentences) Regulation 2001
Chapter 6 Parole

- (3) As soon as practicable after receiving the order, the governor must ensure that:
 - (a) the order is read to the offender, and
 - (b) the effect of the order is explained to the offender in language that is capable of being readily understood by the offender, and
 - (c) the offender's rights to a review of the revocation are explained to the offender in language that is capable of being readily understood by the offender, and
 - (d) a copy of the order is handed to the offender.
- (4) The Parole Board must send notice of the revocation of a parole order under section 130 of the Act to the Commissioner.

220 Review by the Parole Board of intention to refuse release on parole (cf clause 74 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A notice under section 138 (1) (b) of the Act must be sent to the governor of the correctional centre, or the governor responsible for the periodic detention centre, in which the offender is kept.
- (2) As soon as practicable after receiving the notice, the governor must ensure that:
 - (a) the notice is read to the offender, and
 - (b) the effect of the notice is explained to the offender in language that is capable of being readily understood by the offender, and
 - (c) the notice is handed to the offender.
- (3) Notice of an offender's intention to make representations to the Parole Board concerning release on parole:
 - (a) may be given using Form 2, and
 - (b) must be given to the governor of the correctional centre, or the governor responsible for the periodic detention centre, in which the offender is kept, and
 - (c) must be sent by the governor to the Secretary of the Parole Board.

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Chapter 6

221 Decision on review of parole refusal (cf clause 75 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A notice under section 141 (4) (b) of the Act must be sent to the governor of the correctional centre, or the governor responsible for the periodic detention centre, in which the offender is kept.
- (2) As soon as practicable after receiving the notice, the governor must ensure that:
 - (a) the notice is read to the offender, and
 - (b) the effect of the notice is explained to the offender in language that is capable of being readily understood by the offender, and
 - (c) the offender's rights concerning the Parole Board's decision are explained to the offender in language that is capable of being readily understood by the offender, and
 - (d) the notice is handed to the offender.
- (3) The governor must keep a copy of the notice.
- (4) The Parole Board must send a copy of the notice to the Commissioner.

222 Notices to victims (cf clause 76 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The preliminary notice to a victim of an offender to be given under section 145 (1) of the Act:
 - (a) is to be in writing and sent by post to the last postal address that has been recorded in the Victims Register for the victim, or
 - (b) is to be given by telephone if only a telephone number has been recorded in the Victims Register, or if the Parole Board has reason to believe that any telephone number that has been so recorded is more up to date than the last postal address so recorded.
- (2) Notice under section 146 (3) (a) of the Act is to be given to each victim of the offender, and subclause (1) applies to any such notice in the same way as it applies to a notice under section 145 (1) of the Act.
- (3) The Parole Board is to keep a record of the giving of any notice under this clause.

Clause 223 Crimes (Administration of Sentences) Regulation 2001
Chapter 6 Parole

223 Submissions by the State (cf clause 77 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) If the State notifies the Parole Board that it may wish to make a submission under section 153 of the Act concerning the release on parole of a serious offender, the Parole Board must give the State copies of the reports and other documents intended to be used by the Parole Board in deciding whether the offender should be released on parole.
- (2) For the purposes of making a submission under section 153 of the Act, the State:
 - (a) may be represented by a legal practitioner or, with the consent of the Parole Board, by any other person, and
 - (b) may call and examine any witness who attends, including any witness called by the Parole Board, and
 - (c) may give evidence on oath, and
 - (d) may produce documents and exhibits to the Parole Board, and
 - (e) may otherwise adduce, orally and in writing, to the Parole Board such matters, and address the Parole Board on such matters, as are relevant to the proceedings before the Parole Board.
- (3) A reference in this clause to the State includes a reference to any agent of the State.

224 Instrument requiring attendance (cf clause 78 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

For the purposes of section 186 (1) of the Act, an instrument in writing referred to in that subsection must be in Form 3.

225 Records of proceedings (cf clause 79 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

The Parole Board must keep a record (in writing or otherwise) of the proceedings of the Parole Board, including a record of:

- (a) whether the State has appeared or been represented before the Parole Board, and
- (b) the persons appearing or represented before the Parole Board, and

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- (c) the submissions (if any) made by the State or any such person,
and
- (d) the reasons (if any) stated in support of those submissions.

Clause 226 Crimes (Administration of Sentences) Regulation 2001
Chapter 7 Revocation by Parole Board of certain orders

Chapter 7 Revocation by Parole Board of certain orders

226 Supervision during home detention assessment (cf clause 80A of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) This clause applies where the Parole Board has released an offender under section 165 (3) (b) of the Act pending a decision whether or not to make a home detention order.
- (2) The prescribed supervision, for the purposes of section 165 (3) (b) of the Act, is the supervision of a probation and parole officer, with the following supervision conditions:
 - (a) the offender is to be of good behaviour and not commit any new offence,
 - (b) the offender is to permit visits by the officer to the offender's proposed place of residence at such times as the officer considers necessary,
 - (c) the offender is to submit to breath testing and urinalysis for detecting of drug use as and when directed by the officer,
 - (d) the offender is to authorise the following persons to provide information about him or her to the officer:
 - (i) the offender's medical practitioners,
 - (ii) the offender's therapist (if any),
 - (iii) the offender's counsellor (if any),
 - (e) the offender is to obey all reasonable directions of the officer.

227 Withdrawal of consent to operation of home detention order (cf clause 80B of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

For the purposes of section 167 (1) (d) of the Act, the prescribed form of withdrawal of consent is as set out in Form 4.

228 Revocation of order and review of revocation (cf clause 81 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) For the purposes of section 173 (2) (a) of the Act, the prescribed form for a notice of revocation of a periodic detention order, home detention order or parole order is Form 5.

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Revocation by Parole Board of certain orders

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- (2) The notice must be sent to the governor of the correctional centre, or the governor responsible for the periodic detention centre, in which the offender is kept.
 - (3) As soon as practicable after receiving the notice, the governor must ensure that:
 - (a) the notice is read to the offender, and
 - (b) the effect of the notice is explained to the offender in language that is capable of being readily understood by the offender, and
 - (c) the notice is handed to the offender.
 - (4) Notice of an offender's intention to make representations to the Parole Board concerning the revocation of a parole order:
 - (a) may be given using Form 6, and
 - (b) must be given by the offender to the governor, or the governor responsible for the periodic detention centre, in which the offender is kept, and
 - (c) must be sent by the governor to the Secretary of the Parole Board.

229 Decision on review of revocation (cf clause 82 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) The Parole Board must send written notice of its decision following a review under section 175 of the Act to the following persons:
 - (a) the governor, or the governor responsible for the periodic detention centre, in which the offender is kept, and
 - (b) the Commissioner.
- (2) As soon as practicable after receiving the notice, the governor must ensure that:
 - (a) the notice is read to the offender, and
 - (b) the effect of the notice is explained to the offender in language that is capable of being readily understood by the offender, and
 - (c) the offender's rights concerning the decision are explained to the offender in language that is capable of being readily understood by the offender.

Clause 230 Crimes (Administration of Sentences) Regulation 2001
Chapter 7 Revocation by Parole Board of certain orders

230 Notice of revocation of order (cf clause 83 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) If the Parole Board revokes a periodic detention order, home detention order or parole order under section 179 (1) of the Act, the Secretary of the Parole Board must send written notice of that fact to the Commissioner.
- (2) The notice must be in Form 7 and must specify any direction of the Parole Board as to the day on which the order is to be treated as having been revoked.

231 Inquiry into suspected breach of order (cf clause 84 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

- (1) A notice under section 180 (1) (a) of the Act by which an offender is called on to appear before the Parole Board must be served on the offender at least 7 days before the date set for the inquiry referred to in the notice.
- (2) The Parole Board must send a copy of each such notice to the Commissioner.

232 Arrest warrants (cf clause 85 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

A warrant for the arrest of a person under section 180 of the Act must be in Form 8.

233 Warrants of commitment (cf clause 86 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation 1995*)

A warrant for the commitment of an offender to a correctional centre under section 181 of the Act must be in Form 9.

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234 Oath or affirmation of office (cf clause 51 of *Correctional Centre Administration Regulation 1995*)

- (1) For the purposes of section 236 of the Act, the form for the oath of office as a correctional officer is as follows:

I, (*name of person making oath*), do swear that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second as a correctional officer without fear or favour, malice or ill-will until I am legally discharged, and that while I continue to be a correctional officer I will to the best of my skill and knowledge discharge all my duties faithfully according to law. So help me God.

- (2) For the purposes of section 236 of the Act, the form for the affirmation of office as a correctional officer is as follows:

I, (*name of person making affirmation*), do solemnly, sincerely and truly declare and affirm that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second as a correctional officer without fear or favour, malice or ill-will until I am legally discharged, and that while I continue to be a correctional officer I will to the best of my skill and knowledge discharge all my duties faithfully according to law.

235 Compliance with Commissioner's instructions and governor's directions (cf clause 22 of *Correctional Centre Administration Regulation 1995*)

- (1) The governor of a correctional centre may give directions (not inconsistent with the Commissioner's instructions) with respect to the administration of the Act in relation to the centre, and must ensure that a record is kept of each such direction.
- (2) A correctional officer or Departmental officer must comply with the Commissioner's instructions.
- (3) While employed within a correctional centre, a correctional officer must obey all lawful directions given by the governor of the centre, whether given under this clause or otherwise.

Clause 235	Crimes (Administration of Sentences) Regulation 2001
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- (4) While on the premises of a correctional centre, a Departmental officer must obey all lawful directions given by the governor of the centre, whether given under this clause or otherwise.
 - (5) For the purposes of any disciplinary proceedings, a correctional officer or Departmental officer is to be presumed to be aware of the officer's obligations under the Act and this Regulation.

Note. Correctional officers and Departmental officers are employed under, and so subject to the disciplinary provisions of, the *Public Sector Management Act 1988*.

236 Declaration about associations with inmates (cf clause 23 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer or Departmental officer must give written notice to the Commissioner as to any offender:
 - (a) to whom the officer is related, whether by blood or by marriage, or
 - (b) of whom the officer is an associate, whether as a neighbour, friend or acquaintance or through business, sporting or social contact.
- (2) Such a notice must show the nature and duration of the officer's relationship or association with any such offender.
- (3) Such a notice must be given before the officer first starts duty as a correctional officer or Departmental officer, and subsequently as circumstances require.
- (4) A correctional officer or Departmental officer must not make a declaration under this clause that the officer knows, or ought reasonably to know, is false or misleading in a material particular.
- (5) In this clause, *offender* means any inmate, periodic detainee or home detainee or any person in respect of whom a community service order or parole order is in force.

237 Suspected offences by inmates (cf clause 24 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer or Departmental officer who suspects that an inmate has committed, or is about to commit, an offence must report that fact to the governor immediately.
- (2) A correctional officer may confine any such inmate to the inmate's cell, or in some other appropriate place of confinement, pending instructions as to how the inmate should be dealt with.

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238 Uniform (cf clause 25 of *Correctional Centre Administration Regulation 1995*)

- (1) Unless exempted by the Commissioner, a correctional officer must wear the uniform appropriate to the officer's rank at all times while on duty.
- (2) On ceasing to be a correctional officer, a person must return his or her uniform to the Department or must satisfactorily account for it to the Commissioner.

239 Keys and access cards (cf clauses 6 and 26 of *Correctional Centre Administration Regulation 1995*)

- (1) The governor of a correctional centre is to ensure that the keys and access cards of the centre are duly issued and accounted for.
- (2) A correctional officer, Departmental officer, medical officer or nursing officer to whom a key or access card is issued must keep it on his or her person at all times until it is returned.
- (3) The officer must not leave a correctional centre while a key of the centre is in his or her possession.

240 Searching of officers (cf clause 27 of *Correctional Centre Administration Regulation 1995*)

The governor or principal security officer of a correctional centre may require a correctional officer or Departmental officer who is on the premises of the centre:

- (a) to submit to an inspection and search of personal possessions, to scanning by means of an electronic scanning device and to being sniffed by a drug detector dog, and
- (b) to empty the pockets of the officer's clothing, and
- (c) to make available for inspection and search any room, locker or vehicle that is under the officer's control at the centre.

241 Visitors (cf clause 28 of *Correctional Centre Administration Regulation 1995*)

A correctional officer is not to receive visitors at any time while on duty at a correctional centre except with the permission of the governor of the centre.

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242 Officers to be fit for duty (cf clause 30 of *Correctional Centre Administration Regulation 1995*)

- (1) While on duty, a correctional officer must not be, to any degree, under the influence of alcohol.
- (2) A Superintendent or Deputy Superintendent who suspects that a correctional officer is under the influence of alcohol may require the officer to undergo a breath test in accordance with the directions of the person administering the test.
- (3) An officer must not refuse or fail to comply with a reasonable requirement or direction made or given under subclause (2).
- (4) If the reading obtained from the device used in carrying out a breath test under this clause indicates that there is present in 100 millilitres of the officer's blood a concentration of alcohol of 0.05 grams or more:
 - (a) the officer is to be relieved of duty and is not to carry out any duty until authorised to do so by the Commissioner or the Superintendent or Deputy Superintendent concerned, and
 - (b) the Superintendent or Deputy Superintendent is to make a written report to the Commissioner on the matter.

243 Insulting or abusive language (cf clause 32 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer, Departmental officer, medical officer or nursing officer must not use insulting or abusive language to any other officer, to any inmate or to any person visiting a correctional centre.
- (2) A correctional officer, Departmental officer, medical officer or nursing officer must not say or do anything that is calculated to undermine discipline at a correctional centre or to prejudice the efficiency of, or to bring discredit on, the Department.
- (3) A correctional officer, Departmental officer, medical officer or nursing officer must not act deliberately in a manner calculated to provoke an inmate.

244 Smoking in non-smoking areas of correctional centres prohibited (cf clause 32A of *Correctional Centre Administration Regulation 1995*)

A correctional officer, Departmental officer, medical officer or nursing officer must not:

- (a) smoke in a non-smoking area, or

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- (b) alter, damage or remove any sign or notice relating to a non-smoking area.

245 Honesty (cf clause 33 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer, Departmental officer, medical officer or nursing officer must at all times be honest and truthful.
- (2) A correctional officer, Departmental officer, medical officer or nursing officer:
 - (a) must not make any statement that the officer knows, or ought reasonably to know, to be false or misleading in a material particular, and
 - (b) must not destroy or mutilate, or alter or erase any entry in, an official document.

246 Vigilance (cf clause 34 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer on duty must at all times devote the whole of his or her attention to the performance of his or her duties.
- (2) A correctional officer must not do anything that is calculated to distract another correctional officer from the performance of the officer's duties.
- (3) A correctional officer must not cease duty until permitted to do so by the governor or relieved by another correctional officer.

247 Reporting of misconduct by correctional officers (cf clause 35 of *Correctional Centre Administration Regulation 1995*)

- (1) If:
 - (a) an allegation is made to a correctional officer that another correctional officer has, while carrying out his or her duties as such an officer, engaged in conduct which, in the opinion of the officer to whom the allegation is made, constitutes a criminal offence or other misconduct, or
 - (b) a correctional officer sincerely believes that another correctional officer has engaged in conduct of that kind,

the correctional officer must report the conduct (or alleged conduct) to a correctional officer who is more senior in rank than the officer making the report.

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- (2) The senior correctional officer must report the conduct (or alleged conduct) promptly to the Commissioner if the senior correctional officer believes that it:
- (a) constitutes (or would constitute) a criminal offence by the correctional officer, or
 - (b) would provide sufficient grounds for preferring a departmental charge against the correctional officer.
- (3) Subclause (1) does not apply to conduct or alleged conduct:
- (a) that has been made the subject of a departmental charge, or
 - (b) that has been the subject of evidence or other material given, or submissions made, in the course of criminal proceedings, or
 - (c) that has already been reported under this clause to a more senior correctional officer.
- (4) A correctional officer must not, in relation to any other correctional officer:
- (a) fail to approve or recommend the promotion of the other officer, or
 - (b) take, approve or recommend disciplinary action against the other officer, or
 - (c) direct, approve or recommend the transfer of the other officer to another position in the Department, or
 - (d) make, approve or recommend a decision which detrimentally affects the benefits or awards of the other officer, or
 - (e) fail to approve or recommend that the other officer receive education or training which could reasonably be expected to improve the officer's opportunities for promotion or to confer some other advantage on the officer, or
 - (f) change the duties of the other officer so that they are not appropriate to the officer's salary or position or approve or recommend such a change, or
 - (g) otherwise act to the detriment of the other officer,
- in retaliation against the other officer because he or she has acted in accordance with this clause or has disclosed information relating to conduct contrary to law to any other correctional officer.

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- (5) In this clause, *departmental charge* means a charge relating to a breach of discipline under Part 5 of the *Public Sector Management Act 1988* committed or alleged to have been committed by the correctional officer to whom the charge relates.

248 Certain contraventions to be dealt with as breaches of discipline

A correctional officer or Departmental officer who contravenes a provision of this Regulation is not guilty of an offence, but is guilty of a breach of discipline for the purposes of Part 5 of the *Public Sector Management Act 1988*.

249 Confidentiality of records (cf clause 22 of *Correctional Centre Routine Regulation 1995*)

- (1) A person involved in the administration of the Act is not authorised to furnish to any other person:
- (a) a photograph, film or video or audio recording of an inmate, or
 - (b) an impression of an inmate's handprints, fingerprints, footprints or toeprints, or
 - (c) any other forensic material (within the meaning of the *Crimes (Forensic Procedures) Act 2000*) relating to an inmate.
- (2) This clause does not apply in the circumstances referred to in section 257 (a)–(e) of the Act.

Note. The circumstances referred to in subclause (2) are the circumstances in which a person is authorised to divulge information obtained in connection with the administration of the Act.

Clause 250	Crimes (Administration of Sentences) Regulation 2001
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Part 2	Corrections Health Service matters

Part 2 Corrections Health Service matters

250 Examination of inmates (cf clause 10 of *Correctional Centre Administration Regulation 1995*)

- (1) An inmate is to be examined by a prescribed CHS officer as soon as practicable after being received into a correctional centre.
- (2) Without limiting subclause (1), a prescribed CHS officer may at any time carry out an examination of an inmate (but only with the consent of the inmate) if of the opinion that it is necessary for such an examination to be carried out.

251 Inmates risk to self or others (cf clause 11 of *Correctional Centre Administration Regulation 1995*)

As soon as practicable after forming an opinion:

- (a) that the mental or physical condition of an inmate constitutes a risk to the life of the inmate or to the life, health or welfare of any other person, or
- (b) that the life of an inmate will be at risk if the inmate continues to be detained in a correctional centre, or
- (c) that, because of illness, an inmate will not survive sentence or is totally and permanently unfit for correctional centre discipline, or
- (d) that an inmate should not, on medical grounds, be employed at work of a particular nature, or
- (e) that an inmate's medical condition is such that the inmate is unfit to travel, or should only travel by particular means,

a prescribed CHS officer must report that he or she has formed the opinion, and the grounds for the opinion, to a prescribed DCS officer.

252 Mental illness (cf clause 15 of *Correctional Centre Administration Regulation 1995*)

- (1) As soon as practicable after forming an opinion that the mental state of an inmate requires special observation, a prescribed CHS officer must report that he or she has formed the opinion, and the grounds for the opinion, to a prescribed DCS officer.

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- (2) On receiving such a report, the prescribed DCS officer:
 - (a) must cause the inmate to be placed under special observation, and
 - (b) in the case of a report with respect to a serious offender, must send written notice of the report to the Review Council.

253 Inmate's diet, exercise and treatment (cf clause 12 of *Correctional Centre Administration Regulation 1995*)

- (1) As soon as practicable after forming an opinion that an inmate's diet, exercise or other treatment should be varied or modified for reasons of health, a prescribed CHS officer must report that he or she has formed the opinion, and the grounds for the opinion, to a prescribed DCS officer.
- (2) On receiving such a report, the prescribed DCS officer:
 - (a) must take such steps as are reasonable to carry into effect any recommendation contained in the report, and
 - (b) in the case of a report with respect to a serious offender, must ensure that written particulars of the report are kept available for reference by the Review Council.
- (3) If it is impracticable to carry a recommendation into effect, the prescribed DCS officer must report that fact to the Chief Executive Officer, Corrections Health Service.

254 Medical records (cf clause 13 of *Correctional Centre Administration Regulation 1995*)

- (1) Proper medical records are to be kept in respect of each inmate, with entries as to each examination that is carried out on an inmate by a prescribed CHS officer.
- (2) The medical records for inmates at a correctional centre are to be kept at the centre in the custody of a prescribed CHS officer, and their contents are not to be divulged to any person outside the Corrections Health Service (including the inmate) except in accordance with guidelines established by the Chief Executive Officer, Corrections Health Service.

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- (3) Subclause (2) does not prevent information in an inmate's medical records from being used to prepare general reports on the inmate's health for submission to the governor of a correctional centre, and such a report must be prepared and submitted whenever the governor so requests.
- (4) As soon as practicable after an inmate is transferred from one correctional centre to another, the inmate's medical records are to be given into the custody of a prescribed CHS officer at the centre to which the inmate is transferred.
- (5) Subclause (4) does not apply if the inmate is temporarily transferred to a police station or court cell complex.

255 Observation of inmates specially confined (cf clause 19 of *Correctional Centre Administration Regulation 1995*)

An inmate who is confined to cell or is subject to a segregated or protective custody direction must be kept under daily observation by a prescribed CHS officer.

256 Infectious diseases (cf clause 17 of *Correctional Centre Administration Regulation 1995*)

- (1) As soon as practicable after forming an opinion that an inmate has, or appears to have, a serious infectious disease, a prescribed CHS officer must report that he or she has formed the opinion, and the grounds for the opinion, to a prescribed DCS officer.
- (2) In the case of a report from the Chief Executive Officer, Corrections Health Service, the prescribed DCS officer must carry into effect any recommendation contained in such a report in so far as it is practicable to do so.
- (3) If it is impracticable to carry a recommendation into effect, the prescribed DCS officer must report that fact to the Chief Executive Officer, Corrections Health Service.
- (4) In this clause, *serious infectious disease* means an infectious disease that is also a notifiable disease by virtue of its inclusion in Schedule 3 to the *Public Health Act 1991*.

257 Death of inmates (cf clause 20 of *Correctional Centre Administration Regulation 1995*)

On becoming aware that an inmate has died, a prescribed CHS officer must report the death to the Commissioner.

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Clause 258
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Part 3 Use of firearms

258 Authority to carry firearms (cf clause 37 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer must not carry firearms while on duty except as authorised by or under this Part.
- (2) A correctional officer to whom firearms have been issued under this Part is authorised to carry them for the purpose only for which they were issued.
- (3) A correctional officer is authorised to carry firearms:
 - (a) while handling firearms in the course of duties carried out in a correctional centre armoury, or
 - (b) while taking part in, or in an activity necessarily carried out in connection with, an approved training course.

259 Armed posts (cf clause 38 of *Correctional Centre Administration Regulation 1995*)

- (1) There are to be such armed posts at a correctional centre as may be approved in respect of the centre.
- (2) A correctional officer, while stationed at an armed post, may carry such firearms as the governor directs.

260 Issue of firearms to correctional officers not at armed posts (cf clause 39 of *Correctional Centre Administration Regulation 1995*)

- (1) The governor or principal security officer of a correctional centre may (by a direction given generally or in any particular case) authorise the issue of firearms to correctional officers who are not stationed at armed posts for use in connection with:
 - (a) the escorting of inmates, or
 - (b) the maintenance of a guard outside a correctional centre.
- (2) The Commissioner may (by a direction given in a particular case) authorise the issue of firearms to correctional officers for use in connection with patrols of the perimeter of a correctional centre.

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- (3) The governor of a correctional centre may (by a direction given in a particular case) authorise the issue of firearms to correctional officers who are not stationed at armed posts:
- (a) for use in connection with the quelling or control of a correctional centre disturbance or riot, or
 - (b) for any other purpose for which the governor considers it necessary that firearms be issued.
- (4) The following persons may (by a direction given in a particular case) authorise the issue of firearms to correctional officers who are not stationed at armed posts for use in connection with the conveyance of money or other property within a correctional centre or between a correctional centre and other places:
- (a) the Commissioner,
 - (b) the principal security officer,
 - (c) the governor of a correctional centre.

261 Officers handling firearms to undergo training courses (cf clause 40 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer must not:
- (a) authorise or direct the issue of a firearm to another correctional officer, or
 - (b) issue a firearm to another correctional officer,
- for use by the other officer unless the other officer has undergone an approved training course in the use of that firearm.
- (2) A correctional officer must ensure that a correctional officer under his or her control does not perform any duty involving the carrying or use of a firearm unless the officer has undergone an approved training course in the use of the firearm.
- (3) This clause does not prevent the performance by a correctional officer of a duty in connection with an approved training course or the issue to the officer of a firearm for that purpose.

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Chapter 8
Part 3

262 Safety procedures on issue or receipt of firearms (cf clause 41 of *Correctional Centre Administration Regulation 1995*)

- (1) On commencing a duty which involves the carrying of a firearm, a correctional officer must examine the firearm (and any accompanying ammunition) in the presence of the person from whom the officer receives them.
- (2) An examination must include such procedures as are approved.
- (3) A correctional officer who, on an examination, discovers:
 - (a) a defect in any firearm or ammunition, or
 - (b) an incorrect number of rounds of ammunition,must report the fact to the officer in charge of the correctional centre armoury from which the firearm was drawn.
- (4) The officer in charge of the correctional centre armoury must substitute another firearm or new ammunition, or supplement the number of rounds, as the case requires.

263 Safety procedures on return of firearms (cf clause 42 of *Correctional Centre Administration Regulation 1995*)

- (1) On ceasing a duty involving the carrying of a firearm, a correctional officer must deliver the firearm (and any accompanying ammunition) to the officer in charge of the correctional centre armoury from which the firearm was drawn (unless the correctional officer has delivered it to another correctional officer by whom he or she has been relieved).
- (2) An officer to whom a firearm is delivered must examine it, and any accompanying ammunition, in the presence of the person from whom they are received.
- (3) The examination must include such procedures as are approved.

264 Duties of correctional officers generally (cf clause 43 of *Correctional Centre Administration Regulation 1995*)

While carrying a firearm on duty, a correctional officer:

- (a) must at all times be alert, and
- (b) must maintain the firearm and its ammunition in such a condition, and with such safety precautions regarding its carriage, use and readiness to fire, as are approved, and
- (c) must not deface the firearm or any of its accessories or ammunition, and

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- (d) must not make modifications to the firearm or to its ammunition.

265 Maintenance of safe distances (cf clause 44 of *Correctional Centre Administration Regulation 1995*)

- (1) While stationed at an armed post, a correctional officer must take all reasonable precautions to prevent any inmate from approaching within 10 metres of the officer or any firearm or ammunition that is in the officer's custody or at the post.
- (2) While carrying a firearm, a correctional officer must not:
 - (a) place himself or herself in a position where he or she is liable to be attacked, or
 - (b) except when outside a correctional centre or where the governor otherwise directs, approach to within reach of an inmate or allow an inmate to approach to within reach of him or her.

266 Transfer of firearms (cf clause 45 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer who parts with possession of a firearm issued to the officer:
 - (a) must deliver it to another correctional officer or some other suitable person, or
 - (b) if the officer cannot so deliver it, must deposit it in the most secure place available in the circumstances.
- (2) Subclause (1) does not apply to an officer on duty at an armed post or to an officer returning or transferring a firearm on ceasing duty.

267 Use of armed posts (cf clause 46 of *Correctional Centre Administration Regulation 1995*)

- (1) While stationed at an armed post, a correctional officer:
 - (a) must keep a lookout over the correctional centre generally, and
 - (b) if the officer observes any irregularity likely to affect the security of the correctional centre, must notify such other correctional officers as may be appropriate in the circumstances, and

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- (c) must assist other correctional officers in the performance of their duties, but (unless the officer is, or is ordered to do otherwise by, a senior officer) without leaving the post.
- (2) A correctional officer stationed at a correctional centre tower who is temporarily unable to keep a lookout must indicate that fact to:
 - (a) any correctional officers stationed at adjacent towers, and
 - (b) any correctional officers stationed at ground posts within range of observation.
- (3) When approaching an armed post, a correctional officer must give warning of that approach to any correctional officer stationed at the post.

268 Discharge of firearms (cf clause 47 of *Correctional Centre Administration Regulation 1995*)

A correctional officer must not discharge a firearm while on duty except in the performance of that duty.

269 Authority to discharge firearms (cf clause 48 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer may discharge a firearm:
 - (a) to protect the officer or any other person if the officer believes on reasonable grounds that there is a substantial probability that the officer or other person will be killed or seriously injured if the officer does not discharge the firearm, or
 - (b) if the officer believes on reasonable grounds that it is necessary to do so in order:
 - (i) to prevent the escape of an inmate, or
 - (ii) to prevent an unlawful attempt to enter a correctional centre or to free an inmate, or
 - (iii) to attract the immediate attention of correctional officers or other persons to a serious breach of correctional centre security that has arisen or is likely to arise, or
 - (c) to give a warning in accordance with this Regulation.
- (2) Despite subclause (1), a correctional officer must not discharge a firearm at a person if the officer has reasonable grounds to believe that the shot may hit a person other than the person at whom it is directed.

Clause 270	Crimes (Administration of Sentences) Regulation 2001
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270 Warnings (cf clause 49 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer must not discharge a firearm in the direction of a person unless the officer has first given a warning to that person of the intention to fire.
- (2) For the purposes of subclause (1), and without prejudice to any other manner in which a warning may be given, a warning shot is a warning.
- (3) A warning shot must be fired in such a direction that no one is likely to be hit by it.
- (4) A correctional officer may, without giving a warning, discharge a firearm in order to protect the officer or any other person if of the opinion:
 - (a) that there is a substantial probability that the officer or other person will be killed or seriously injured if the officer does not do so, and
 - (b) a warning would only increase that probability.

271 Notice of discharge (cf clause 50 of *Correctional Centre Administration Regulation 1995*)

- (1) A correctional officer who discharges a firearm while on duty at a correctional centre, otherwise than while taking part in:
 - (a) an approved training course, or
 - (b) a firearms practice exercise authorised by the governor, or
 - (c) an activity connected with such a training course or practice exercise,must notify the governor of the circumstances in which it was discharged.
- (2) A correctional officer who discharges a firearm while on escort duty must notify a police officer and:
 - (a) the governor at which the correctional officer is usually on duty, or
 - (b) if the correctional officer is a member of a Security Unit, the officer in charge of that Unit,of the circumstances in which it was discharged.
- (3) On being so notified, the governor or the officer in charge of the Security Unit is to report to the Commissioner the circumstances of the discharge.

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- (4) On receipt of such a report the Commissioner may hold an inquiry into the discharge.
- (5) The Commissioner must submit to the Minister a full report of the findings of any inquiry.

272 Use of correctional centre armouries for storage of private firearms

Nothing in this Part prevents a correctional centre armoury from being used for the storage of any duly licensed firearm that is owned by a correctional officer.

Clause 273	Crimes (Administration of Sentences) Regulation 2001
Chapter 8	Administration
Part 4	Awards

Part 4 Awards

273 Awards (cf clause 53 of *Correctional Centre Administration Regulation 1995*)

- (1) The various awards specified in Schedule 5 may be given to correctional officers and Departmental officers by the Commissioner in the circumstances specified in the Schedule in relation to those awards.
- (2) Awards may be given posthumously.
- (3) A Bravery Medal takes precedence over all other awards.

274 Cancellation of awards (cf clause 54 of *Correctional Centre Administration Regulation 1995*)

- (1) The Commissioner may cancel an award or restore a cancelled award.
- (2) A person who is notified that an award has been cancelled must return it, together with any associated ribbons or bars, to the Commissioner.

275 Register of awards (cf clause 55 of *Correctional Centre Administration Regulation 1995*)

The Commissioner is to maintain a register of awards.

276 Wearing of awards (cf clause 56 of *Correctional Centre Administration Regulation 1995*)

- (1) Awards may be worn on ceremonial occasions.
- (2) The ribbon indicating the giving of an award:
 - (a) may be worn by a correctional officer on duty, and
 - (b) must be worn on the left breast of the correctional officer's uniform.
- (3) A correctional officer or Departmental officer must not wear an award, or the ribbon indicating the giving of an award, to which the officer is not entitled.

Crimes (Administration of Sentences) Regulation 2001
Administration
The Review Council

Clause 277
Chapter 8
Part 5

Part 5 The Review Council

277 Additional functions of Review Council (cf clauses 20D, 185 and 186A of *Correctional Centre Routine Regulation 1995*)

- (1) For the purposes of section 197 of the Act, the functions of the Review Council include the provision, at the request of the Commissioner, of reports, advice and recommendations to the Commissioner with respect to:
 - (a) the management of serious offenders, and
 - (b) the probability that a serious offender:
 - (i) who is serving an existing life sentence, and
 - (ii) who has applied for a local leave permit,will be fit to be released on parole at the time the Council expects to advise the Parole Board about release on parole (assuming the serious offender satisfactorily completes a pre-release development program to which the application relates of at least 12 months or other relevant period), and
 - (c) the designation of inmates as high security and extreme high security inmates (including the revocation or variation of any such designation), and
 - (d) the management of high security and extreme high security inmates (including the periodic review of that management), and
 - (e) such other matters as are specified by the Commissioner.
- (2) For the purposes of section 197 of the Act, the functions of the Review Council also include the carrying out of such investigations (which may include the interviewing of correctional centre staff and inmates) as are necessary to enable it to provide reports, advice and recommendations as referred to in subclause (1).
- (3) In accordance with clause 10 (2) (c) of Schedule 2 to the Act:
 - (a) the provision of reports, advice and recommendations as referred to in subclause (1), and
 - (b) the conduct of investigations as referred to in subclause (2),are prescribed as functions that the Council may delegate to a committee of the Council.

Clause 277	Crimes (Administration of Sentences) Regulation 2001
Chapter 8	Administration
Part 5	The Review Council

- (4) In this clause, *existing life sentence* has the same meaning as it has in Schedule 1 to the *Crimes (Sentencing Procedure) Act 1999*.

278 Matters to be considered concerning certain serious offenders (cf clause 185A of *Correctional Centre Routine Regulation 1995*)

Pursuant to section 199 (2) of the Act, the following provisions are prescribed:

- (a) section 197 (2) (a), (e) and (f) of the Act,
- (b) clauses 16, 19, 27, and 277.

279 Records of proceedings (cf clause 186 of *Correctional Centre Routine Regulation 1995*)

The Review Council must keep a record (in writing or otherwise) of the proceedings of the Review Council, including a record of:

- (a) the persons appearing or represented before the Review Council, and
- (b) the submissions (if any) made by any such person, and
- (c) the reasons (if any) stated in support of those submissions.

Crimes (Administration of Sentences) Regulation 2001
Administration
General

Clause 280
Chapter 8
Part 6

Part 6 General

280 Correctional centre records (cf clauses 4, 5, 7 and 8 of *Correctional Centre Administration Regulation 1995*)

- (1) The governor of a correctional centre must ensure that a record is kept at the centre:
 - (a) of each correctional officer, Departmental officer, medical officer or nursing officer employed within the centre (including that person's position and position description), and
 - (b) of each Commissioner's instruction issued in connection with the administration of the centre or of correctional centres generally, and
 - (c) of each direction given by the governor in connection with the administration of the centre, and
 - (d) of each inmate who is confined to cell (including the reason for his or her confinement), and
 - (e) of each inmate who is kept in segregated or protective custody (including the reason for his or her being so kept and of any deprivation of rights or privileges to which the inmate is subject as referred to in section 12 (2) (b) of the Act), and
 - (f) of the death of any inmate that occurs while the inmate is in the governor's custody (whether at the centre or elsewhere), and
 - (g) of any escape or attempted escape by an inmate that occurs while the inmate is in the governor's custody (whether at the centre or elsewhere), and
 - (h) of such other information as the Commissioner may require a record to be kept.
- (2) The governor of a correctional centre must conduct a daily inspection of all inmates who are confined to cell.

281 Order of ranking of correctional officers (cf clause 52 of *Correctional Centre Administration Regulation 1995*)

The order of ranking of correctional officers, in descending order, is as follows:

Senior Assistant Commissioner

Assistant Commissioner

Clause 281	Crimes (Administration of Sentences) Regulation 2001
Chapter 8	Administration
Part 6	General

Chief Superintendent
 Superintendent (Grade 1)
 Superintendent (Grade 2)
 Superintendent (Grade 3)
 Deputy Superintendent (Grade 1)
 Deputy Superintendent (Grade 2)
 Deputy Superintendent (Grade 3)
 Deputy Superintendent (Industries) (Grade 4)
 Deputy Superintendent (Industries) (Grade 5)
 Senior Assistant Superintendent
 Senior Assistant Superintendent (Industries)
 Assistant Superintendent
 Assistant Superintendent (Industries)
 Senior Correctional Officer
 Senior Overseer
 Correctional Officer First Class
 Overseer
 Correctional Officer
 Probationary Correctional Officer

282 Attendance of inmates before courts and court officers (cf clauses 56B and 56BA of *Correctional Centre Administration Regulation 1995*)

- (1) For the purposes of the definition of *appropriate authority* in section 77 (5) of the Act, a conference convenor, acting with the written authority of a conference administrator, under the *Young Offenders Act 1997* is prescribed.
- (2) For the purposes of the definition of *court* in section 77 (5) of the Act, the following courts and bodies are prescribed:
 - (a) the Compensation Court,
 - (b) the Administrative Decisions Tribunal,
 - (c) the Administrative Appeals Tribunal of the Commonwealth,
 - (d) the Migration Review Tribunal of the Commonwealth.

Crimes (Administration of Sentences) Regulation 2001
Administration
General

Clause 283
Chapter 8
Part 6

283 Powers of correctional officers (cf clause 189 of *Correctional Centre Routine Regulation 1995*)

For the purpose of performing the duties of a custodian of offenders at a correctional centre managed in accordance with Part 12 of the Act, a person authorised under section 240 of the Act to perform those duties has and may exercise (subject to any directions of the Commissioner under section 241 (2) of the Act) all the powers of a correctional officer.

284 Operation of biometric identification system in correctional centres (cf clause 131A of *Correctional Centre Routine Regulation 1995*)

- (1) The Commissioner may authorise the operation in:
 - (a) any correctional centre in which high security or extreme high security inmates are accommodated, and
 - (b) any correctional centre in which inmates are received before they are classified,of a biometric identification system for the purposes of controlling access to the centre by all persons (including correctional officers).
- (2) The system is to be designed to ensure that each person who enters a correctional centre for the purposes of:
 - (a) conducting a visit, or
 - (b) carrying out duties or activities requiring access to the centre,is the same person who leaves the centre after conducting that visit or carrying out those duties or activities.
- (3) In order to gain access to a correctional centre, a person may be required to comply with the requirements relating to the operation of the system and may be denied access to a correctional centre if the person refuses to comply with any such requirement.
- (4) The requirements relating to the operation of the system include:
 - (a) the recording of a person's biometric algorithm in the system's database, along with the person's photo image and personal details, and
 - (b) the scanning of a person's fingerprints each time the person enters or leaves a correctional centre.

Clause 284	Crimes (Administration of Sentences) Regulation 2001
Chapter 8	Administration
Part 6	General

- (5) This clause does not apply in respect of any person who is under the age of 18 years unless:
- (a) the person has previously been the subject of a direction by the Commissioner under clause 105, or
 - (b) the person has been convicted of an offence in relation to a previous visit by the person to a correctional centre, or
 - (c) the correctional officer in charge of the visiting area of the correctional centre being visited by the person is of the opinion that the person's physical appearance is similar to that of an inmate of the centre.

285 Privacy and security safeguards (cf clause 131B of *Correctional Centre Routine Regulation 1995*)

- (1) The Commissioner is to ensure that the following requirements are complied with in relation to the operation of an authorised biometric identification system in any correctional centre:
- (a) the fingerprint image of any person must not be retained on the system, and must be deleted as soon as the person's biometric algorithm is made,
 - (b) a person's biometric algorithm must not be made, stored or kept as part of any other database that is maintained by or on behalf of the Department,
 - (c) the system must not be used to reconstruct a fingerprint pattern from a person's biometric algorithm,
 - (d) the photo image of each visitor to a correctional centre must be eliminated from the system:
 - (i) within 6 months of the person's last recorded visit to a correctional centre, or
 - (ii) as soon as possible at the request of the person,
 - (e) a person's biometric algorithm must not be stored in the system's database in such a way that would enable unauthorised access to the information,
 - (f) permission must not be given to any person or agency (other than a correctional officer or Departmental officer) that would enable any person to gain access to a person's biometric algorithm stored in the system's database.

Crimes (Administration of Sentences) Regulation 2001
Administration
General

Clause 285
Chapter 8
Part 6

-
- (2) Any person who is involved in the operation of an authorised biometric identification system must not knowingly or negligently:
- (a) permit any person to gain access to any information in the system's database, or
 - (b) provide such a person with any information in the system's database, or
 - (c) use the system to reconstruct a person's fingerprint pattern from the person's biometric algorithm.
- (3) This clause does not prevent access to a person's photo image or personal details from being given to:
- (a) the Commissioner, or
 - (b) the principal officer (however described) of a law enforcement agency, or
 - (c) any other person or agency for a lawful purpose.

286 Non-smoking areas in correctional centres (cf clause 56A of *Correctional Centre Administration Regulation 1995*)

- (1) The Commissioner or the governor of a correctional centre may designate an enclosed area of the centre as an area in which smoking is prohibited.
- (2) Any such area is to be designated by means of signs or notices displayed within the area.

287 Victims Register (cf clause 87 of *Periodic Detention, Home Detention, Community Service Work and Parole Regulation*)

- (1) The Minister may require the provision of such evidence as the Minister considers appropriate as proof of any alleged relationship through which a person claims to be the victim of an offender or a member of the family of a victim of an offender.
- (2) A person who communicates directly or indirectly any information:
 - (a) that has been included in the Victims Register, or that has been disclosed so that it may be included in that Register, and
 - (b) that the person knows has been so included or so disclosed, is guilty of an offence.

Maximum penalty: 5 penalty units.

Clause 287	Crimes (Administration of Sentences) Regulation 2001
Chapter 8	Administration
Part 6	General

- (3) A person is not guilty of an offence under subclause (2) if the court is satisfied that the communication concerned was made:
- (a) with the consent of the person from whom the information was obtained, or
 - (b) in connection with the administration or execution of the Act or a regulation made under the Act, or
 - (c) with the prior permission of the Minister, or
 - (d) pursuant to an order of a court, or of any other body or person authorised by law to examine witnesses, in the course of and for the purpose of the hearing or determination by that court, body or person of any matter, or
 - (e) with other lawful excuse.
- (4) The Minister is not to grant permission referred to in subclause (3) (c) unless satisfied that it would be in the public interest to do so.

288 Notice to victims about proposed change in security classification
(cf clause 188 of *Correctional Centre Routine Regulation 1995*)

- (1) Notice under section 67 (1) of the Act:
- (a) is to be in writing and sent by post to the last postal address that has been recorded on the Victims Register for the relevant victim, unless paragraph (b) applies, or
 - (b) is to be given by telephone if only a telephone number has been so recorded or if the Review Council believes that any telephone number that has been so recorded is more up to date than the last postal address so recorded.
- (2) The notice:
- (a) must set out the reasons for the consideration by the Review Council of a change in the security classification of the relevant offender, and
 - (b) must indicate that a submission made by a victim must be made in writing, and
 - (c) must specify the relevant 14-day period for the lodgment of any such submission and the address for its lodgment.
- (3) The Council is to keep a record of the giving of any notice in accordance with this clause.

Crimes (Administration of Sentences) Regulation 2001
Administration
General

Clause 289
Chapter 8
Part 6

289 Saving

Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under:

- (a) the *Crimes (Administration of Sentences) (Correctional Centre Administration) Regulation 1995*, or
- (b) the *Crimes (Administration of Sentences) (Correctional Centre Routine) Regulation 1995*, or
- (c) the *Crimes (Administration of Sentences) (Periodic Detention, Home Detention, Community Service Work and Parole) Regulation 1995*,

continues to have effect under this Regulation.

Crimes (Administration of Sentences) Regulation 2001

Schedule 1 Information to be recorded in relation to inmates

Schedule 1 Information to be recorded in relation to inmates

(Clause 5)

- 1 The inmate's full name, together with any other names by which he or she is known.
- 2 The address of the inmate's usual place of residence, together with the telephone number for that address.
- 3 The name, address and telephone number of the inmate's next of kin.
- 4 The inmate's age and date of birth.
- 5 A head-and-shoulders photograph of the inmate.
- 6 A full set of the inmate's fingerprints.
- 7 The inmate's biometric characteristics.
- 8 Video or closed-circuit television footage of the inmate.
- 9 The serial number or other identifier of the inmate's passport.
- 10 A description of the inmate's general appearance, including height, weight, build, hair colour and eye colour and (if appropriate) the shape and colour of any sideburns, beard or moustache.
- 11 Particulars of any distinguishing features of the inmate's appearance, including the nature and location of any tattoos.
- 12 Particulars of the language or languages spoken by the inmate.
- 13 Particulars of any exceptional circumstances in the inmate's family history (such as incidents of physical or sexual abuse committed by or against the inmate).
- 14 Particulars of the state of the inmate's physical and mental health, including any medical, psychiatric or psychological reports and the results of any psychological tests, together with details of any known tendency of the inmate to attempt suicide or inflict self-harm.
- 15 Particulars of any involvement by the inmate in the abuse of drugs or other intoxicating substances, including the results of any drug tests.
- 16 Particulars of any ethnic or racial group to which the inmate belongs, with particular reference to whether the inmate is an Aboriginal person or Torres Strait Islander.

Crimes (Administration of Sentences) Regulation 2001

Information to be recorded in relation to inmates

Schedule 1

-
- 17 Particulars of any religious denomination to which the inmate claims affiliation.
 - 18 Particulars as to the inmate's trade or vocation, including the inmate's employment history.
 - 19 Particulars as to the inmate's financial circumstances.
 - 20 Particulars of the inmate's domestic circumstances (that is, whether the inmate is single, married, widowed or divorced, whether the inmate is living with another person in a de facto relationship and whether the inmate has children or other dependants).
 - 21 Particulars of the inmate's criminal history, both in New South Wales and elsewhere, including particulars of any period during which the inmate has been under the supervision of the Probation and Parole Service.
 - 22 Particulars of any period during which the inmate has been on release on bail.
 - 23 Particulars as to the inmate's criminal associates.

Crimes (Administration of Sentences) Regulation 2001

Schedule 2 Correctional centre offences

Schedule 2 Correctional centre offences

(Clauses 116 and 117)

Part 1 Major offences

Provision	Subject
Clause 125	Conceal for purpose of escape
Clause 126	Conceal article for use in escape or other offence
Clause 129	Participate, or inciting other inmates to participate in, riot
Clause 138	Possess drug
Clause 139	Administer drug
Clause 144	Bribery

Part 2 Minor offences

Provision	Subject
Clause 5	Supply false or misleading particulars
Clause 8	Fail to surrender property on reception
Clause 38	Fail to clean yards
Clause 39	Fail to comply with correctional centre routine
Clause 40	Enter other cells
Clause 41	Fail to attend musters
Clause 42	Operate bell, hooter, siren or whistle
Clause 43	Avoid correctional centre routine
Clause 44	Unlawfully deliver or receive article to or from inmate
Clause 45	Possess or create prohibited goods
Clause 46	Resist or impede search
Clause 47	Fail to keep property in a tidy and orderly manner
Clause 52	Unlawfully purchase food
Clause 52	Possess unauthorised food

Crimes (Administration of Sentences) Regulation 2001

Correctional centre offences

Schedule 2

Provision	Subject
Clause 52	Unlawfully trade in food
Clause 56	Fail to maintain personal cleanliness
Clause 57	Wear improper clothing
Clause 58	Fail to keep clean cells and issued articles
Clause 58	Damage, destroy or deface cell
Clause 58	Fail to look after clothing, bedding and other issued articles
Clause 59	Unlawfully possess condom
Clause 59	Unlawfully use condom
Clause 59	Unlawfully dispose of condom
Clause 61	Misbehave while attending services and programs
Clause 68	Desecrate or abuse spiritual items
Clause 97	Convey or deliver to, or receive from, visitors unauthorised articles
Clause 107	Send or receive unauthorised letters or parcels
Clause 108	Send prohibited letters, parcels or articles
Clause 112	Unlawfully use telephone or facsimile
Clause 120	Disobey direction
Clause 124	Contravene condition of local or interstate leave permit
Clause 127	Intimidation
Clause 128	Indecency
Clause 130	Assaults
Clause 130	Fight or engage in other physical combat
Clause 130	Throw article
Clause 131	Steal
Clause 131	Damage or destroy property
Clause 131	Tamper with food or drink
Clause 132	Hinder or obstruct dog
Clause 133	Cause harm to animal, bird or reptile
Clause 134	Interfere with correctional centre property
Clause 135	Tattoo
Clause 136	Gamble
Clause 137	Possess or consume alcohol
Clause 137	Prepare or manufacture alcohol
Clause 140	Possess drug implement

Crimes (Administration of Sentences) Regulation 2001

Schedule 2 Correctional centre offences

Provision	Subject
Clause 141	Self-intoxication
Clause 142	Fail prescribed urine test
Clause 143	Smoke in non-smoking area
Clause 143	Alter, damage or remove non-smoking sign or smoking sign
Clause 145	Obstruct correctional officer
Clause 146	Refuse breath testing
Clause 148	Refuse or fail to supply urine sample
Clause 149	Refuse or fail to supply urine sample
Clause 160	Make mischievous complaint
Clause 172	Give false or misleading information

Crimes (Administration of Sentences) Regulation 2001

Offences against periodic detention discipline

Schedule 3

Schedule 3 Offences against periodic detention discipline

(Clause 193)

Provision	Subject
Section 81 (c)	Fail to notify change of address
Section 95 (1) (a)	Fail to comply with an attendance order or work order
Section 95 (1) (b)	Fail to report to varied periodic detention centre
Section 95 (1) (c)	Disobey a direction under section 84 (1) or (3) or 94 (1) of the Act
Clause 39 (as applied by clause 185)	Fail to comply with periodic detention routine
Clause 40 (as applied by clause 185)	Enter other cells
Clause 41 (as applied by clause 185)	Fail to attend musters
Clause 42 (as applied by clause 185)	Operate bell, hooter, siren or whistle
Clause 43 (as applied by clause 185)	Avoid correctional centre routine
Clause 44 (as applied by clause 185)	Unlawfully deliver or receive article to or from detainee
Clause 45 (as applied by clause 185)	Possess or create prohibited goods
Clause 46 (as applied by clause 185)	Resist or impede search
Clause 47 (as applied by clause 185)	Fail to keep property in a tidy and orderly manner

Crimes (Administration of Sentences) Regulation 2001

Schedule 3 Offences against periodic detention discipline

Provision	Subject
Clause 52 (as applied by clause 185)	Unlawfully purchase food
Clause 52 (as applied by clause 185)	Possess unauthorised food
Clause 52 (as applied by clause 185)	Unlawfully trade in food
Clause 56 (as applied by clause 185)	Fail to maintain personal cleanliness
Clause 58 (as applied by clause 185)	Fail to keep clean cells and issued articles
Clause 58 (as applied by clause 185)	Damage, destroy or deface cell
Clause 58 (as applied by clause 185)	Fail to look after clothing, bedding and other issued articles
Clause 120 (as applied by clause 185)	Disobey direction
Clause 127 (as applied by clause 185)	Intimidation
Clause 128 (as applied by clause 185)	Indecency
Clause 129 (as applied by clause 185)	Participate, or incite other periodic detainees to participate in, riot
Clause 130 (as applied by clause 185)	Assault
Clause 130 (as applied by clause 185)	Fight or engage in other physical combat

Crimes (Administration of Sentences) Regulation 2001

Offences against periodic detention discipline

Schedule 3

Provision	Subject
Clause 130 (as applied by clause 185)	Throw article
Clause 131 (as applied by clause 185)	Steal
Clause 131 (as applied by clause 185)	Damage or destroy property
Clause 131 (as applied by clause 185)	Tamper with food or drink
Clause 132 (as applied by clause 185)	Hinder or obstruct dog
Clause 133 (as applied by clause 185)	Cause harm to animal, bird or reptile
Clause 134 (as applied by clause 185)	Interfere with periodic detention centre property
Clause 135 (as applied by clause 185)	Tattoo
Clause 136 (as applied by clause 185)	Gamble
Clause 137 (as applied by clause 185)	Possess or consume alcohol
Clause 137 (as applied by clause 185)	Prepare or manufacture alcohol
Clause 138 (as applied by clause 185)	Possess drug
Clause 139 (as applied by clause 185)	Administer drug

Crimes (Administration of Sentences) Regulation 2001

Schedule 3 Offences against periodic detention discipline

Provision	Subject
Clause 140 (as applied by clause 185)	Possess drug implement
Clause 141 (as applied by clause 185)	Self-intoxication
Clause 142 (as applied by clause 185)	Fail prescribed urine test
Clause 143 (as applied by clause 185)	Smoke in non-smoking area
Clause 143 (as applied by clause 185)	Alter, damage or remove non-smoking sign or smoking sign
Clause 144 (as applied by clause 185)	Bribery
Clause 145 (as applied by clause 185)	Obstruct correctional officer
Clause 146 (as applied by clause 185)	Refuse breath testing
Clause 148 (as applied by clause 185)	Refuse or fail to supply urine sample
Clause 149 (as applied by clause 185)	Refuse or fail to supply urine sample
Clause 174 (as applied by clause 185)	Resist or impede search
Clause 176	Conceal anything for the purpose of unlawfully bringing it into periodic detention centre
Clause 178	Attend while not sober
Clause 179	Fail to bring suitable clothing, footwear or toiletries
Clause 182	Unlawfully receive visitors
Clause 183	Unlawfully make telephone call
Clause 184	Fail to submit to medical examination

Crimes (Administration of Sentences) Regulation 2001

Offences against periodic detention discipline

Schedule 3

Provision	Subject
Clause 187	Fail to remain under proper supervision
Clause 187	Fail to perform work according to directions
Clause 187	Fail to conform to the standards of dress, cleanliness and conduct
Clause 187	Fail to keep clothes and tools in good order
Clause 187	Unlawfully damage or deface property
Clause 199	Give false or misleading information

Crimes (Administration of Sentences) Regulation 2001

Schedule 4 Forms

Schedule 4 Forms

(Clause 3)

Form 1 Parole order made by Parole Board

(Clause 213)

(Crimes (Administration of Sentences) Act 1999)

1 Sentence details

Case number:

Conviction date:

The Court at:

Offender:

Date of birth:

Offence:

Particulars of imprisonment imposed by Court

Term of:

To commence on:

*Non-parole period of:

*The above term of imprisonment is to be served cumulatively on the sentence of:

that commenced on:

2 Release details

Pursuant to the provisions of the *Crimes (Administration of Sentences) Act 1999*, the Parole Board directs that the offender be released on parole at

Unless sooner revoked, this order remains in force until the end of the above term of imprisonment.

Crimes (Administration of Sentences) Regulation 2001

Forms

Schedule 4

3 Supervision

The offender must:

- (a) *until/*until the order ceases to have effect, or
 - (b) for a period of 3 years from the date of release,
- whichever is the lesser, submit to the supervision and guidance of:

.....

4 Standard conditions

This order is subject to the conditions (including the conditions relating to supervision) prescribed by the regulations under the *Crimes (Administration of Sentences) Act 1999*.

Note: a copy of the standard conditions must be attached to this order.

5 Additional conditions

The order is also subject to the following conditions:

.....
.....

Order dated:

Signed: Date:
(Judicial Member/Secretary of Parole Board)

I
acknowledge that I understand the conditions on which I am released on parole.

Signed: Date:
(Judicial Member/Secretary of Parole Board)

Crimes (Administration of Sentences) Regulation 2001

Schedule 4 Forms

Signed: (offender) (witness)

Name:

Address:

The offender was released from custody on:

Signed: Date:
(Governor of correctional centre)

*Delete if not applicable

Crimes (Administration of Sentences) Regulation 2001

Forms

Schedule 4

Form 2 Notice of intention to make representations to Parole Board

(Clause 220)

(Crimes (Administration of Sentences) Act 1999)

To the Parole Board:

from
(Name of offender)

I notify the Parole Board that I *do not intend/*intend to make representations to the Board at the meeting to be held on to reconsider:

* whether I should be released on parole

or

* whether my parole order should be revoked

I *do not wish/*wish to appear before the Board.

I *do not intend/*intend to be legally represented.

*I wish to be represented at this meeting by of and seek the consent of the Board for this person to attend for this purpose.

My reasons for requesting representation by the named person are:

.....
.....

Signed: Date:

* Delete if not applicable

Crimes (Administration of Sentences) Regulation 2001

Schedule 4 Forms

**Form 3 Instrument requiring attendance of witnesses/
production of documents before Parole Board**

(Clause 224)

(Crimes (Administration of Sentences) Act 1999, section 186)

IN THE MATTER of a hearing before the Parole Board in respect of (Name of offender)

YOU ARE REQUIRED to appear before the Board on
(date)

at am/pm at
(time) (place)

*for the purpose of giving evidence

*to produce the documents specified below:

.....
.....

Signed:
(Judicial member of Parole Board)

Date:

*Delete if not applicable

Crimes (Administration of Sentences) Regulation 2001

Forms

Schedule 4

Form 4 Withdrawal of consent to continued operation of home detention order

(Clause 227)

(Crimes (Administration of Sentences) Act 1999)

I,, withdraw my consent as co-resident to the continued operation of the home detention order of

Signed: Date:

Crimes (Administration of Sentences) Regulation 2001

Schedule 4 Forms

Form 5 Notice of revocation of periodic detention order/home detention order/parole order

(Clause 228)

(Crimes (Administration of Sentences) Act 1999, section 173)

To:

TAKE NOTICE that the Parole Board, on,
made an order for revocation of your *periodic detention order/*home detention
order/*parole order to date from

The Board will reconvene on at
in order to reconsider the revocation of the order concerned.

A copy of the revocation order is attached.

* Copies are attached of reports and other documents used by the Board in
reaching its decision to revoke the order concerned.

You may make submissions to the Board with respect to *the revocation of the
order concerned/*the date of revocation of the order concerned. If you wish to do
so, you must notify the Secretary of the Board not later than

Signed:
(Secretary of Parole Board)

Date:

* Delete if not applicable

Crimes (Administration of Sentences) Regulation 2001

Forms

Schedule 4

Form 6 Notice of intention to make representations to Parole Board

(Clause 228)

(Crimes (Administration of Sentences) Act 1999)

To the Parole Board

From
(Name of offender)

TAKE NOTICE that I *do not intend/*intend to make representations to the Board at the review to be held on to reconsider whether my *periodic detention order/*home detention order/*parole order should be revoked.

I *do not wish/*wish to appear before the Board.

I *do not intend/*intend to be legally represented.

*I wish to be represented at this meeting by of and seek the consent of the Board for this person to attend for this purpose.

My reasons for requesting representation by the named person are:
.....
.....

Signed:

Date:

*Delete if not applicable

Crimes (Administration of Sentences) Regulation 2001

Schedule 4 Forms

Form 7 Notice of revocation of periodic detention order/home detention order/parole order

(Clause 230)

(Crimes (Administration of Sentences) Act 1999)

TAKE NOTICE that on the Parole Board revoked the *periodic
(date)

detention order/*home detention order/*parole order made by

. on in respect of
(Court) (date) (offender)

*The Parole Board directed that the order be taken to have been revoked on

.
(date)

Signed:
(Secretary of Parole Board)

Date:

TO:
The Commissioner,
Department of Corrective Services

*Delete if not applicable

Crimes (Administration of Sentences) Regulation 2001

Forms

Schedule 4

Form 8 Arrest warrant

(Clause 232)

(Crimes (Administration of Sentences) Act 1999, section 180)

TO ALL POLICE OFFICERS in the State of New South Wales

WHEREAS..... of
(Name of offender)

- (a) *is serving a term of imprisonment by way of periodic detention under a periodic detention order within the meaning of the *Crimes (Administration of Sentences) Act 1999*,
- (b) *is serving a term of imprisonment by way of home detention under a home detention order within the meaning of the *Crimes (Administration of Sentences) Act 1999*,
- (c) *has been released from custody on parole under a parole order within the meaning of the *Crimes (Administration of Sentences) Act 1999*,

AND WHEREAS the Parole Board has reason to suspect that the offender has failed to comply with the offender’s obligations under the order, and proposes to conduct an inquiry into the matter,

YOU ARE HEREBY DIRECTED to arrest the offender, to remove the offender to..... and to deliver the offender into the custody of the Parole Board.

Signed:
(Judicial Member/Secretary* of the Parole Board)

Date:

*Delete if not applicable

Crimes (Administration of Sentences) Regulation 2001

Schedule 4 Forms

Form 9 Warrant of commitment to correctional centre

(Clause 233)

(Crimes (Administration of Sentences) Act 1999, section 181)

TO THE Governor of the correctional centre at in the State of New South Wales

WHEREAS of (the offender)

has been found guilty by the Court of the following offence or offences:

AND WHEREAS the Court has sentenced the offender to imprisonment for a period of to commence on

AND WHEREAS the offender:

- (a) *has been serving the sentence by way of periodic detention under a periodic detention order within the meaning of the *Crimes (Administration of Sentences) Act 1999*,
- (b) *has been serving the sentence by way of home detention under a home detention order within the meaning of the *Crimes (Administration of Sentences) Act 1999*,
- (c) *has been released from custody on parole under a parole order within the meaning of the *Crimes (Administration of Sentences) Act 1999*, in respect of the sentence,

AND WHEREAS the Parole Board has revoked the order,

YOU ARE HEREBY DIRECTED to receive the offender into your custody there and (subject to the *Crimes (Administration of Sentences) Act 1999* and to any order under that Act) to detain the offender there for the remainder of the term of the offender's sentence.

Signed: Date:
(Judicial Member/Secretary* of the Parole Board)

Crimes (Administration of Sentences) Regulation 2001

Forms

Schedule 4

TO ALL POLICE OFFICERS in the State of New South Wales

By virtue of section 181 of the *Crimes (Administration of Sentences) Act 1999*, this warrant is sufficient authority for you to arrest, or to have custody of, the offender named in this warrant, to convey the offender to the correctional centre specified in this warrant and to deliver the offender into the custody of the governor of that correctional centre.

*Delete if not applicable

Crimes (Administration of Sentences) Regulation 2001

Schedule 5 Awards

Schedule 5 Awards

(Clause 273)

Bravery Medal

A Bravery Medal of gold plated sterling silver with dark blue and red striped ribbon may be awarded to an officer for conduct of conspicuous merit involving an act of exceptional bravery.

In the event of any further such conduct a plain gold plated bar may be awarded to the officer. The bar is to be attached to the ribbon.

Commendation for Brave Conduct

A Commendation for Brave Conduct (comprising two vertical royal blue stripes separated by a white stripe and with white edging, to which is attached a bronze lion's head) may be awarded to an officer for an act of bravery.

Exemplary Conduct Cross

An Exemplary Conduct Cross of sterling silver with blue ribbon having a central yellow stripe may be awarded to an officer for conduct or service characterised by initiative, leadership or distinctive devotion to duty.

Unit Citation

A Unit Citation (comprising a dark blue ribbon, with a white central band, set in a gilt metal frame) may be awarded to members of a unit who have performed outstanding service.

Meritorious Service Medal

A Meritorious Service Medal of bronze with red ribbon having a central yellow stripe may be awarded to an officer for 20 years of meritorious service to the Department.

Crimes (Administration of Sentences) Regulation 2001

Awards

Schedule 5

For the completion of each additional 5 years of service a clasp lettered with the total number of years of meritorious service may be awarded to the officer, as follows:

- (a) after 25 years of service—a clasp of bronze colour,
- (b) after 30 years of service—a clasp of silver colour,
- (c) after 35 years of service—a clasp of gold colour,
- (d) after 40 years of service—a further clasp of gold colour.

In addition, for the completion of each additional 5 years of service (beyond 20 years) a rosette may be awarded to the officer, as follows:

- (a) after 25 years of service—a rosette of bronze colour,
- (b) after 30 years of service—a rosette of silver colour,
- (c) after 35 years of service—a rosette of gold colour,
- (d) after 40 years of service—a further rosette of gold colour.

Service Medal

A Service Medal of bronze with ribbon having equal stripes of dark blue and white (with blue being the outer and central stripes) may be awarded to an officer for 15 years of satisfactory service to the Department.

Crimes (Administration of Sentences) Regulation 2001

Dictionary

Dictionary

(Clause 3)

accredited spiritual advisor, in relation to a correctional centre, means a spiritual advisor for the time being accredited to be a spiritual advisor at that centre.

approved means approved for the time being by the Commissioner.

attendance site means:

- (a) in relation to a periodic detainee, a place at which the detainee is, by an attendance order under the Act, required to attend, and
- (b) in relation to an offender under Chapter 5, a place where the offender performs, or is required to perform, community service work involving participation in personal development, educational or other programs.

armed post means an area, within a correctional centre, at which an armed correctional officer is regularly stationed.

authorised officer, in relation to a function of the governor of a correctional centre, means the governor or a correctional officer authorised by the governor to exercise the function.

breath test means a test for the purpose of indicating the concentration of alcohol present in a person's blood.

case manager means a person appointed by the Commissioner to be a case manager for the purposes of this Regulation.

case plan means a plan for the management of an inmate while in custody in a correctional centre.

cell includes any room or enclosed space in which an inmate is accommodated.

civil inmate means an inmate who is being held in custody otherwise than because of a criminal offence.

classification manager means a person appointed by the Commissioner to be a classification manager for the purposes of this Regulation.

Commissioner's instructions means instructions issued by the Commissioner under section 235B of the Act.

Commonwealth Ombudsman means the Commonwealth Ombudsman appointed under section 21 (1) of the *Ombudsman Act 1976* of the Commonwealth.

Crimes (Administration of Sentences) Regulation 2001

Dictionary

contact visit means a visit to an inmate in which the inmate and the visitor are permitted physical contact with each other.

correctional centre armoury means an armoury for the storage of firearms.

correctional centre offence has the same meaning as it has in Division 6 of Part 2 of the Act.

Departmental officer means an officer or temporary employee (other than a correctional officer) employed in the Department.

development program has the same meaning as it has in Part 7 of the *Crimes (Sentencing Procedure) Act 1999*.

drug means:

- (a) a prohibited drug or prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985*, or
- (b) a substance listed in Schedule 2, 3 or 4 to the Poisons List under the *Poisons and Therapeutic Goods Act 1966*, or
- (c) any derivative of a substance referred to in paragraph (a) or (b), or
- (d) any mixture containing such a substance or derivative.

escape-risk classification means a classification under clause 24.

Ethics Committee means the Ethics Committee established under clause 170.

exempt body means:

- (a) the Ombudsman, the Judicial Commission, the New South Wales Crime Commission, the Anti-Discrimination Board, the Administrative Decisions Tribunal, the Independent Commission Against Corruption, the Privacy Commissioner, the Legal Aid Commission, the Legal Services Commissioner, the Legal Services Tribunal or the Inspector-General, or
- (b) the Commonwealth Ombudsman, the Commonwealth Human Rights and Equal Opportunity Commission or the National Crime Authority.

exempt person means a Member of Parliament, a legal practitioner or a police officer.

extreme high security inmate means an inmate who is designated as an extreme high security inmate as referred to in clause 25.

Crimes (Administration of Sentences) Regulation 2001

Dictionary

force includes the threat to use force and the carriage and use of restraining equipment.

government analyst has the same meaning as **analyst** has in the *Poisons and Therapeutic Goods Act 1966*.

government official means an officer of the Crown, and includes a police officer.

high security inmate means an inmate who is designated as a high security inmate as referred to in clause 25.

high security or extreme high security designation means a designation under clause 25.

home detainee has the same meaning as **offender** has in Part 4 of the Act.

legal practitioner means a legal practitioner who:

- (a) holds a current practising certificate under the *Legal Profession Act 1987* and practises in New South Wales, or
- (b) is qualified to practise, and practises, in another State or Territory and has the right of audience in a court in New South Wales.

letter includes any card, telegram, document or other similar form of written communication, whether or not contained in a parcel, and includes an envelope containing any of those things, but does not include a facsimile transmission.

major offence has the same meaning as it has in Division 6 of Part 2 of the Act.

minor offence has the same meaning as it has in Division 6 of Part 2 of the Act.

nominated officer, in relation to a correctional centre, means:

- (a) the principal security officer, or
- (b) the governor of the centre, or
- (c) any correctional officer or Departmental officer appointed by the principal security officer or by the governor of the centre.

non-contact visit means a visit to an inmate in which the visit takes place in an environment in which physical contact between the visitor and the inmate is prevented.

non-smoking area means a non-smoking area designated under clause 286.

Crimes (Administration of Sentences) Regulation 2001

Dictionary

nursing officer means a registered nurse (within the meaning of the *Nurses Act 1991*) employed by the Corrections Health Service.

offence against discipline has the same meaning as it has in section 95 of the Act.

offender, where used in Chapter 5, means a person in respect of whom a community service order is in force.

parcel means any parcel, package or other similar article, and includes any parcel or package containing any book, newspaper, magazine or other similar printed material.

periodic detainee has the same meaning as **offender** has in Part 3 of the Act.

prescribed CHS officer, in relation to a provision of this Regulation, means:

- (a) the Chief Executive Officer, Corrections Health Service, or
- (b) a medical officer or other member of staff of the Corrections Health Service authorised by the Chief Executive Officer, Corrections Health Service, to exercise the functions of a prescribed CHS officer for the purposes of that provision.

prescribed DCS officer, in relation to a provision of this Regulation, means:

- (a) the Commissioner, or
- (b) a correctional officer or Departmental officer authorised by the Commissioner to exercise the functions of a prescribed DCS officer for the purposes of that provision.

principal security officer means the person appointed by the Commissioner to be the principal security officer for the purposes of this Regulation.

prohibited goods means:

- (a) money, or
- (b) anything that, in the opinion of a nominated officer, is likely to prejudice the good order and security of a correctional centre, or
- (c) any threatening, offensive, indecent, obscene or abusive written or pictorial matter, or
- (d) any offensive, indecent or obscene article.

Crimes (Administration of Sentences) Regulation 2001

Dictionary

restraining equipment means equipment of the kind referred to in clause 122.

senior officer, where used in Part 3 of Chapter 8, means a correctional officer who is holding office or acting in a rank that is of or above the rank of Senior Correctional Officer.

sentencing court's comments, in relation to an inmate, means any recommendation, observation or expression of opinion made by the sentencing court in relation to the inmate's sentence when sentence is originally or finally imposed.

spiritual advisor, in relation to a spiritual authority of a particular denomination, means a minister of religion or other person appointed or authorised by that authority to minister to adherents of that denomination.

spiritual authority means a religious or other spiritual organisation.

supervisor means:

- (a) in relation to a periodic detainee at a work site or attendance site, the person supervising the detainee in accordance with clause 187 (a), and
- (b) in relation to a home detainee, means such person as the Commissioner may appoint to supervise the home detainee.

the Act means the *Crimes (Administration of Sentences) Act 1999*.

unconvicted inmate means an inmate who is not a convicted inmate or a civil inmate.

visitor means a visitor to a correctional centre or to a particular person within a correctional centre.

work site means:

- (a) in relation to a periodic detainee, a place at which the detainee is, by a work order under the Act, directed to perform work, and
- (b) in relation to an offender under Chapter 5, a place where the offender performs, or is required to perform, community service work (not involving participation in personal development, educational or other programs).

Education Regulation 2001

under the

Education Act 1990

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

JOHN AQUILINA, M.P.,
Minister for Education and Training

Explanatory note

This Regulation replaces the *Education Regulation 1996* which will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation, which is in substantially the same terms as the Regulation it replaces, deals with the following matters:

- (a) the publication of the results of basic skills testing,
- (b) the particular kinds of children in respect of whom certain non-government schools may be registered,
- (c) the constitution of parents and citizens associations and kindred associations,
- (d) the publication of the rules of the Board of Studies,
- (e) the saving of certain syllabuses and district council areas.

This Regulation is made under the *Education Act 1990*, including section 130 (the general regulation-making power).

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

Education Regulation 2001

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Education Regulation 2001

1 Name of Regulation

This Regulation is the *Education Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Education Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

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

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

5 Publication of results: section 18A

- (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.
- (2) The following are included for the purposes of subclause (1) (a):
 - (a) English Language and Literacy Assessment (ELLA),
 - (b) Year 3 and 5 Basic Skills Test (BST),
 - (c) Primary Writing Assessment,
 - (d) Secondary Numeracy Assessment Program (SNAP),
 - (e) 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.

Clause 5 Education Regulation 2001

- (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 at which the student is 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.

6 Registration of non-government schools as efficient for education of children of particular kind: sections 53, 64, 65

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.

7 Constitution of parents and citizens associations and kindred associations for government schools: section 115

- (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 parents of children attending the school or residents 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 Publication of rules of Board of Studies: section 131

- (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.
- (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.

9 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.

Clause 10 Education Regulation 2001

10 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.

11 General savings provision

Any act, matter or thing that, immediately before the repeal of the *Education Regulation 1996*, had effect under that Regulation is taken to have effect under this Regulation.

Education Teaching Service Regulation 2001

under the

Teaching Services Act 1980

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

JOHN AQUILINA, M.P.,
Minister for Education and Training

Explanatory note

This Regulation replaces the *Teaching Services (Education Teaching Service) Regulation 1994* which will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation makes provision in respect of the following matters:

- (a) the duties and responsibilities of members of staff of the Education Teaching Service,
- (b) the medical examination of members of staff to ascertain their fitness to perform their duties,
- (c) the manner of dealing with breaches of discipline under Part 4 of the *Teaching Services Act 1980*, including provision for an alternative monitoring procedure instead of the laying of charges in respect of breaches of discipline,
- (d) the action to be taken where a charge of a breach of discipline is found not to have been proved.

This Regulation is made under the *Teaching Services Act 1980*, including sections 84 and 100.

Education Teaching Service Regulation 2001

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Education Teaching Service Regulation 2001

Clause 1

Preliminary

Part 1

Education Teaching Service Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Education Teaching Service Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Teaching Services (Education Teaching Service) Regulation 1994* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Department means the Department of Education and Training.

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

disciplinary authority means the Director-General or a person who is the holder of, or is acting in, any position referred to in clause 13.

member of staff means an officer or temporary employee of the Education Teaching Service, whether a member of the teaching staff, administrative staff or any other staff of the Service.

school means a government school established under the *Education Act 1990*, and includes any school department, school faculty or school counselling team.

statutory conditions of service means such of the provisions of:

- (a) the Act, or
- (b) this Regulation, or
- (c) any determination under section 25 of the Act,

as impose duties on members of staff.

the Act means the *Teaching Services Act 1980*.

(2) The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Clause 4	Education Teaching Service Regulation 2001
Part 1	Preliminary

4 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Teaching Services (Education Teaching Service) Regulation 1994*, had effect under that Regulation is taken to have effect under this Regulation.

Education Teaching Service Regulation 2001

Clause 5

Duties of members of staff

Part 2

Part 2 Duties of members of staff

5 Compliance with statutory conditions of service

- (1) All members of staff must acquaint themselves with the statutory conditions of service.
- (2) The Director-General is to make available to all members of staff copies of the following documents in a reasonably accessible form:
 - (a) the Act,
 - (b) this Regulation,
 - (c) all determinations under section 25 of the Act in relation to members of staff.
- (3) The person in charge of a school or establishment must report to the Director-General any breach of the statutory conditions of service that comes to the person's knowledge.

6 Compliance with directions

- (1) A member of staff 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 staff by means of a notice in writing given to the person who gave the direction.
- (3) The person with whom the request is lodged 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 staff of his or her obligation to comply with the direction as far as is reasonably practicable.

7 Scope of duties

In addition to performing the specific duties attached to the position to which the member is appointed, a member of staff:

- (a) must participate actively in all of the corporate interests of the Department and of the school or establishment in which the member is employed, and

Clause 7 Education Teaching Service Regulation 2001

Part 2 Duties of members of staff

- (b) must undertake such other duties as may be assigned to the member by the person in charge of that school or establishment or by any other person having the authority to assign duties.

8 Disclosure of information

- (1) A member of staff must not, except in the discharge of official duties, use any information gained by or conveyed to the member in the course of those duties.
- (2) A member of staff must not, without the express direction or permission of the Minister or the Director-General, disclose (whether directly or indirectly) any such information.

9 Holding of local government office

A member of staff 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 staff.

10 Management of schools

- (1) A member of staff who is in charge of a school or establishment must manage the school or establishment 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 staff 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 staff to submit suggestions for increasing the efficiency of staff,

Education Teaching Service Regulation 2001

Clause 10

Duties of members of staff

Part 2

- (f) training members of staff and providing opportunities and facilities for them to improve themselves in matters connected with their official duties:
 - (i) by attendance at courses organised by or for the school, and
 - (ii) at tertiary institutions.

11 Medical examination

- (1) For the purpose of ascertaining the fitness of a member of staff 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 staff must comply with the direction.

Clause 12 Education Teaching Service Regulation 2001

Part 3 Breaches of discipline by members of staff

Part 3 Breaches of discipline by members of staff

12 Part subject to Part 3A of the Ombudsman Act 1974

The provisions of this Part are subject to Part 3A of the *Ombudsman Act 1974*.

13 Officers who may deal with breaches of discipline

In accordance with paragraph (a) of the definition of *prescribed officer* in section 82 of the Act, the positions within the Department that contain the following titles are prescribed as positions for the purposes of Division 6 of Part 4 of the Act in its application to the Education Teaching Service:

Deputy Director-General

Assistant Director-General

Director

General Manager

Executive Director

District Superintendent

Disciplinary Inquiry Officer

Senior Manager

14 Procedures for dealing with breaches of discipline

- (1) If it appears to a disciplinary authority that a member of staff may have committed a breach of discipline, the disciplinary authority may, after conducting a preliminary investigation into the matters relating to the alleged breach of discipline:
 - (a) charge the member with the alleged breach in accordance with clause 15, or
 - (b) deal with the alleged breach in accordance with subclause (2).

Education Teaching Service Regulation 2001

Clause 14

Breaches of discipline by members of staff

Part 3

-
- (2) If the disciplinary authority decides not to charge the member of staff with the breach of discipline, the disciplinary authority may, in accordance with such procedures as may be approved by the Director-General:
- (a) make a record in relation to the alleged breach of discipline (including details of the preliminary investigation referred to in subclause (1)), and
 - (b) advise the member of staff that the kind of conduct to which the allegation relates is unacceptable and that the member must not engage in that conduct, and
 - (c) monitor the conduct of the member of staff for such period as the disciplinary authority thinks appropriate.
- (3) Any such record must:
- (a) be kept separate from the personal record of the member of staff, and
 - (b) be kept under strictly limited access as approved by the Director-General, and
 - (c) must include a statement that the alleged breach of discipline did not, at the time the record was made, result in any charge being brought against the member of staff.
- (4) If the disciplinary authority is satisfied that the member of staff has, during the period of monitoring, continued to engage in conduct of a kind that was the subject of the alleged breach of discipline, the authority may, in accordance with clause 15, charge the member with a breach of discipline in respect of that conduct.
- (5) This clause does not apply in relation to an alleged breach of discipline by a staff member if the member of staff has, before the commencement of this Regulation, already been charged with the alleged breach of discipline.

15 Laying of charges

- (1) A charge may be laid by a disciplinary authority against a member of staff for an alleged breach of discipline orally or in writing. If the charge is laid orally, the member of staff must be furnished with a written copy of the charge within a reasonable time.

Clause 15 Education Teaching Service Regulation 2001

Part 3 Breaches of discipline by members of staff

- (2) At the time the member of staff is charged by a disciplinary authority in writing or furnished with a written copy of the charge, the member must be directed to send a written reply to the authority within 14 days (or such other period of time as is specified in the direction).
- (3) The reply:
 - (a) must admit or deny the truth of the charge, and
 - (b) may give any explanation that the member of staff wishes to make in regard to the charge.
- (4) If a reply is not received by the disciplinary authority within the time specified in the direction, the member of staff is to be taken to have denied the truth of the charge.

16 Dealing with charges

- (1) If a member of staff denies the truth of a charge, it is to be dealt with in accordance with this clause.
- (2) A disciplinary authority (other than the disciplinary authority that laid the charge) is to deal with the charge:
 - (a) by directing the member of staff to furnish an explanation in writing within 14 days (or such other period of time as is specified in the direction), or
 - (b) by conducting an inquiry.
- (3) If a disciplinary authority takes action under subclause (2) (a):
 - (a) the authority may make a finding after considering any reports relating to the breach of discipline and any replies or explanations of the member of staff, or
 - (b) the authority may decide to deal with the charge by conducting an inquiry under subclause (2) (b).
- (4) If a disciplinary authority takes action under subclause (2) (a), the authority:
 - (a) may consider the matter without regard to legal formality, and
 - (b) is not bound by any law or practice as to evidence, and
 - (c) may seek advice from suitably qualified officers of the Department on any legal, technical or procedural matter that may arise.

Education Teaching Service Regulation 2001

Clause 16

Breaches of discipline by members of staff

Part 3

-
- (5) If 2 or more charges are laid against a member of staff at the one time and the member admits to the truth of one or more but not all of the charges, all of the charges may be dealt with in the manner prescribed by subclause (2).

17 Conduct of inquiries

- (1) If it is decided to conduct an inquiry, the disciplinary authority must give written notice to the member of staff charged of the time, date and place at which the inquiry is to be conducted.
- (2) If the member of staff does not, without reasonable cause, appear at the time, date and place notified, the charge may be inquired into and dealt with in the member's absence.
- (3) For the purposes of an inquiry, a disciplinary authority may:
- (a) call on any person to appear and to give such evidence, and produce such documents, as appear to the authority to be relevant to the inquiry, and
 - (b) seek advice from suitably qualified officers of the Department on any legal, technical or procedural matter that may arise during the inquiry.
- (4) A member of staff must not, without reasonable cause:
- (a) fail to appear, give evidence or produce documents at an inquiry when called on to do so, or
 - (b) knowingly give false or misleading evidence at an inquiry.
- (5) A member of staff may be represented at an inquiry by a barrister, solicitor or agent employed at the member's expense.
- (6) A disciplinary authority may conduct an inquiry without regard to legal formality, and is not bound by any law or practice as to evidence, but may inform himself or herself of any matter in such manner as he or she thinks fit.
- (7) However, a disciplinary authority must not inform himself or herself of, or take into consideration, any matter that has not been disclosed in evidence at a sitting of the inquiry if the matter is one that ought, in the interests of justice, to be available for challenge or testing by the persons entitled to be present at the inquiry.

Clause 17 Education Teaching Service Regulation 2001

Part 3 Breaches of discipline by members of staff

- (8) Nothing in subclause (7) prevents a disciplinary authority:
- (a) from informing himself or herself of, or taking into consideration, any matter of which a court would be entitled to take judicial notice, or
 - (b) when deciding whether or how to punish a member of staff found to have committed a breach of discipline, from taking into consideration any previous breach of discipline:
 - (i) that has been found by a disciplinary authority to have been committed by the member, or
 - (ii) that was dealt with in accordance with clause 14 (2).

18 Witnesses' expenses

If a witness is summoned to attend and give evidence at an inquiry conducted by a disciplinary authority, the disciplinary authority may grant reasonable expenses for the attendance to the witness.

19 Charge not proved

- (1) If a charge of breach of discipline against a member of staff is found not to be proved, any suspension of the member must immediately be removed.
- (2) If a charge of breach of discipline against a member of staff is found not to be proved, the charge must not be recorded in (or, if already recorded, must be removed from) the member's personal record.
- (3) If a charge of breach of discipline is a charge that the member of staff has engaged in conduct:
 - (a) of a sexual nature involving a child or student, or
 - (b) that, in the opinion of the Director-General, has resulted in (or may result in) a child or student suffering physical, emotional or psychological harm of any kind,

the charge must be recorded separately from the member's personal record and kept under strictly limited access as approved by the Director-General.

- (4) If a charge referred to in subclause (3) is found not to be proved, that fact must also be noted on the record referred to in that subclause.

Education Teaching Service Regulation 2001

Clause 20

Breaches of discipline by members of staff

Part 3

20 Director-General to be notified of serious offences committed by members of staff

- (1) A member of staff who is charged with, or who is found guilty of, an offence referred to in section 86 of the Act must immediately report that fact to the Director-General.
- (2) On becoming aware of the fact that a member of staff has been charged with, or has been found guilty of, an offence referred to in section 86 of the Act, the person in charge of the school in which the member is employed must also immediately report that fact to the Director-General.

Employment Protection Regulation 2001

under the

Employment Protection Act 1982

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Employment Protection Act 1982*.

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

Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Employment Protection Regulation 1995*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

Part 1 of this Regulation contains formal provisions.

Part 2 of this Regulation prescribes the classes of cases in which sections 7 and 8 of the *Employment Protection Act 1982* do not apply. (Those sections require an employer to notify the Industrial Registrar of the employer's intention to terminate the employment of an employee and of the reasons for the termination.) The classes of cases include those of the following:

- (a) employees who have been employed by the employer for less than 12 months,
- (b) employees who are not covered by an award or agreement,
- (c) employees who are paid severance pay at the rate set out in Schedule 1 to the Regulation.

Employment Protection Regulation 2001

Explanatory note

Part 3 of this Regulation deals with notices required to be given under the Act. That Part, with Schedule 2 to the Regulation, prescribes the form that those notices are to take. The Part also contains provisions relating to the number of copies of certain notices that are required and the provision of further particulars in connection with the notices.

Part 4 of this Regulation contains the following miscellaneous provisions:

- (a) a provision that, with Schedule 2, prescribes the form of a request for the exercise of certain jurisdiction under the Act,
- (b) a savings provision relating to the Regulation that this Regulation replaces.

This Regulation is made under the *Employment Protection Act 1982* and, in particular, under section 24 (the general regulation-making power) and the sections referred to in the Regulation.

Employment Protection Regulation 2001

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Employment Protection Regulation 2001

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Employment Protection Regulation 2001

Clause 1

Preliminary

Part 1

Employment Protection Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Employment Protection Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Employment Protection Regulation 1995* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

In this Regulation:

the Act means the *Employment Protection Act 1982*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Clause 5 Employment Protection Regulation 2001

Part 2 Cases in which section 7 or 8 of the Act does not apply

Part 2 Cases in which section 7 or 8 of the Act does not apply

5 Non-application of section 7—employee trial period

- (1) This clause applies to an employee who is, under the terms of the employee's engagement as notified to the employee at the time of engagement, engaged on a trial basis for a specified period.
- (2) Section 7 of the Act does not apply in relation to the termination or proposed termination of employment of any such employee:
 - (a) if the specified period of engagement on a trial basis is 6 months or less—before, or within 7 days after, the expiration of that period, or
 - (b) in any other case—before the expiration of a period of 6 months after the commencement of the employment.

6 Non-application of section 7—employee engaged for less than 12 months

Section 7 of the Act does not apply in relation to the termination or proposed termination of employment of an employee unless, at the time of termination of that employment, the employee has been, or will have been, continuously employed by the employer for at least 12 months ending at that time.

7 Non-application of sections 7 and 8—where Commission's order applies

- (1) Sections 7 and 8 of the Act do not apply in relation to the termination or proposed termination of employment of an employee to whom subclause (2) applies.
- (2) If the Commission has made an order under the Act in consequence of a report under section 11 of the Act so as to apply to and in relation to:
 - (a) all or any of the employees to whom the report relates, and
 - (b) such other employees of the employer concerned as may subsequently have their employment terminated by the employer and as are specified or described in the order (as referred to in section 14 (2) (a) (ii) of the Act),

this subclause applies to the employees referred to in paragraph (b) to the extent that the order applies to and in relation to them.

Employment Protection Regulation 2001

Clause 8

Cases in which section 7 or 8 of the Act does not apply

Part 2

8 Non-application of sections 7 and 8—business transmitted to another employer

(1) If:

- (a) a business, undertaking or establishment or any part of it is, or is to be, transmitted from an employer (*the transmitter*) to another employer (*the transferee*), and
- (b) a person who at the time of the transmission is an employee of the transmitter in that business, undertaking, establishment or part of it becomes, or is to become, an employee of the transferee,

sections 7 and 8 of the Act do not apply in relation to the termination or proposed termination of the employment of that person with the transmitter.

(2) In this clause, *transmission*, without limiting its ordinary meaning, includes transfer, conveyance, assignment or succession, whether by agreement or by operation of law.

9 Non-application of sections 7 and 8—employee not covered by an award or agreement

Sections 7 and 8 of the Act do not apply in relation to the termination or proposed termination of employment of an employee to whom no award or agreement applies.

10 Non-application of sections 7 and 8—where employee paid severance pay at prescribed rate

Sections 7 and 8 of the Act do not apply in relation to the termination or proposed termination of employment of an employee who is paid, at or before the time of termination, a severance payment in respect of that termination the amount of which is at least equal to an amount calculated at the rate applicable in respect of the employee under the scale set out in Schedule 1.

11 Non-application of sections 7 and 8—other cases

Sections 7 and 8 of the Act do not apply in relation to the termination or proposed termination of employment of:

- (a) an employee whose employment is covered by an award or agreement that makes provision for the making of a severance payment to the employee in consequence of that termination or proposed termination of employment, or

Page 7

Clause 11 Employment Protection Regulation 2001

Part 2 Cases in which section 7 or 8 of the Act does not apply

- (b) an employee:
 - (i) who, under the terms of the employee's engagement as notified to the employee at the time of his or her engagement, is engaged for a specified period of time or for a specified task, and
 - (ii) whose employment is not terminated before the expiry of that period or the completion of the specified task.

Employment Protection Regulation 2001

Clause 12

Notices

Part 3

Part 3 Notices

12 Notice under section 7 to be in duplicate

An employer must serve any notice of intention to terminate the employment of an employee required by section 7 of the Act in duplicate or such other number as the Registrar directs and notifies to the employer.

Maximum penalty: 0.5 penalty unit.

13 Notice under section 7 or 8

(1) A notice under section 7 or 8 of the Act must be in the form set out in Form 1 in Schedule 2.

(2) An employer who serves a notice under section 7 or 8 of the Act that is not in the form set out in Form 1 is guilty of an offence.

Maximum penalty: 0.5 penalty unit.

(3) For the purposes of section 7 (2) (h) of the Act, the matters:

(a) of which particulars are required for completion of Form 1 in Schedule 2, and

(b) that are not specified in section 7 (2) (a)–(g) of the Act, are prescribed.

(4) A notice is taken not to have been served for the purposes of section 8 (1) of the Act unless it contains the particulars required for completion of Form 1 in Schedule 2.

14 Further particulars in relation to notice under section 7 or 8

(1) If the Commission is of the opinion that, for the purposes of any proceedings under the Act, it is necessary or desirable that any particulars contained in a notice under section 7 or 8 of the Act (whether served on the Registrar before or after the commencement of this Regulation) be clarified, it may direct the Registrar to require those particulars to be clarified in such manner and within such time as it may specify. The Registrar is, by notice in writing served on the employer who served the notice, to make that requirement known to the employer.

Clause 14 Employment Protection Regulation 2001

Part 3 Notices

- (2) An employer who refuses or fails to comply with a requirement specified in a notice served on the employer under subclause (1) is guilty of an offence.

Maximum penalty: 0.5 penalty unit.

Employment Protection Regulation 2001

Clause 15

Miscellaneous

Part 4

Part 4 Miscellaneous

15 Request by union or employer for Commission to exercise jurisdiction

For the purposes of section 12 (1A) of the Act, the prescribed form is Form 2 in Schedule 2.

16 Saving

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

Employment Protection Regulation 2001

Schedule 1 Scale of severance payments

Schedule 1 Scale of severance payments

(Clause 10)

Length of continuous service by employee	Rate for calculation of amount of severance payment	
	If employee under 45 years of age	If employee 45 or more years of age
Less than 1 year	Nil	Nil
1 year and more but less than 2 years	4 weeks' pay	5 weeks' pay
2 years and more but less than 3 years	7 weeks' pay	8.75 weeks' pay
3 years and more but less than 4 years	10 weeks' pay	12.5 weeks' pay
4 years and more but less than 5 years	12 weeks' pay	15 weeks' pay
5 years and more but less than 6 years	14 weeks' pay	17.5 weeks' pay
6 years or more	16 weeks' pay	20 weeks' pay

Employment Protection Regulation 2001

Forms

Schedule 2

Schedule 2 Forms

(Clauses 13 and 15)

Form 1 Notice to Industrial Registrar

(Employment Protection Act 1982, sections 7 and 8
Employment Protection Regulation 2001, clause 13)

To be lodged at: The Office of the Industrial Registrar, Sydney

Important notes concerning this form

- (1) This form is to be used in giving the notice required under either section 7 or section 8 of the *Employment Protection Act 1982*.
- (2) All required information must be provided and all questions answered.
- (3) Time for serving notices:
 - (a) **Notices under section 7**—the Notice (together with the requisite number of copies) should be served on the Industrial Registrar at least 7 days **before** notice of termination of employment is given to the employee concerned, or (if notice of termination is not being given to the employee) at least 7 days before the termination of employment.
 - (b) **Notices under section 8**—the Notice should be served on the Industrial Registrar **not later than** 7 days after the employee is given notice of termination (where notice is given), or not later than 7 days after the date of termination (if employment was terminated without notice).
- (4) Number of copies required:
 - (a) **Notices under section 7**—the Notice should be served IN DUPLICATE or such other number of copies as the Industrial Registrar directs.
 - (b) **Notices under section 8**—only one copy need be served.
- (5) This form should be typewritten or block letters used.

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Employment Protection Regulation 2001

Schedule 2 Forms

Notice**Information required and questions to be answered**

1 This Notice is given under *section 7/section 8 of the *Employment Protection Act 1982*.

* Delete whichever is inapplicable

Details of employer

2 Employer's full name and address:

Name (for sole employer or partnership give family name(s) and other name(s), for registered company give full registered title):

Trading name (if any):

Full address:

Postcode:

Telephone:

3 Nature of employer's business or industry:

4 Are there particulars of the employer's financial and other resources which the employer desires the Commission to have regard to before making an order under the Act?

YES [] NO []

Note. If the answer is "yes", note that under section 14 (5) of the Act the Commission will take into account such financial or other resources of an employer as the employer discloses to it, either in this Notice or otherwise. Particulars may be disclosed by attaching the details as part of this Notice (see section 7 (2A) of the Act) or they may be disclosed to the Commission later, either in writing or in proceedings before the Commission. Where an employer claims that such details should be treated as confidential, the particulars should be disclosed later and, if in writing, forwarded to the Industrial Registrar in a sealed envelope marked "CONFIDENTIAL" with a covering letter, referring to this Notice, and setting out briefly why confidentiality is sought.

5 Is the employer a member of an industrial union of employers?

YES [] NO []

If the answer is "yes", name of union:

Details of employee

6 Employee's full name and address:

Postcode:

Telephone:

Employment Protection Regulation 2001

Forms

Schedule 2

-
- 7 Age of employee:
Under 45 45 or over
Date of birth:
- 8 Employee is employed as:
Adult Junior Apprentice
- 9 Employee is employed:
Full time Part time Casual Other (specify):
- 10 Is the employee a member of a relevant union?
YES NO NOT KNOWN
If the answer is "yes", name of union:

Employment details

- 11 Date on which employee last entered employment:
- 12 Date on or after which termination of employment effective:
- 13 Period of service:
years: months:
- 14 Work location (address):
- 15 Is the employee covered by a State Award/Formal Industrial Agreement/Enterprise Agreement:
YES NO
IF COVERED BY STATE AWARD/FORMAL INDUSTRIAL AGREEMENT/ENTERPRISE AGREEMENT:
(a) Name or Number:
(b) Award/Formal Industrial Agreement/Enterprise Agreement classification:
(c) Position occupied or duties performed:
(d) Ordinary time weekly Award/Formal Industrial Agreement/Enterprise Agreement rate of pay:
\$

Employment Protection Regulation 2001

Schedule 2 Forms

IF NO AWARD OR AGREEMENT APPLICABLE:

(a) Position occupied or duties performed:

(b) Ordinary rate of pay:

\$ per week

16 Particulars of reason or reasons for termination of employment (if space insufficient attach separate sheet):

17 Period of any notice given to employee:

weeks:

Payments made in consequence of termination

18 Give particulars of all payments *made/to be made to the employee in consequence of the termination of his or her employment. (Where known, give amount to the nearest dollar. If not known, give the basis for calculation of the amount.)

* Delete whichever is inapplicable

Wages (including allowances etc):

\$

Holiday pay:

\$

Long service leave:

\$

Employment Protection Regulation 2001

Forms

Schedule 2

Pay in lieu of notice:

\$

Severance/termination pay:

\$

calculated according to the following formula:

Superannuation—per Trust Deed:

\$

Superannuation—supplement by employer:

\$

Other (give details):

\$

19 Is an order for payment of severance pay contested on any grounds?

YES [] NO []

If the answer is “yes”, briefly set out the grounds relied on (if space insufficient attach separate sheet):

Signed:

for/on behalf of Employer

Date:

Lodged by:

Employment Protection Regulation 2001

Schedule 2 Forms

Form 2 Notice by union or employer to the Commission

(Employment Protection Act 1982, section 12 (1A)
Employment Protection Regulation 2001, clause 15)

NOTICE BY UNION OR EMPLOYER TO THE COMMISSION

PURSUANT to the provisions of section 12 (1A) of the *Employment Protection Act 1982*:

*I/We (name/s) request the Commission to exercise its jurisdiction under the Act in relation to the Registrar's report relating to the *intended termination/reasons for termination of employment of (name/s)

Signature of applicant/s:

Address of applicant/s:

Date:

To: the President of the Commission

* Delete whichever inapplicable

Funeral Funds Regulation 2001

under the

Funeral Funds Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Funeral Funds Act 1979*.

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

This Regulation replaces the *Funeral Funds Regulation 1994* which is repealed on 1 September 2001 by section 10 of the *Subordinate Legislation Act 1989*.

This Regulation makes provision for the following matters:

- (a) requirements in relation to funeral contribution funds, including documents to accompany applications for registration and applications for approval to alter or add to rules of a fund, registration requirements and particulars that are to appear in the register of contributors that is kept by a fund,
- (b) requirements in relation to pre-arranged funeral funds, including documents to accompany applications for registration of trustees, the qualifications for registration, the form and content of auditors' reports and the maximum commission a pre-arranged funeral fund is entitled to charge,
- (c) the fees payable to the Director-General in relation to funeral contribution funds and pre-arranged funeral funds,
- (d) minor, consequential or ancillary matters.

This Regulation is made under the *Funeral Funds Act 1979*, and, in particular, under section 92 (the general power to make regulations) and the sections referred to in the Regulation.

Funeral Funds Regulation 2001

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Funeral Funds Regulation 2001

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Clause 1 Funeral Funds Regulation 2001

Part 1 Preliminary

Funeral Funds Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Funeral Funds Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Funeral Funds Regulation 1994* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

approved form means a form approved for the time being by the Director-General.

the Act means the *Funeral Funds Act 1979*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 3.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Funeral Funds Regulation 2001

Clause 5

Funeral contribution funds

Part 2

Part 2 Funeral contribution funds

5 Additional documents to accompany applications for registration to carry on contributory funeral benefit business (section 12)

- (1) For the purposes of section 12 (2) (b) (iii) of the Act, the following documents are prescribed as documents that must accompany an application for registration to carry on a contributory funeral benefit business:
- (a) a statement of the capital structure of the company (including the capital paid-up and the nature and value of the shares),
 - (b) a copy of each agreement made with a person for the carrying out of funeral services for the company,
 - (c) a copy of each agreement made with a person for the collection of contributions on behalf of the company,
 - (d) a description of the types of funeral services proposed to be provided by the company,
 - (e) a statement of the company's proposed records with respect to membership, accounts and statistics,
 - (f) an actuarial assessment of the adequacy of the records referred to in paragraph (e) for the proper conduct of the funeral contribution business of the company,
 - (g) a copy of the tables of contribution rates proposed to be used by the company, together with a statement of the bases and formulas from which those rates have been calculated,
 - (h) actuarial projections of the expected income and expenditure of the company over the next 10 years, prepared in accordance with Schedule 1,
 - (i) a statement of the proposed manner of providing for any financial deficiencies, including financial deficiencies appearing from the projections referred to in paragraph (h),
 - (j) a statement of the proposed method of offsetting any overdue contributions against the amount to be paid out on a contributorship if the contributor ceases contributing to the fund before any contingency occurs on which a benefit is required to be provided.

Clause 5 Funeral Funds Regulation 2001

Part 2 Funeral contribution funds

- (2) An actuarial assessment or projection referred to in subclause (1) must contain a statement to the effect that the assessment or projection has been prepared by an actuary in the knowledge of the aims of the company and of the types of contributions agreements proposed to be transacted by the company.

6 Requirements for registration (section 13)

- (1) For the purposes of section 13 (1) (g) of the Act, \$20,000 is prescribed as the maximum payment (by way of a funeral benefit) that a company may provide for in its rules, being the amount above which the company ceases to be entitled to be registered to carry on contributory funeral benefit business.
- (2) For the purposes of section 13 (1) (i) of the Act, the rules of a company proposing to carry on contributory funeral benefit business must provide that, on the death of any person:
- (a) who has contributed for at least 10 years to the funeral contribution fund proposed to be constituted by the company, and
 - (b) who has ceased before his or her death so to contribute,
- the company will pay an amount, equal to the paid-up value of the person's contributions, towards the cost of a funeral service for the person to be provided under an agreement between the company and a funeral director.
- (3) For the purposes of this clause, the paid-up value of contributions paid by a person is taken to be:
- (a) the amount certified by an actuary to be the equitable share to which the person is entitled in the funeral contribution fund proposed to be constituted by the company, or
 - (b) the amount calculated in accordance with a formula certified by an actuary to be a formula from which that share can be calculated,

having regard to the contributions paid and benefits received by the person before the person ceased contributing to the fund.

Funeral Funds Regulation 2001

Clause 7

Funeral contribution funds

Part 2

7 Documents to accompany application for approval of alteration of or addition to rules (section 15)

For the purposes of section 15 (2) of the Act, the following documents must accompany an application for approval of an alteration of or addition to the rules of a funeral contributions fund:

- (a) a copy of a record of the alteration or addition, each signed by a director, and by the secretary, of the fund,
- (b) a statement, signed by an actuary, that the alteration or addition will not prejudice the stability of the fund.

8 Limitations on certain management expenses (section 21)

For the purposes of section 21 (1) of the Act, the maximum amount that a funeral contribution fund may pay for the purposes referred to in paragraphs (a), (b) and (c) of that subsection is 2 per cent of the income accrued from the investments of the fund.

9 Additional particulars in returns by funeral contribution funds (section 24)

For the purposes of section 24 (2) (e) of the Act, the following additional particulars must be contained in a funeral contribution fund's annual return:

- (a) the number of persons who were contributing to the fund on the first day of the fund's financial year,
- (b) the number of persons who began contributing to the fund during the fund's financial year,
- (c) the numbers of service funeral benefits provided during the fund's financial year:
 - (i) for single cover contributors to the fund, and
 - (ii) for family cover contributors to the fund,
- (d) the numbers of cash funeral benefits provided during the fund's financial year:
 - (i) for single cover contributors to the fund, and
 - (ii) for family cover contributors to the fund,
- (e) the number of persons who ceased contributing to the fund during the fund's financial year otherwise than by reason of the provision of a funeral benefit,
- (f) the number of persons who were contributing to the fund on the last day of the fund's financial year.

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Clause 10 Funeral Funds Regulation 2001

Part 2 Funeral contribution funds

10 Additional particulars to appear in register of contributors to funeral contribution fund (section 26)

For the purposes of section 26 (2) (d) of the Act, if:

- (a) a person ceases to be a contributor to a funeral contributions fund, and
- (b) an amount equal to the paid-up value of the person's contributions is paid towards the cost of a funeral service for that person,

the fund must enter in its register of contributors a statement of the amount so paid.

11 Contents of abstract of actuary's report of investigation of funeral contribution fund (section 28)

For the purposes of section 28 (2) of the Act, an abstract of an actuary's report of an investigation of a funeral contribution fund:

- (a) must be prepared in the manner, and must contain the particulars, specified in Schedule 2, and
- (b) in relation to the statements and information required by clauses 2 and 3 of Schedule 2—must contain those statements and that information in the same order, and with the same numbering and lettering, as set out in the clauses under which the statements and information are required.

Funeral Funds Regulation 2001

Clause 12

Pre-arranged funeral funds

Part 3

Part 3 Pre-arranged funeral funds

12 Documents to accompany application for registration of trustees (section 35)

For the purposes of section 35 (2) (b) of the Act, a copy of the bond or arrangement referred to in clause 13 is prescribed as a document required to accompany an application for registration as the trustee or trustees of trust funds.

13 Qualifications for registration as trustee (section 36)

For the purposes of section 36 (1) (c) of the Act, the prescribed qualification for registration as a trustee of trust funds is that the corporation or group of individuals concerned has entered into a bond (or such other financial arrangement as approved by the Director-General) for an amount that, in the opinion of the Director-General, is sufficient to secure the due administration of the trust funds for which the corporation or group proposes to act as trustee.

14 Maximum commission chargeable (section 46)

For the purposes of section 46 (b) of the Act, the maximum amount of commission to which a pre-arranged funeral fund is entitled is 2 per cent of the income accrued from the investments of the fund.

15 Particulars of funeral service to be contained in contract (section 51)

For the purposes of section 51 of the Act:

- (a) the funeral services to which that section applies are those specified in Column 1 of the Table to this clause, and
- (b) the particulars prescribed in relation to any such service are those specified in Column 2 of that Table in relation to that service.

Clause 15	Funeral Funds Regulation 2001
Part 3	Pre-arranged funeral funds

Table

Column 1	Column 2
Supply of coffin or casket	The principal material to be used in the coffin or casket The type of lid on, and the method of closure of, the coffin or casket The types of any external or internal trimmings on or in the coffin or casket The finish to be applied to the external surfaces of the coffin or casket
Provision of vehicles	The classes of vehicles The number of vehicles in each class
Conveyance of persons and the remains of the deceased	The maximum distance over which conveyance will be provided The maximum number of persons who will be conveyed The hours and days when conveyance will be provided without additional charge
Disposal of the remains of the deceased	Whether disposal is to be by way of burial or cremation
Provision of memorial or urn	The design and material of the memorial or urn

16 Accounts and register

- (1) A pre-arranged funeral fund must keep accounts of all trust funds under pre-arranged contracts for which the fund acts as trustee in such a manner as to disclose their true position and to enable the accounts to be conveniently and properly audited.
- (2) In particular, the accounts must contain, in relation to each pre-arranged contract for which the fund acts as trustee:
 - (a) the name and address of each person who is a party to the contract, and
 - (b) the date and file reference of the contract, and
 - (c) particulars of each amount of money paid or other valuable consideration given in respect of which the fund acts as trustee.
- (3) A pre-arranged funeral fund:
 - (a) must keep a register of investments in or to the effect of the approved form, and

Funeral Funds Regulation 2001

Clause 16

Pre-arranged funeral funds

Part 3

-
- (b) within 7 days after purchasing or realising an investment, or receiving interest on it, must enter details of that transaction in the register.

Maximum penalty: 2 penalty units.

17 Independent auditor to prepare auditor's report

- (1) A pre-arranged funeral fund must cause an independent auditor:
 - (a) to audit the records which the fund is required to keep under any law, including the accounts of the fund, and
 - (b) to furnish it with a report of that audit within 3 months after the last day of the fund's financial year.
- (2) A pre-arranged funeral fund must, within 7 days of receiving a report under subclause (1) (b), lodge with the Director-General:
 - (a) a copy of the report, and
 - (b) a copy of every financial statement on which the report is based, together with every explanatory note that forms part of such a statement.

Maximum penalty: 2 penalty units.

18 Qualifications as an independent auditor

- (1) A person is not qualified to be an auditor of a pre-arranged funeral fund unless the person is a registered company auditor (within the meaning of the *Corporations Act 2001* of the Commonwealth).
- (2) An auditor of a pre-arranged funeral fund is not an independent auditor:
 - (a) if (otherwise than as auditor) the person is an officer or employee of the fund, or
 - (b) if the person is a partner, employer or employee of a person who is (otherwise than as an auditor) an officer or employee of the fund.
- (3) Appointment as the public officer of a pre-arranged funeral fund for the purposes of any law relating to taxation does not in itself render a person unqualified to be an independent auditor of the fund.

Clause 19 Funeral Funds Regulation 2001

Part 3 Pre-arranged funeral funds

19 Form and content of auditors' reports

An auditor's report on a pre-arranged funeral fund must include statements by the auditor as to the following:

- (a) whether the auditor has obtained all the information and explanations which, to the best of his or her knowledge and belief, were necessary for the purposes of the audit,
- (b) whether the financial statements on which the auditor based the report are in agreement with the fund's books of account and returns,
- (c) whether, in his or her opinion, proper books of account have been kept by the fund,
- (d) whether, in his or her opinion and to the best of his or her knowledge and according to the explanations given to him or her, the accounts give the information required by or under the Act in the manner so required and disclose a true and fair view of the state of the trust accounts as at the end of the fund's financial year,
- (e) whether, in his or her opinion, the records that the fund is required to keep by or under the Act have been properly kept,
- (f) whether the requirements of the law relating to the administration of trust funds, including the requirements of the Act and this Regulation, have been observed.

20 Access to books

An auditor of a pre-arranged funeral fund is entitled:

- (a) to be given access at all times to the books, accounts, vouchers, securities and documents of the fund, and
- (b) to be given by the fund such information and explanations as the auditor thinks necessary for the performance of his or her duties.

21 Annual returns to be furnished

Within 3 months after the last day of a pre-arranged funeral fund's financial year, or within such further time as the Director-General may allow, the fund must lodge with the Director-General a return specifying the following:

Funeral Funds Regulation 2001

Clause 21

Pre-arranged funeral funds

Part 3

-
- (a) the number of pre-arranged contracts in respect of which the fund held money or other valuable consideration, as at the first day of that year,
 - (b) the number of pre-arranged contracts in respect of which the fund commenced holding money or other valuable consideration during that year,
 - (c) the numbers of pre-arranged contracts in respect of which the fund ceased holding money or other valuable consideration during that year, separately specified according to whether it ceased to hold that money or consideration pursuant to section 47 of the Act or pursuant to section 48 of the Act,
 - (d) the number of pre-arranged contracts that were cancelled pursuant to section 49 of the Act during that year (being contracts in respect of which the fund was holding money or other valuable consideration when they were cancelled),
 - (e) the number of pre-arranged contracts in respect of which the fund held money or other valuable consideration, as at the last day of that year.

Maximum penalty: 2 penalty units.

22 Funds to provide information in certain cases

- (1) The Director-General may, by notice in writing served on a pre-arranged funeral fund or on any officer or agent of the fund, require the fund or that officer or agent to lodge with the Director-General, within such period as is specified in the notice, any one or more of the following:
 - (a) such particulars as may be so specified with respect to existing or former pre-arranged contracts,
 - (b) such particulars as may be so specified with respect to payments by the fund of amounts held in trust by it,
 - (c) such further particulars with respect to the fund, or to any of its officers or agents or to its affairs, as may be so specified.
- (2) A person must not, without reasonable excuse, fail to comply with a requirement under this clause.

Maximum penalty: 2 penalty units.

Clause 22 Funeral Funds Regulation 2001

Part 3 Pre-arranged funeral funds

- (3) Information provided by a person in response to a requirement under this clause is not admissible in evidence in any proceedings for an offence taken against that person, other than the offence of contravening subclause (2), so long as the person providing the information objected to doing so, at the time of providing it, on the ground that it might tend to incriminate the person.

23 Public inspection of annual returns

On being requested to do so by a person attending the Director-General's office during the ordinary business hours of that office, and on the payment by the person of the appropriate fee, the Director-General:

- (a) must make available for inspection by the person any return lodged with the Director-General under clause 21, and
- (b) must provide the person with a copy of any such return, or of such part of the return as the person specifies, certified under the Director-General's hand and seal to be a true copy.

Funeral Funds Regulation 2001

Clause 24

Miscellaneous

Part 4

Part 4 Miscellaneous

24 Fees

The fees to be taken in the office of the Director-General are as set out in the Table to this clause.

Table

Matter	Fee
For registering a funeral contribution fund	\$346
For registering a pre-arranged funeral fund	\$346
For approving an alteration of or addition to the rules of a funeral contribution fund	\$116
For confirming a scheme of transfer or amalgamation of the contributory funeral benefit business of a funeral contribution fund	\$46
For confirming a scheme of transfer of trust funds under pre-arranged contracts	\$46
For receiving an application for the enlargement or abridgment of time for the doing of any act required by or under the Act to be done	\$46
For receiving a return and any accompanying documents referred to in section 24 (1) of the Act or a return referred to in clause 21	\$46
For receiving a copy of an auditor's report on a pre-arranged funeral fund under clause 17 (2)	\$46
For providing a copy of a return or document, or part of a return or document, certified under the hand and seal of the Director-General to be a true copy	\$1 per page provided that the total fee does not exceed \$30
For confirming the appointment of a substitute or additional trustee under section 38 of the Act	\$46

25 Savings

Any act, matter or thing that, immediately before the repeal of the *Funeral Funds Regulation 1994*, had effect under that Regulation is taken to have effect under this Regulation.

Funeral Funds Regulation 2001

Schedule 1 Actuarial projections

Schedule 1 Actuarial projections

(Clause 5)

1 Actuarial projections

- (1) The actuarial projections referred to in clause 5 (1) (h) of this Regulation must include:
 - (a) a “worst case” projection based on the assumption that a conservative expansion in the company’s funeral contribution business (that is, the minimum expansion necessary to ensure the viability of the company) occurs during each of the years to which the projection relates, and
 - (b) a “best case” projection based on the assumption that a reasonably rapid expansion in the company’s funeral contribution business occurs during each of the years to which the projection relates.
- (2) Each projection:
 - (a) must contain details of the basis of the projection (including the assumptions used as a basis for determining the rate of expansion in the company’s funeral contribution business), and
 - (b) must contain summaries of statistics for family cover and single cover funeral contribution business, and
 - (c) must separately specify the gross contributions for family cover and single cover funeral contribution business payable in each of the years of the company’s projected operations, and
 - (d) must contain a projected revenue account for each of the years of the company’s projected operations, and
 - (e) must contain a projected balance sheet as at the end of each of the years of the company’s projected operations, and
 - (f) must contain a projected valuation balance sheet as at the end of each of the years of the company’s projected operations.

Funeral Funds Regulation 2001

Actuarial projections

Schedule 1

2 Summaries of statistics

- (1) The summaries of statistics referred to in clause 1 (2) (b) of this Schedule must separately specify in respect of family cover and single cover funeral contribution business:
 - (a) the number of contributors, and
 - (b) the total amount of benefits for which the contributors to the fund are contributing, based on the retail prices of the services included in those benefits, but excluding any contingent benefits in respect of the children of the contributors.
- (2) The summaries of statistics referred to in clause 1 (2) (b) of this Schedule must take into account:
 - (a) all business existing at the beginning of each of the years to which the projection relates, and
 - (b) all business acquired during each of those years, and
 - (c) all business discontinued during each of those years, classified according to the cause of the discontinuation.

3 Projected revenue account

The projected revenue account must distinguish between the following types of income and expenditure:

- (a) income derived from contributions,
- (b) income derived from investments,
- (c) income derived from other sources,
- (d) claims,
- (e) new contributorship commissions,
- (f) other expenses involved in the acquisition of new contributorships,
- (g) contributorship renewal commissions,
- (h) other expenses involved in the renewal of existing contributorships,
- (i) income tax.

Funeral Funds Regulation 2001

Schedule 2 Actuarial abstracts

Schedule 2 Actuarial abstracts

(Clause 11)

1 Definitions

In this Schedule:

contribution term, in relation to a contract with a contributor, means the period during which contributions are payable under the contract.

date of a valuation means the date as at which the valuation is made.

inter-valuation period, in relation to an abstract prepared for the purposes of section 28 (2) of the Act, means the period that ends on the date of the valuation included in the report on which the abstract is based and that begins:

- (a) if a valuation has previously been made for the purposes of an investigation under section 28 (1) of the Act—on the date of the previous valuation, or
- (b) if no such valuation has previously been made, but a like valuation has been made—on the date of the like valuation, or
- (c) if no such valuation has previously been made and a like valuation has not been made—on the date on which the company to which the valuation relates began carrying on contributory funeral benefit business.

net contributions, in relation to a valuation, means those contributions for which credit is taken in the valuation.

2 Statements to appear in abstract

The following statements must be prepared in the approved form and must be annexed to every abstract furnished for the purposes of section 28 (2) of the Act:

- (a) a consolidated revenue account for the inter-valuation period,
- (b) a summary and valuation of the contributors to the fund at the valuation date,
- (c) a valuation balance sheet,
- (d) a statement of the rules of the fund that provide for the fund, and that define the benefits payable by, and the contributions payable to, the fund,

Funeral Funds Regulation 2001

Actuarial abstracts

Schedule 2

-
- (e) a summary of the contributorship to the fund.

3 Information to appear in abstract

- (1) The following information must be shown in every abstract prepared for the purposes of section 28 (2) of the Act:
 - (a) the valuation date,
 - (b) the general principles, and full details of the methods, adopted in the valuation,
 - (c) if, in the valuation:
 - (i) published tables were used of mortality or of any other contingencies (including family composition) on which payment of benefits or contributions depends—the name and date of those tables, or
 - (ii) unpublished tables were used of any of the contingencies referred to in subparagraph (i)— the matters set out in the Form (or the date of any previous abstract in which identical statements in or to the effect of the matters set out in the Form were made),
 - (d) the rate of interest assumed in the valuation in relation to the assets of the fund,
 - (e) if, by the method of valuation, future expenses are allowed for by reserving a proportion of annual contributions—that proportion,
 - (f) the average rates of interest earned by the assets of the fund for each of the 5 years preceding the valuation date or, if the company registered as the fund was formed less than 5 years before that date, for each year, or part of a year, since that formation,
 - (g) the total surplus or total deficiency arising during the inter-valuation period, including surplus sums transferred to reserve funds or other accounts during the period, and the amount of surplus or deficiency brought forward from the preceding valuation,
 - (h) the means by which the surplus or deficiency brought forward from the previous valuation and the surplus or deficiency arising during the inter-valuation period have been dealt with,
 - (i) the contribution rates (in tabular form, if practicable) in force at the valuation date and referred to the following determinants:

Funeral Funds Regulation 2001

Schedule 2 Actuarial abstracts

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- (i) whether the rates apply in respect of single lives or for family cover, and
 - (ii) the ages at entry of the contributors,
 - (j) the effect of a contributor's change in marital status on the contribution rate determined in respect of the contributor,
 - (k) the benefits to be provided and the retail values, at the valuation date, of those benefits, according to the contribution rates specified pursuant to paragraph (i),
 - (l) the changes that have occurred in contribution rates during the inter-valuation period and the dates of those changes.
- (2) The statement of principles and methods referred to in subclause (1) (b) must include statements on the following matters:
- (a) whether the principles were determined by the constitution or by its other rules, or, if not, how the principles were determined,
 - (b) the method by which the values of actuarial liabilities have been arrived at and how the ages at entry and contribution terms have been treated for the purposes of the valuation,
 - (c) how the valuation ages and the future contribution terms have been treated for the purposes of the valuation,
 - (d) if a proposed benefit is a funeral service, the future changes in the amount of the benefit which have been allowed for in the valuation,
 - (e) if a proposed benefit is expressed as a cash amount, the rate and type of future bonus (if any) on the bonus that has been allowed for in the valuation, where, by the method of valuation, definite provision is made for future bonuses,
 - (f) if the rules of the fund provide for increases on contributions—details of the future increases in contributions for which credit has been taken in the valuation,
 - (g) the method of allowing for the incidence of the contribution income,
 - (h) the method of allowing for the frequency of contribution payments,
 - (i) the method of allowing for the immediate payment of benefits,
 - (j) the method of allowing for future expenses,

Funeral Funds Regulation 2001

Actuarial abstracts

Schedule 2

-
- (k) the method of allowing for present and possible future liabilities in respect of persons whose contributions have lapsed if those persons are not included in the valuation,
 - (l) if the rules of the fund provide for the waiver of a contributor's contributions during his or her disability or unemployment or during some other specified contingency—the method of allowing for liabilities in respect of present and possible future waivers of contributions,
 - (m) whether, under the valuation method adopted, any contributorship would be treated as an asset, and what steps have been taken to eliminate any such asset from the valuation,
 - (n) how the mortality experienced by the fund compares with the mortality assumed in the valuation.

4 Particular requirements as to calculation and presentation

- (1) If, in an abstract prepared for the purposes of section 28 (2) of the Act or in a statement annexed to such an abstract, amounts of money are shown otherwise than as contribution rates, they must be shown to the nearest dollar.
- (2) In stating the proportion of contributions reserved as referred to in clause 3 (1) (e) of this Schedule, no credit may be taken for any adjustments made in order to ensure that no agreement to contribute to the fund is treated as an asset.
- (3) In calculating the average rate of interest earned in any year, as stated for the purposes of clause 3 (1) (f) of this Schedule, the interest earned in that year must be divided by the mean fund of that year, where:
 - (a) the interest earned in that year is taken as the whole of the investment income credited to the fund during that year, and
 - (b) the mean fund of that year is ascertained by adding half of the value of the fund as it stood at the beginning of that year to half of the value of the fund as it stood at the end of that year, and deducting from that sum half the interest earned in that year.

5 Statements in actuarial abstracts

An abstract prepared for the purposes of section 28 (2) of the Act:

- (a) must be signed by the actuary who made the relevant investigation under section 28 (1) of the Act, and

Funeral Funds Regulation 2001

Schedule 2 Actuarial abstracts

- (b) must contain a statement, signed by the actuary, to the effect that the abstract is in accordance with the valuation report on which it purports to be based, and
- (c) if the actuary is a permanent officer of the fund concerned, must contain a statement, signed by the actuary, to the effect that the actuary is satisfied that the data on which the valuation is based is accurate, or
- (d) if the actuary is not a permanent officer of the fund concerned, must contain:
 - (i) a statement, signed by the actuary, specifying the precautions the actuary has taken to ensure that the data on which the valuation is based is accurate, and
 - (ii) a statement, signed by a permanent officer of the fund, to the effect that the officer is satisfied that the data supplied to the actuary as the basis of the valuation is accurate.

Funeral Funds Regulation 2001

Forms

Schedule 3

Schedule 3 Forms

(Clause 3 (2))

Form

(Funeral Funds Act 1979, Schedule 2, clause 3)

Specimen valuation liabilities used by (Name of fund determined by class of contributor, age of contributor on joining fund and period of payment of contributions by contributor) in valuation made at (date).

Contributions paid by contributors at that date (determined according to the same factors).

Period during which contributor has been paying contributions		5 years		10 years		(see note)	
Class of contributor	Age of contributor (years)	Current contribution rate	Valuation liability	Current contribution rate	Valuation liability	Current contribution rate	Valuation liability
1 Male who was single at the time he commenced to contribute and who has not since married	20						
	30						
	40						
	50						
2 Female who was single at the time she commenced to contribute and who has not since married	20						
	30						
	40						
	50						
3 Male who was already married at the time of commencing to contribute and who has remained married to the same woman, that woman being 5 years younger than he	20						
	30						
	40						
	50						

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Funeral Funds Regulation 2001

Schedule 3 Forms

Note

Add like columns as necessary corresponding to intervals of 10 years until all periods of contributions on which valuation is based are accounted for in this table.

Current retail value (at the valuation date) of the funeral service which is taken as the basis of the valuation liabilities stated in the table is as follows:

Basis on which provision is made for future expenses in this table is as follows:

Signature:

Date:

Industrial Relations (General) Regulation 2001

under the

Industrial Relations Act 1996

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

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

Explanatory note

The object of this Regulation is to remake, with minor changes, the *Industrial Relations (General) Regulation 1996*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation provides for the following:

- (a) enterprise agreements, including the notification of proposed enterprise agreements,
- (b) exemptions from the unfair dismissal provisions,
- (c) pay slips and records to be kept by employers,
- (d) the Industrial Relations Commission, including provisions relating to members of the Commission, Industrial Committees, expenses of witnesses, Commission fees and the functions of the Industrial Registrar,
- (e) industrial organisations, including the seals of organisations and elections,
- (f) public vehicles and carriers, including the procedure for registration or objection to registration of associations of contract drivers or carriers,
- (g) enforcement, including penalty notices for offences,
- (h) other miscellaneous matters.

Industrial Relations (General) Regulation 2001

Explanatory note

This Regulation is made under the *Industrial Relations Act 1996*, including section 407 (the general regulation-making power) and the provisions of the Act referred to in the Regulation.

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

Industrial Relations (General) Regulation 2001

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Clause 1 Industrial Relations (General) Regulation 2001

Part 1 Preliminary

Industrial Relations (General) Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Industrial Relations (General) Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Industrial Relations (General) Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:

the Act means the *Industrial Relations Act 1996*.

the 1991 Act means the *Industrial Relations Act 1991* (as repealed by the *Industrial Relations Act 1996*).

Note. Expressions used in this Regulation that are defined in the Act have the meanings given by the Act (see section 11 of the *Interpretation Act 1987*).

- (2) The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Industrial Relations (General) Regulation 2001	Clause 4
Enterprise agreements	Part 2

Part 2 Enterprise agreements

4 Notification of proposed enterprise agreement to which employees are parties

The Industrial Registrar is to advise, pursuant to section 36 (3) of the Act, the following of a proposed enterprise agreement under which employees are a party that is notified to the Industrial Registrar:

- (a) the secretary or chief executive of each State peak council,
- (b) the secretary or chief executive of any industrial organisation that is a party to an award or enterprise agreement that then applies to the employees for whom the proposed enterprise agreement is to be made.

Clause 5 Industrial Relations (General) Regulation 2001

Part 3 Unfair dismissals

Part 3 Unfair dismissals

5 Exemptions from unfair dismissal provisions—maximum annual remuneration of employees for whom employment conditions not set by industrial instrument

- (1) For the purposes of section 83 (1) (b) of the Act, the amount prescribed is:
 - (a) except as provided by paragraph (b)—the specified rate referred to in regulation 30BB of the *Workplace Relations Regulations 1996* of the Commonwealth from time to time, or
 - (b) that amount as indexed from time to time in accordance with regulation 30BF of those Regulations.
- (2) This clause applies with respect to dismissals occurring on or after 1 October 1997, whether the contracts of employment concerned were entered into before or after that date.
- (3) A change in the amount prescribed in accordance with subclause (1) applies with respect to dismissals occurring on or after the date on which the change occurs, whether the contracts of employment concerned were entered into before or after that date.

6 Other exemptions from unfair dismissal provisions

- (1) For the purposes of section 83 (2) of the Act, the following classes of employees are exempted from Part 6 of Chapter 2 of the Act:
 - (a) employees engaged under a contract of employment for a specified period of time, if the specified period is less than 6 months,
 - (b) employees engaged under a contract of employment for a specific task,
 - (c) employees serving a period of probation or qualifying period, if the duration of the period, or the maximum duration of the period, is determined in advance and either:
 - (i) the period, or the maximum duration, is 3 months or less, or
 - (ii) if the period, or the maximum duration, is more than 3 months—the period, or the maximum duration, is reasonable having regard to the nature and circumstances of the employment,

Industrial Relations (General) Regulation 2001

Clause 6

Unfair dismissals

Part 3

- (d) employees engaged on a casual basis for a short period except employees who:
 - (i) are engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment during a period of at least 6 months, and
 - (ii) would, but for the dismissal, have had a reasonable expectation of continuing employment with the employer.
- (2) This clause applies only with respect to dismissals under contracts of employment entered into on or after 1 October 1997.

Clause 7	Industrial Relations (General) Regulation 2001
Part 4	Pay slips and employers' records
Division 1	Pay slips

Part 4 Pay slips and employers' records

Division 1 Pay slips

7 Particulars of remuneration to be supplied to employees

- (1) For the purposes of section 123 (1) of the Act, the following written particulars are to be supplied by the employer to an employee when remuneration is paid to the employee:
- (a) the name and Australian Business Number of the employer,
 - (b) the name of the employee,
 - (c) if the remuneration of the employee is set by an industrial instrument—the classification of the employee under that instrument,
 - (d) the date on which the payment was made,
 - (e) the period of employment to which the payment relates,
 - (f) the gross amount of remuneration (including overtime and other payments),
 - (g) the amount paid as overtime or such information as will enable the employee to calculate the amount paid as overtime,
 - (h) the amount deducted for taxation purposes,
 - (i) the amount deducted as employee contributions for superannuation purposes,
 - (j) the particulars of all other deductions,
 - (k) the net amount paid.

Note. Section 123 of the Act provides that a failure by the employer to provide the above particulars is an offence punishable by a maximum penalty of 20 penalty units. The section enables an employer, with the approval of the Industrial Registrar, to make different arrangements for the supply of information about remuneration.

- (2) Subclause (1) (a) does not take effect until 1 January 2002.

Industrial Relations (General) Regulation 2001	Clause 8
Pay slips and employers' records	Part 4
Employers' records	Division 2

Division 2 Employers' records

8 Application

This Division prescribes, for the purposes of section 129 of the Act:

- (a) the daily records that an employer must keep in relation to employees of the employer (in addition to records of remuneration paid and hours worked by employees required by section 129 (1) (a)), and
- (b) the manner and form of keeping daily records required by section 129.

Note. Section 129 of the Act provides that:

- (a) the Industrial Registrar may approve of different requirements for the manner and form of keeping the records than those prescribed by this Division, and
- (b) the employer must keep the records for a period of at least 6 years, and
- (c) a contravention of section 129 or this Division is an offence punishable by a maximum penalty of 20 penalty units.

9 Content of records—general

- (1) The prescribed records relating to an employee must contain the following particulars:
 - (a) the name of the employer,
 - (b) the Australian Business Number of the employer,
 - (c) the name of the employee,
 - (d) if any conditions of employment of the employee are set by an industrial instrument—the classification of the employee under that instrument,
 - (e) whether the employee is employed full-time or part-time,
 - (f) whether the employee is employed on a permanent, temporary or casual basis,
 - (g) if the employee is an apprentice or trainee within the meaning of the *Industrial and Commercial Training Act 1989*—the date the person became such an apprentice or trainee,
 - (h) the date on which the employee was first employed with the employer,
 - (i) if the employee's employment is terminated—the date of termination.

Clause 9	Industrial Relations (General) Regulation 2001
Part 4	Pay slips and employers' records
Division 2	Employers' records

(2) Subclause (1) (b) does not take effect until 1 January 2002.

10 Content of records—remuneration and hours worked

- (1) The prescribed records relating to an employee must contain the following particulars concerning the remuneration paid and hours worked by the employee:
- (a) if the relevant industrial instrument prescribes the number of hours to be worked per week, day or other period—the number of hours worked by the employee during each such period,
 - (b) if the relevant industrial instrument limits the daily hours of work and provides for the payment of daily overtime—the number of hours worked by the employee during each day and the times of starting and ceasing work,
 - (c) if the relevant industrial instrument prescribes a rate of remuneration per week, day, hour or other period—the rate of remuneration per week, day, hour or other period at which the employee is paid,
 - (d) if the relevant industrial instrument prescribes piece-work—the number and description of pieces made by the employee and the rate per piece at which the employee is paid,
 - (e) the gross amount of remuneration paid to the employee, showing the deductions made from that remuneration,
 - (f) such other particulars as are necessary to show that the requirements of the relevant industrial instrument relating to remuneration paid and hours worked are being complied with.
- (2) In this clause, *remuneration* includes overtime and other payments.

11 Content of records—leave

The prescribed records relating to an employee must contain the following particulars about leave of any kind to which the employee is entitled under the industrial relations legislation or an industrial instrument:

- (a) the leave taken by the employee,
- (b) the employee's entitlement from time to time to that leave,
- (c) accrual of leave.

Industrial Relations (General) Regulation 2001	Clause 12
Pay slips and employers' records	Part 4
Employers' records	Division 2

12 Content of records—superannuation contributions

- (1) The prescribed records relating to an employee must contain the following particulars about any superannuation contributions that the employer must make for the benefit of the employee under an industrial instrument:
 - (a) the amount of the contributions made,
 - (b) the period over which the contributions were made,
 - (c) when the contributions were made,
 - (d) the name of the fund or funds to which the contributions were made,
 - (e) the basis on which the employer became liable to make the contributions (including particulars of any relevant election by the employee).
- (2) The particulars referred to in subclause (1) (a)–(c) are not required in the case of contributions to a defined benefit superannuation fund within the meaning of the *Occupational Superannuation Standards Regulations* of the Commonwealth.

13 Manner and form of keeping records

- (1) The prescribed records must be:
 - (a) in legible form in the English language, or
 - (b) in computerised or other form that is readily accessible and is convertible into a legible form in the English language.
- (2) For the purposes of enabling an inspector or other person to exercise any power conferred by the Act to inspect any records kept in the form referred to in subclause (1) (b), the relevant part of the records are to be converted into legible form in the English language.

14 Transfer of records to successor employers

- (1) This clause applies to the transfer of records kept by an employer (the *former employer*) relating to a transferred employee (as defined in section 101 of the Act) to the successor of the employer (the *new employer*).
- (2) The former employer must transfer to the new employer all prescribed records relating to the transferred employee that, at the date of transfer, the former employer is required to keep under section 129 of the Act.

Clause 14 Industrial Relations (General) Regulation 2001

Part 4 Pay slips and employers' records

Division 2 Employers' records

- (3) The new employer is to keep those transferred records as if they had been made by the new employer at the time they were made by the former employer.
- (4) The former employer is required to keep a copy of the transferred records for a period of at least 6 years after those records were made.
- (5) The new employer is not required to make records of anything occurring in the course of the transferred employee's employment with the former employer.

Industrial Relations (General) Regulation 2001

Clause 15

Industrial Relations Commission

Part 5

Part 5 Industrial Relations Commission

15 Acting President

- (1) This clause applies whenever the President and Vice-President of the Commission are both absent from duty and an Acting President has not been appointed under clause 1 (2) of Schedule 2 to the Act or, if such an Acting President has been appointed, the Acting President is absent from duty.
- (2) In any such case, the next most senior Deputy President of the Commission who is not absent from duty is the Acting President of the Commission.
- (3) Any such Acting President has the functions of the President and anything done by that Acting President in the exercise of those functions has effect as if it had been done by the President.
- (4) In this clause, an absence from duty includes a vacancy in the relevant office.

16 Oaths to be taken by members of Commission

A member of the Commission appointed after the commencement of the Act is to take, on appointment, the oath of allegiance and:

- (a) in the case of a judicial member—the judicial oath, or
- (b) in any other case—the official oath.

17 Regions

For the purposes of section 157 (3) of the Act, the following areas of New South Wales are prescribed as regions of the State:

- (a) **the Hunter Region**—comprising the local government areas of Cessnock, Dungog, Gloucester, Great Lakes, Lake Macquarie, Maitland, Merriwa, Murrurundi, Muswellbrook, Newcastle, Port Stephens, Scone, Singleton and Wyong,
- (b) **the Illawarra-South Coast Region**—comprising the local government areas of Kiama, Shellharbour, Shoalhaven and Wollongong.

Clause 18 Industrial Relations (General) Regulation 2001

Part 5 Industrial Relations Commission

18 Nominators of Industrial Committees

- (1) For the purposes of section 198 (3) of the Act, the members of an Industrial Committee (other than the Chairperson) are to be appointed by the Industrial Registrar on the nomination of such industrial or other organisations as are determined by the Commission in respect of the Committee.
- (2) The number of members to be nominated by any such organisation is to be determined by the Commission.
- (3) Nominations are to be made within such time, and in accordance with such requirements, as are notified to the organisation concerned by the Industrial Registrar.
- (4) The Commission may, in accordance with section 198 of the Act and this clause, determine that different or alternative members are to be nominated for different matters dealt with by the Industrial Committee.

19 Oaths to be taken by members of Industrial Committees

A member of an Industrial Committee (other than a member of the Commission) appointed after the commencement of the Act is to take, on appointment, the official oath.

20 Expenses of persons summonsed

- (1) This clause applies to any summons (however described) for the purposes of the Act that is issued at the request of a party and requires a person to do either or both of the following:
 - (a) attend and give evidence,
 - (b) attend and produce documents or other things.
- (2) Any such person is not required to comply with the summons unless an amount sufficient to meet the reasonable expenses of the person in complying with the summons is paid or tendered to the person at the time of service of the summons or not later than a reasonable time before the day on which the person is required to comply with the summons.
- (3) If the person required to comply with the summons is not a party and, in order to comply with the summons, incurs expense or loss substantially exceeding any amount paid under subclause (2), the Commission may order the party who requested the issue of the summons to pay to the person an amount sufficient to make good the expense or loss.

Industrial Relations (General) Regulation 2001

Clause 21

Industrial Relations Commission

Part 5

21 Commission fees

- (1) Schedule 1 sets out the fees to be charged in respect of an item of business of the Commission set out in that Schedule.
- (2) No fee (other than the fees set out in items 3 and 4 of Schedule 1) is payable for lodging or filing of any document with the Commission or the Industrial Registrar or for inspecting any document so lodged or filed or any register kept by the Commission or the Industrial Registrar.
- (3) A fee set out in Schedule 1 is not payable by the Minister or by any person acting for or on behalf of the Minister.
- (4) A fee set out in Schedule 1 is not payable by:
 - (a) an industrial organisation, or
 - (b) an association registered under Chapter 6 of the Act, unless that Schedule expressly so provides.
- (5) A fee is payable by the person requesting the service at the time the request is made.
- (6) The Industrial Registrar may, on application, waive the payment of all or any part of a fee set out in Schedule 1 if the applicant satisfies the Industrial Registrar that the applicant will suffer financial hardship if required to pay the fee.

22 Fee for copying from registers

- (1) For the purposes of section 45 (4) of the Act, the prescribed fee for making a copy of any document kept in the register of enterprise agreements is:
 - (a) \$10, or
 - (b) \$2 for each page copied,whichever is the greater.
- (2) For the purposes of section 78 (4) of the Act, the prescribed fee for making a copy of any copy of a part-time work agreement kept by the Industrial Registrar is:
 - (a) \$10, or
 - (b) \$2 for each page copied,whichever is the greater.

Clause 22 Industrial Relations (General) Regulation 2001

Part 5 Industrial Relations Commission

- (3) For the purposes of section 331 (4) of the Act, the prescribed fee for making a copy of any document kept in the register of contract agreements is:
- (a) \$10, or
 - (b) \$2 for each page copied,
- whichever is the greater.
- (4) A fee under this clause is not payable by any person authorised by the Director-General of the Department of Industrial Relations or authorised by the President of the Anti-Discrimination Board.

23 Functions of Industrial Registrar

- (1) The Industrial Registrar may exercise the following functions in connection with any matter before the Industrial Registrar:
- (a) subject to the Act, determine his or her own procedure in the matter,
 - (b) issue a summons under section 165 of the Act for the purposes of dealing with the matter,
 - (c) adjourn proceedings in the matter to any time and place,
 - (d) make any amendments to the proceedings in the matter that the Industrial Registrar considers necessary in the interests of justice,
 - (e) conduct proceedings in the matter publicly or, if the Industrial Registrar considers it necessary, privately,
 - (f) require the presentation of the respective cases of the parties in the matter to be limited to the periods of time that the Industrial Registrar determines are reasonably necessary for the fair and adequate presentation of the cases,
 - (g) require evidence or argument in the matter to be presented in writing and decide on the matters on which the Industrial Registrar will hear oral evidence or argument,
 - (h) dismiss at any stage any proceedings in the matter if the Industrial Registrar considers the proceedings are frivolous or vexatious,
 - (i) notify any person or body of proceedings in, or any other aspect of, the matter if the Industrial Registrar considers that the person or body may be affected by the matter.

Industrial Relations (General) Regulation 2001

Clause 23

Industrial Relations Commission

Part 5

- (2) The Industrial Registrar has, in connection with proceedings for the approval of an enterprise agreement or contract agreement, the function of notifying the persons or bodies who may be entitled to appear or be represented in the proceedings that the agreement has been lodged for approval.
- (3) The functions conferred by this clause are in addition to any functions delegated to the Industrial Registrar by the Commission or conferred on the Industrial Registrar by the Act, by any other provision of the regulations or by the rules of the Commission.

Clause 24 Industrial Relations (General) Regulation 2001

Part 6 Industrial organisations

Part 6 Industrial organisations

24 Copies of certificates of registration

The Industrial Registrar may issue to an industrial organisation a copy of the certificate of registration previously issued to it under section 221 (3) of the Act.

25 Rules to provide for seal of organisation

The rules of a State organisation must provide for a seal of the organisation to be kept by a member of the committee of management of the organisation and to be affixed to a document only with the authority of at least 2 members of that committee.

26 Rules for elections—State and Federal organisations

- (1) For the purposes of section 239 (1) (a) of the Act, the membership of a State branch of a Federal organisation and the membership of a State organisation registered under Chapter 5 of the Act is substantially similar if the Industrial Registrar is satisfied that the membership would be substantially similar but for the fact that persons employed in the Australian Capital Territory are members of the State branch of the Federal organisation.
- (2) For the purposes of section 239 (1) (b) of the Act, the rules of a State branch of a Federal organisation comply substantially with the requirements relating to election of the holders of offices under the Act if the Industrial Registrar is satisfied that the rules would comply substantially with those rules but for the fact that the rules cover persons employed in the Australian Capital Territory.

27 Rules for elections—exemptions by Industrial Registrar

An opportunity by an industrial organisation to be heard for the purposes of section 240 (6) and (7) of the Act is to be given by notifying the organisation of the Industrial Registrar's intention to take the relevant action and by allowing the organisation at least 14 days after the notice is given in which to show cause why the action should not be taken.

Industrial Relations (General) Regulation 2001

Clause 28

Industrial organisations

Part 6

28 Regulation of industrial organisations (other than State organisations)

In accordance with section 291 of the Act, the provisions of section 280 of the Act (Organisations to notify particulars of loans, grants and donations) apply to industrial organisations that are not State organisations.

29 Deemed registration of Newcastle Trades Hall Council

- (1) In accordance with section 217 (3) of the Act, the Newcastle Trades Hall Council is taken to be registered as an industrial organisation of employees under Chapter 5 of the Act.
- (2) The provisions of Chapter 5 of the Act do not apply to that organisation, except for the following provisions (with any necessary modifications):
 - (a) section 221,
 - (b) section 224,
 - (c) section 263 (and section 266 in so far as it applies to section 263),
 - (d) sections 267–271,
 - (e) sections 278–281.
- (3) The Newcastle Trades Hall Council is required to lodge a copy of its rules with the Industrial Registrar as soon as practicable after any change to the rules.

30 Former non-industrial organisations

- (1) The repeal of the 1991 Act does not affect the continuity of any non-industrial organisation under that Act that is not a registered industrial organisation under the *Industrial Relations Act 1996* on that repeal.
- (2) If any such non-industrial organisation was incorporated under the 1991 Act, the following provisions apply on the repeal of that Act:
 - (a) the organisation ceases to be a body corporate under that Act, but does not cease to be an unincorporated organisation,
 - (b) the property of the incorporated organisation is the property of the unincorporated organisation and is required to be held and applied for the purposes of the organisation under the rules of the organisation so far as they can still be carried out or observed.

Clause 31 Industrial Relations (General) Regulation 2001

Part 6 Industrial organisations

31 Other provisions relating to elections

- (1) This clause applies until the regulations under the Act otherwise provide.
- (2) The provisions of sections 442–451 of the 1991 Act (and the regulations under those provisions) apply to a State organisation as regulations made under section 249 of the Act.

Industrial Relations (General) Regulation 2001

Clause 32

Public vehicles and carriers

Part 7

Part 7 Public vehicles and carriers

32 Contract of carriage—meaning

- (1) For the purposes of section 309 (1) (a), (b) and (c) of the Act, the following circumstances are prescribed:
 - (a) driving or riding on a motor vehicle or bicycle by a person who is employed (whether pursuant to a contract of employment or not and whether by the carrier or not) to take the place temporarily of a person directly involved in the business who is sick, on annual leave or is otherwise temporarily unavailable,
 - (b) riding on a motor vehicle by a person who is employed (whether pursuant to a contract of employment or not and whether by the carrier or not) for the purpose of loading or unloading, or assisting in loading or unloading, goods being transported by means of the motor vehicle.
- (2) In this clause:

person directly involved in the business means:

 - (a) if the carrier is not a partnership or body corporate—the carrier, or
 - (b) if the carrier is a partnership—a partner, or
 - (c) if the carrier is a body corporate—a person referred to in section 309 (1) (c) (i), (ii) or (iii) of the Act.

33 Notification of proposed contract agreements to which groups of carriers are parties

The Industrial Registrar is to advise, pursuant to section 325A (3) of the Act, the following of a proposed contract agreement under which a group of carriers is a party that is notified to the Industrial Registrar:

- (a) the secretary or chief executive of each State peak council,
- (b) the secretary or chief executive of any association of contract carriers that is a party to the making of a contract determination, or to a contract agreement, that then applies to the conditions of engagement of those carriers under contracts to which the proposed contract agreement is to apply,

Clause 33 Industrial Relations (General) Regulation 2001

Part 7 Public vehicles and carriers

- (c) the secretary or chief executive of any association of employing contractors that is a party to the making of a contract determination, or to a contract agreement, that then applies to the conditions of engagement of those carriers under contracts to which the proposed contract agreement is to apply (unless the association is to be a party to the proposed contract agreement).

34 Publication of application for registration of association of contract drivers or carriers

Notice of an application under section 335 of the Act is to be published in a newspaper circulating throughout the State within 14 days after the lodgment of the application.

35 Objection against registration of association of contract drivers or carriers

For the purposes of section 336 of the Act, a person who objects to the granting of an application under section 335 of the Act must serve the notice of objection on the Industrial Registrar within 28 days after the notice of the application is duly published by the Industrial Registrar in a newspaper circulating throughout the State.

36 Withdrawal of registration of association at request of members

- (1) An application for a certificate of withdrawal of registration of an association under section 338 of the Act:
 - (a) is to be made by a majority of the members of the governing body of the association or by a majority of the members of the association, and
 - (b) is not to be made until the applicants have given at least 14 days' written notice of their intention to apply for the certificate to all financial members of the association at their last known place of residence or business.
- (2) An application for such a certificate may not be made if:
 - (a) it is contrary to the rules of the association, or
 - (b) proceedings have been duly instituted within the association to prevent the making of the application.

Industrial Relations (General) Regulation 2001

Clause 37

Enforcement

Part 8

Part 8 Enforcement

37 Authority to prosecute

- (1) The purpose of this clause is to prescribe certain persons as persons who may institute proceedings for an offence against the Act or the regulations.
- (2) An industrial organisation concerned in the industry to which the proceedings relate is prescribed for the purposes of section 399 (1) (c) of the Act.

38 Notification of proceedings

- (1) An industrial organisation that institutes proceedings for an offence against the Act or the regulations must, within 3 days after doing so, send particulars of the proceedings to the Director-General of the Department of Industrial Relations.
Maximum penalty: 5 penalty units.
- (2) Particulars of proceedings sent to the Director-General in accordance with this clause are sent for information only.

39 Penalty notices

- (1) For the purposes of section 396 of the Act:
 - (a) each offence created by a provision specified in Column 1 of Schedule 2 is declared to be a penalty notice offence, and
 - (b) the prescribed penalty for such an offence is the amount specified in Column 4 of Schedule 2.
- (2) If the reference to a provision in Column 1 of Schedule 2 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.

40 Short descriptions

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 2 consists of the IPB Code set out in relation to the offence in Column 2 of Schedule 2 together with:

Clause 40 Industrial Relations (General) Regulation 2001

Part 8 Enforcement

- (a) the expression specified in Column 3 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 2, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.
- (5) In this clause and Schedule 2:
- (a) ***Infringement Processing Bureau*** means the Infringement Processing Bureau within the Police Service, and
 - (b) ***IPB Code***, in relation to an offence, means the code allocated to the offence by the Infringement Processing Bureau.

Industrial Relations (General) Regulation 2001

Clause 41

Additional persons deemed to be employees

Part 9

Part 9 Additional persons deemed to be employees

41 Additional persons prescribed by regulation

- (1) The persons described in this Part as employees are taken to be employees for the purposes of the Act.
- (2) A person described in this Part as the employer of any such employee is taken to be the employer for the purposes of the Act.

Note. Clause 1 (m) of Schedule 1 to the Act authorises the making of regulations prescribing additional categories of deemed employees and their deemed employer.

42 Security industry workers

- (1) Any person (other than a bona fide contractor employing labour for that purpose) who performs security officer work, or security transport work, under a contract with another person is taken to be an employee.
- (2) In such a case, the other person is taken to be the employer of the person who performs that work.
- (3) For the purposes of this clause, *security officer work* is work for which a rate of pay is fixed by the *Security Industry (State) Award* when performed by an employee, being the work of security officers in the security or watching industries:
 - (a) including the work of persons engaged in control rooms to monitor, respond to or act on security alarm systems, but
 - (b) not including the work of persons engaged solely as general office or clerical workers.
- (4) For the purposes of this clause, *security transport work* is work for which a rate of pay is fixed by the *Transport Industry—Armoured Cars, &c. (State) Award* when performed by an employee, being the work of transporting cash or other valuables by armoured vehicle (whether as an armoured vehicle operator, a despatch hand or an armoured vehicle escort).

Clause 43	Industrial Relations (General) Regulation 2001
Part 10	Miscellaneous

Part 10 Miscellaneous

43 Industrial Magistrate—civil procedure

- (1) For the purposes of section 383 of the Act, the provisions of the Act, the regulations and rules of the Commission as to the practice and procedure of the Commission in Court Session (except in criminal proceedings) apply, with all necessary modifications, to proceedings before the Chief Industrial Magistrate or other Industrial Magistrate.
- (2) Without limiting subclause (1), the Chief Industrial Magistrate or other Industrial Magistrate may hear evidence orally or by affidavit and may hear evidence whether or not notice to call the evidence has been given. However, if the interests of justice so require, a witness is to be called to give oral evidence instead of evidence by affidavit.
- (3) This clause does not apply to proceedings for an offence or to proceedings under section 357 of the Act for a civil penalty for a contravention of an industrial instrument.

44 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Industrial Relations (General) Regulation 1996*, had effect under that Regulation continues to have effect under this Regulation.

Industrial Relations (General) Regulation 2001

Fees for business of Commission

Schedule 1

Schedule 1 Fees for business of Commission

(Clause 21)

	\$
1	To open or keep open an office (or part of an office) of the Industrial Registry:
(a)	on a Saturday, Sunday or public holiday (except the day after Easter Monday) 394
(b)	on any other day:
(i)	before 9 am or after 4.30 pm 394
(ii)	between 9 am and 9.30 am or 4 pm and 4.30 pm 40
2	Making a copy of any document, per page 2
	(minimum fee 10)
3	For the lodgment of an application under section 84 of the Act 50
4	For the lodgment of an application under section 108 of the Act 561

Industrial Relations (General) Regulation 2001

Schedule 2 Penalty notice offences

Schedule 2 Penalty notice offences

(Clauses 39 and 40)

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty \$
Offences under the Act			
Section 67 (2)	9439	not preserve parental leave records/documents/notices	220
Section 78 (1)	9440	not retain part-time work agreement	220
Section 78 (2)	9441	not give copy of agreement to employee	220
Section 78 (3)	9442	not send copy of agreement to Industrial Registrar	220
Section 123 (1)	9443	fail to supply prescribed payment particulars	220
Section 129 (6)	9444	contravene Act/regulations re daily records	220
Section 341 (5)	9445	not return certificate for cancellation	220
Section 360 (1)	9446	advertise in contravention of industrial instrument	220
Section 360 (2)	9447	not disclose name and address of advertiser	220
Section 361 (1)	9448	not exhibit industrial instrument	220
Section 387 (2)	9449	not comply with requirement of inspector	220
Offences under this Regulation			
Clause 38 (1)	8688	not send particulars of proceedings to Director-General	220

Management of Waters and Waterside Lands Amendment (Fees) Regulation 2001

under the

Maritime Services Act 1935

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Maritime Services Act 1935*.

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to increase the fees set out in the *Management of Waters and Waterside Lands Regulations—N.S.W.* in relation to:

- (a) occupation licences for boatsheds or similar business activities, and
- (b) private occupation licences (that is, licences other than for boatsheds or similar business activities), and
- (c) applications for exemptions.

These fee increases take account of an annual increase in the Consumer Price Index.

This Regulation is made under the *Maritime Services Act 1935*, including section 38 (the general regulation-making power), in particular section 38 (3) (b) and (c).

Clause 1 Management of Waters and Waterside Lands Amendment (Fees)
 Regulation 2001

Management of Waters and Waterside Lands Amendment (Fees) Regulation 2001

1 Name of Regulation

This Regulation is the *Management of Waters and Waterside Lands Amendment (Fees) Regulation 2001*.

2 Commencement

This Regulation commences on 1 October 2001.

3 Amendment of Management of Waters and Waterside Lands Regulations—N.S.W.

The *Management of Waters and Waterside Lands Regulations—N.S.W.* are amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Management of Waters and Waterside Lands Amendment (Fees)
Regulation 2001

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Regulation 35A Fee for occupation licence for boatshed or similar business activity

Omit "\$211" from Regulation 35A (1) (a). Insert instead "\$218".

[2] Regulation 35A (1) (b)

Omit "\$353". Insert instead "\$365".

[3] Regulation 35A (2) (a)

Omit "\$142". Insert instead "\$147".

[4] Regulation 35A (2) (b)

Omit "\$281". Insert instead "\$291".

[5] Regulation 36A Fee for occupation licence—other than for boatshed or similar business activity

Omit "\$231" from Regulation 36A (1) (a) and (b) wherever occurring.
Insert instead "\$239".

[6] Regulation 36A (1) (b)

Omit "\$78". Insert instead "\$81".

[7] Regulation 36A (1) (c)

Omit "\$543". Insert instead "\$563".

[8] Regulation 36A (1) (c)

Omit "\$154". Insert instead "\$160".

[9] Regulation 36A (2) (a) and (b)

Omit "\$289" wherever occurring. Insert instead "\$299".

Page 3

Management of Waters and Waterside Lands Amendment (Fees)
Regulation 2001

Schedule 1 Amendments

[10] Regulation 36A (2) (b)

Omit "\$96". Insert instead "\$100".

[11] Regulation 36A (2) (c)

Omit "\$673". Insert instead "\$699".

[12] Regulation 36A (2) (c)

Omit "\$192". Insert instead "\$199".

[13] Regulation 36A (3) (a) and (b)

Omit "\$154" wherever occurring. Insert instead "\$160".

[14] Regulation 36A (3) (b)

Omit "\$33". Insert instead "\$34".

[15] Regulation 36A (3) (c)

Omit "\$308". Insert instead "\$318".

[16] Regulation 36A (3) (c)

Omit "\$61". Insert instead "\$63".

[17] Regulations 37 (3B) (b) and (6), 39 (3), 46 and 49 (4)

Omit "\$79" wherever occurring. Insert instead "\$82".

[18] Regulation 63J Applications for exemptions

Omit "\$108" wherever occurring from Regulation 63J (1) and (2).
Insert instead "\$112".

Marine Pollution Regulation 2001

under the

Marine Pollution Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Marine Pollution Act 1987*.

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Marine Pollution Regulation 1995*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes matters required to be prescribed under the *Marine Pollution Act 1987* for the purpose of that Act's application to New South Wales waters of the *International Convention for the Prevention of Pollution from Ships 1973*. The Regulation also adopts Parts 91 and 93 of the *Commonwealth Marine Orders* (Parts that relate to the same subject). Schedule 3 to this Regulation makes a number of modifications to those Orders.

This Regulation comprises or relates to matters of a machinery nature and matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth.

This Regulation is made under the *Marine Pollution Act 1987* and, in particular, under section 61 (the general regulation-making power) and the sections referred to in the clauses of the Regulation.

Marine Pollution Regulation 2001

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Marine Pollution Regulation 2001

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Clause 1 Marine Pollution Regulation 2001

Part 1 Preliminary

Marine Pollution Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Marine Pollution Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Marine Pollution Regulation 1995* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

AMSA means the Australian Maritime Safety Authority.

marine safety authority of another State or Territory means the following:

- (a) AMSA,
- (b) the Department of Transport and Works of the Northern Territory,
- (c) the Department of Transport of Queensland,
- (d) the Department of Transport, Urban Planning and the Arts of South Australia,
- (e) Marine and Safety Tasmania,
- (f) the Marine Board of Victoria,
- (g) the Department of Transport of Western Australia.

Port Corporation means Newcastle Port Corporation, Port Kembla Port Corporation or Sydney Ports Corporation (each of which is constituted by the *Ports Corporatisation and Waterways Management Act 1995*).

the Act means the *Marine Pollution Act 1987*.

Marine Pollution Regulation 2001

Clause 3

Preliminary

Part 1

Waterways Authority means the Waterways Authority constituted under Part 4 of the *Ports Corporatisation and Waterways Management Act 1995*.

- (2) In this Regulation, a reference to a pipeline or a purpose-built pipeline includes a reference to any fittings and valves of the pipeline concerned.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation (other than the notes in Schedule 1) do not form part of this Regulation.

Clause 5 Marine Pollution Regulation 2001

Part 2 State waters

Part 2 State waters

5 Waters prescribed as State waters

For the purposes of the definition of *State waters* in section 3 (1) of the Act, the prescribed waters are such parts of the waters of the following Ports (as described in Schedule 1 to the *Ports Corporatisation and Waterways Management Regulation 1997* beneath the name of the port concerned) as are within the limits of the State:

- (a) Botany Bay,
- (b) Clarence River (Yamba),
- (c) Newcastle Harbour,
- (d) Port Kembla,
- (e) Sydney Harbour,
- (f) Eden.

Marine Pollution Regulation 2001

Clause 6

Pollution by oil or noxious substances

Part 3

Part 3 Pollution by oil or noxious substances

6 Prescribed officers

- (1) For the purposes of sections 8 (2), 13 (3) and (4), 18 (2), 23 (5) and (6), 27 (2), 50 (3) and 58 (d) and (e) of the Act, the following officers are prescribed officers:
 - (a) each harbour master,
 - (b) the following officers of Newcastle Port Corporation, Port Kembla Port Corporation and Sydney Ports Corporation:
 - (i) the Chief Executive Officer,
 - (ii) the General Manager,
 - (iii) the Company Secretary,
 - (c) the following officers of the Waterways Authority:
 - (i) each Regional Manager,
 - (ii) each Boating Safety Officer,
 - (iii) each Vessel Survey Manager.
- (2) For the purposes of section 18 (6), (7), (8) and (9) of the Act, a prescribed officer is any officer of AMSA appointed or authorised by that body for the purpose of implementing Regulation 5 of Annex II of the Convention.

7 Notification of discharges

- (1) For the purposes of sections 10 (1) and (3) and 20 (1) and (3) of the Act, a prescribed incident is to be notified by the quickest means available and conveyed through AMSA, a Port Corporation or the Waterways Authority.
- (2) If the notification is conveyed through AMSA, it must:
 - (a) commence with the code letters POLREP, and
 - (b) contain the name and radio call sign (if any) of the ship concerned.
- (3) If the notification is conveyed through a Port Corporation or the Waterways Authority, it must contain:
 - (a) the name and radio call sign (if any) of the ship concerned, and
 - (b) the name of the person notifying the incident, and
 - (c) the position of the ship.

Clause 8 Marine Pollution Regulation 2001

Part 3 Pollution by oil or noxious substances

8 Time for furnishing discharge report

For the purposes of sections 10 (6) and (7) and 20 (6) and (7) of the Act, a report must be furnished to the Minister in relation to a prescribed incident not later than 24 hours after receipt of a request for a report, or within such further time (not exceeding a further 14 days) as the Minister may allow.

9 Discharge reports

For the purposes of sections 10 (6) and (7) and 20 (6) and (7) of the Act, Form 1 of Schedule 1 is the prescribed form in relation to a discharge or probable discharge of:

- (a) oil or an oily mixture, or
- (b) a noxious liquid substance that is carried as a cargo or part cargo in bulk.

10 Oil record book

- (1) An oil tanker to which section 11 of the Act applies is to carry an oil record book in the form set out in Part I of Appendix III to Annex I of the Convention.
- (2) A ship (other than an oil tanker) to which section 11 of the Act applies is to carry an oil record book in the form set out in Part II of Appendix III to Annex I of the Convention.

11 Matters to be recorded in oil record book

- (1) For the purposes of section 11 (5) of the Act:
 - (a) each of the following operations (being a machinery space operation) is a prescribed operation in relation to a ship (including an oil tanker):
 - (i) the ballasting or cleaning of an oil fuel tank,
 - (ii) a discharge of dirty ballast or cleaning water from an oil fuel tank,
 - (iii) a disposal of oily residues (sludge),
 - (iv) a discharge overboard or other disposal of bilge water that has accumulated in any machinery space, and
 - (b) each of the following operations (being a cargo operation or a ballast operation) is a prescribed operation in relation to an oil tanker:
 - (i) the loading of oil cargo,

Marine Pollution Regulation 2001

Clause 11

Pollution by oil or noxious substances

Part 3

-
- (ii) an internal transfer of oil cargo during a voyage or in port,
 - (iii) the unloading of oil cargo,
 - (iv) the ballasting of a cargo tank or a dedicated clean ballast tank,
 - (v) the cleaning of a cargo tank (including crude oil washing),
 - (vi) a discharge of ballast from a tank other than a segregated ballast tank,
 - (vii) a discharge of water from a slop tank,
 - (viii) the closing, after an operation referred to in subparagraph (vii), of all applicable valves or similar devices,
 - (ix) the closing, after an operation referred to in subparagraph (vii), of valves necessary for the isolation of a dedicated clean ballast tank from cargo and stripping lines after slop tank discharge operations,
 - (x) a disposal of residues.
- (2) For the purposes of section 11 (5) of the Act, each of the following occurrences is a prescribed occurrence in relation to a ship (including an oil tanker):
- (a) the discharge into the sea of oil or an oily mixture from the ship for the purpose of securing the safety of the ship or of saving life at sea,
 - (b) the discharge into the sea of oil or an oily mixture in consequence of damage to the ship or its equipment,
 - (c) the discharge into the sea of substances containing oil for the purpose of combating specific pollution incidents,
 - (d) the failure of the ship's oil discharge monitoring and control system,
 - (e) the discharge into the sea of oil or an oily mixture, being:
 - (i) a discharge for an exceptional purpose other than a purpose referred to in paragraph (a) or (c), or
 - (ii) an accidental discharge other than a discharge referred to in paragraph (b).

Clause 12 Marine Pollution Regulation 2001

Part 3 Pollution by oil or noxious substances

12 Cargo record book

For the purposes of section 21 of the Act, the prescribed form of cargo record book is the form set out in Appendix IV to Annex II of the Convention.

13 Matters to be recorded in cargo record book

- (1) For the purposes of section 21 (5) of the Act, each of the following operations is a prescribed operation in relation to a ship:
 - (a) the loading of cargo,
 - (b) an internal transfer of cargo during a voyage or in port,
 - (c) the unloading of cargo,
 - (d) the ballasting of a cargo tank,
 - (e) the cleaning of a cargo tank,
 - (f) a discharge of ballast from a cargo tank,
 - (g) a disposal of residues to a reception facility,
 - (h) the discharge of a noxious liquid substance, or of a mixture containing such a substance, into the sea in accordance with Regulation 5 of Annex II of the Convention,
 - (i) the removal by ventilation procedures of cargo residues from a tank in accordance with Regulation 5 of Annex II of the Convention.
- (2) For the purposes of section 21 (5) of the Act, each of the following occurrences is a prescribed occurrence in relation to a ship:
 - (a) the discharge into the sea of a noxious liquid substance, or of a mixture containing such a substance, for the purpose of securing the safety of the ship or of saving life at sea,
 - (b) the discharge into the sea of a noxious liquid substance, or of a mixture containing such a substance, in consequence of damage to the ship or its equipment,
 - (c) the discharge into the sea of a noxious liquid substance, or of a mixture containing such a substance, being:
 - (i) a discharge for an exceptional purpose other than a purpose referred to in paragraph (a), or
 - (ii) an accidental discharge other than a discharge referred to in paragraph (b).

Marine Pollution Regulation 2001

Clause 14

Pollution by oil or noxious substances

Part 3

14 Regulation 8 of Annex II to have the force of law

- (1) The provisions of Regulation 8 of Annex II of the Convention, other than paragraph (1) of that Regulation, apply to, and in relation to, the washing of a tank of a ship from which a noxious liquid substance has been unloaded.
- (2) If a tank of a ship from which a noxious liquid substance has been unloaded is not washed in accordance with whichever of the provisions of Regulation 8 of Annex II of the Convention is applicable to the tank (having regard to whether the substance unloaded from the tank is a Category A, B, C or D substance), the master of the ship is guilty of an offence.
Maximum penalty (subsection (2)): 20 penalty units.
- (3) In the application of Regulation 8 of Annex II of the Convention to, or in relation to, the washing of a tank of a ship:
 - (a) a reference to the receiving Party is to be read as a reference to Australia or the State, and
 - (b) a reference to the Administration is to be read as a reference to a person designated by AMSA or by the Chief Executive of the Waterways Authority, and
 - (c) a reference to the surveyor (however described), including a surveyor authorised for the purpose of implementing that Regulation, is to be read as a reference to the Administration (as defined in paragraph (b)).
- (4) A surveyor is to comply, in the exercise of any power, or the performance of any function, for the purpose of implementing Regulation 8 of Annex II of the Convention, with any control procedures developed by the International Maritime Organization.
- (5) An exemption referred to in paragraph (2) (b) or (5) (b) of Regulation 8 of Annex II of the Convention may be granted only to a ship engaged in voyages to ports or terminals under the jurisdiction of States (other than Australia) that are parties to the Convention. When such an exemption has been granted to a ship, the appropriate entry made in the ship's cargo record book is to be endorsed by a surveyor.

Clause 15 Marine Pollution Regulation 2001

Part 4 Pollution relating to transfer operations

Part 4 Pollution relating to transfer operations

15 Purpose-built pipelines

For the purposes of the definition of *purpose-built pipeline* in section 25 (1) of the Act, the pipelines described in Schedule 2 are prescribed.

16 Notification of discharges

For the purposes of section 28 (1) of the Act, a discharge to which Part 4 of the Act applies is to be notified by the quickest means available and conveyed through AMSA, a Port Corporation or the Waterways Authority and containing:

- (a) in the case of a discharge from a ship or from an apparatus on a ship—the name and radio call-sign (if any) of the ship concerned followed by the name of the person notifying the discharge and the position of the ship, or the location of the ship within a port, or
- (b) in the case of a discharge from a place on land, from an apparatus or from a purpose-built pipeline—the name and address of the person notifying the discharge and the location of the discharge.

17 Time for furnishing discharge report

For the purposes of section 28 (3) of the Act, a report must be furnished to the Minister in relation to a discharge not later than 24 hours after receipt of a request for a report, or within such further time (not exceeding a further 14 days) as the Minister may allow.

18 Discharge reports

For the purposes of section 28 (3), of the Act, Form 1 of Schedule 1 is prescribed.

Marine Pollution Regulation 2001

Clause 19

Ships carrying or using oil or carrying noxious liquid substances

Part 5

Part 5 Ships carrying or using oil or carrying noxious liquid substances

19 Surveys of ships

For the purposes of sections 38 and 43 of the Act, each period of 5 years (the first of which commences on the commencement of this clause) is a prescribed period in relation to a ship referred to in either of those sections.

20 Adoption of Commonwealth Orders

The Marine Orders, Part 91 (Marine Pollution Prevention—Oil) and Part 93 (Marine Pollution Prevention—Noxious Liquid Substances), as in force on 1 March 2001, and made by AMSA under the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth, are adopted, subject to the modifications set out in Schedule 3.

21 Ship construction certificates and chemical tanker construction certificates

- (1) A certificate issued by a marine safety authority of another State or Territory certifying that a ship is constructed in accordance with the provisions of Annex I of the Convention is prescribed for the purposes of Division 2 of Part 5 of the Act.
- (2) A certificate issued by a marine safety authority of another State or Territory certifying that a ship is constructed in accordance with the provisions of Annex II of the Convention is prescribed for the purposes of Division 3 of Part 5 of the Act.

22 Notice of alteration or damage to ship

For the purposes of section 37 (1) and 42 (1) of the Act, the prescribed form is Form 2 of Schedule 1.

Clause 23 Marine Pollution Regulation 2001

Part 6 Miscellaneous

Part 6 Miscellaneous

23 Minister may make orders

The Minister may, by instrument in writing, make orders for and in relation to:

- (a) giving effect to Annex I of the Convention, other than provisions of that Annex to which effect is given by a provision of the Act or this Regulation, and
- (b) giving effect to Annex II of the Convention, other than provisions of that Annex to which effect is given by a provision of the Act or this Regulation, and
- (c) giving effect to Article 8 of, and Protocol I to, the Convention, other than provisions of that Article or Protocol to which effect is given by a provision of the Act or this Regulation, and
- (d) the fixing of fees to be paid in respect of any matters under any such orders.

24 Fee for deposit of oil record book or cargo record book

A fee of \$40 is payable by the owner of a ship for:

- (a) the deposit of an oil record book of the ship in accordance with section 13 (4) of the Act, or
- (b) the deposit of a cargo record book of the ship in accordance with section 23 (6) of the Act.

25 Exemptions

- (1) Each of the following classes of ships is exempt from the provisions of the Act and this Regulation:
 - (a) ships belonging to an arm of the Defence Forces of Australia or to the naval, military or air forces of a country other than Australia,
 - (b) ships not referred to in paragraph (a) that are owned or operated by Australia or another State and used, for the time being, only on government non-commercial service.
- (2) In subclause (1) (b), *State* has the same meaning as in the Convention.

Marine Pollution Regulation 2001

Clause 26

Miscellaneous

Part 6

26 Service of certain notices

For the purposes of sections 37 (4) and (5) and 42 (5) and (6) of the Act, a notice required to be given to:

- (a) the owner of a ship—may be served personally on the owner, or on all, or any, of the owners, as the case may be, of the ship or, if an owner is a body corporate, on a director, secretary or other officer of the body corporate, or
- (b) the agent of a ship—may be served personally on any agent of the ship or, if an agent is a body corporate, on a director, secretary or other officer of the body corporate, or
- (c) the master of a ship—may be served personally on the master of the ship,

and, in any case, any such notice may be served in the manner set out in section 30A of the *Maritime Services Act 1935*.

27 Saving

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

Marine Pollution Regulation 2001

Schedule 1 Forms

Schedule 1 Forms**Form 1 Marine pollutants report form**

(Clauses 9 and 18)

(Marine Pollution Act 1987, sections 10, 20 and 28)

(For use when reporting **any** discharge or probable discharge of oil or an oily mixture or a discharge or probable discharge of a noxious liquid substance **carried in bulk**)**Note.** The items of this form that are inappropriate in a particular case should be omitted from the report.

- A1 Ship: name, size, type, call sign/ship station identity and flag
- A2 Name, address and contact details of owner and agent of ship/place on land/purpose-built pipeline/apparatus
- A3 Position of discharge and position of place on land/purpose-built pipeline/apparatus
- B Date and time of event

Note. Express as Universal Co-ordinated Time

- C Position: latitude and longitude, or
- D Position: true bearing and distance

Note. Give C or D

- E True course
- F Speed in knots
- L Route information: intended track
- M Radio communications: means of communication
- N Time of next report

Note. Express as Universal Co-ordinated Time

- P 1 Type of oil or the correct technical name of the noxious liquid substances on board
- 2 UN numbers

Marine Pollution Regulation 2001

Forms

Schedule 1

3 Pollution category (A, B, C or D) for each noxious liquid substance

4 Names of manufacturers of substances or consignee or consignor

5 Estimate of the quantity of each substance

Note. Include item P in the case of probable discharge

Q 1 Structural condition of ship, as relevant

2 Ability to transfer cargo/ballast/fuel

R 1 Type of oil or the correct technical name of the noxious liquid substance discharged into the sea

2 UN numbers

3 Pollution category (A, B, C or D) for each noxious liquid substance

4 Names of manufacturers of substances or consignee or consignor

5 Estimate of the quantity of each substance

6 Whether discharged substances floated or sank

7 Whether discharge is continuing

8 Cause of discharge

9 Estimate of the trajectory of the discharge, giving weather conditions, if known

10 Estimate of the sea surface area covered by the discharge

Note. Include item R in the case of actual discharge

S Weather conditions (i.e. brief details of weather and sea conditions prevailing)

X 1 Action being taken with regard to the discharge and the movement of the ship

2 Assistance or salvage efforts which have been requested or which have been provided by others

Note. The master of an assisting or salvaging ship should also report the particulars of action undertaken or planned

Marine Pollution Regulation 2001

Schedule 1 Forms

Form 2 Notice of alteration or damage to ship

(Clause 22)

(Marine Pollution Act 1987, sections 37 and 42)

To: Waterways Authority

- 1 Name of ship:
- 2 Official number (if any):
- 3 Home port/port of registry:
- 4 Call sign:
- 5 Name of owner(s) or agent:
- 6 Address of principal place of business of owner(s) or agent:
- 7 (a) Date of issue and reference number of International Oil Pollution Prevention Certificate (in the case of a ship constructed in accordance with Annex I of the Convention):
 (b) Date of issue and reference number of International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (in the case of a ship constructed in accordance with Annex II of the Convention):
- 8 Description of nature and extent of alteration or damage to the ship (including date(s) on which damage occurred and date(s) on which repairs or alterations, as the case may be, were commenced and completed):
- 9 Name and address of person or corporation effecting alteration or repairs:
- 10 Reason(s) for, or cause(s) of, alteration or repairs:
- 11 Particulars of changes in the construction of the ship:
- 12 (a) Additional information (if any) affecting the compliance of the ship with the provisions of Annex I of the Convention (in the case of a ship constructed in accordance with Annex I):
 (b) Additional information (if any) affecting the compliance of the ship with the provisions of Annex II of the Convention (in the case of a ship constructed in accordance with Annex II):

Signature of master or owner:

Date:

Marine Pollution Regulation 2001

Purpose-built pipelines

Schedule 2

Schedule 2 Purpose-built pipelines

(Clause 15)

Botany Bay

- 1 The pipelines from Banksmeadow to Kurnell commencing at a control valve Latitude 33 degrees 57.87 minutes south Longitude 151 degrees 13.08 minutes east located within the Caltex (or Ampol) Banksmeadow Terminal thence proceeding within the pipeline corridor situated on the southern and western sides of Botany and Bumborah Point Roads respectively for approximately 1,480 metres to Womeai Reserve thence generally southerly for approximately 300 metres to the high water mark of Botany Bay near Bumborah Point thence southerly for approximately 100 metres and generally south westerly for approximately 3,450 metres to a point 470 metres west of the westernmost extremity of the Caltex (or Ampol) Jetty at Kurnell thence south easterly for approximately 770 metres to a point midway along the inner end of that jetty thence along that jetty to the high water mark of Kurnell Beach thence generally south easterly for approximately 500 metres to a control valve located within the premises of Caltex Refining Company Proprietary Limited (or of Ampol Refineries (NSW) Proprietary Limited) at Kurnell, the submarine portion of which is shown as one line of symbols on a copy of Naval Chart AUS 199 of Botany Bay.
- 2 The pipelines from No 3 Berth (Submarine Terminal) in Botany Bay to Kurnell commencing at that berth Latitude 33 degrees 59.76 minutes south Longitude 151 degrees 12.51 minutes east thence southerly for approximately 580 metres to a point midway along the outer end of the Caltex (or Ampol) Jetty at Kurnell thence south westerly and south easterly along that jetty to the high water mark of Kurnell Beach thence generally south easterly for approximately 500 metres to a control valve located within the premises of Caltex Refining Company Proprietary Limited (or of Ampol Refineries (NSW) Proprietary Limited) at Kurnell, the submarine portion of which is shown by one line of symbols on a copy of Naval Chart AUS 199 of Botany Bay.

Marine Pollution Regulation 2001

Schedule 2 Purpose-built pipelines

Eden

The pipeline at Eden commencing at the Tanker Mooring Latitude 37 degrees 4.72 minutes south Longitude 149 degrees 54.41 east thence proceeding in a northerly direction for approximately 110 metres thence north easterly for approximately 340 metres to a control valve located within the Mobil Coastal Bulk Plant, Eden, the submarine portion of which is shown on a copy of Naval Chart AUS 191 of Twofold Bay.

Port Kembla

- 1 The pipeline, commencing at a point on No 6 Jetty, Outer Harbour, Port Kembla, Latitude 34 degrees 28.18 minutes south Longitude 150 degrees 54.20 minutes east thence proceeding south westerly along that jetty to the inshore end of the jetty for approximately 360 metres thence northerly for approximately 100 metres thence westerly for approximately 350 metres to Old Port Kembla Road thence south westerly along the northern side of Flinders Street to the Terminal. No 6 Jetty, Outer Harbour, Port Kembla, is shown on a copy of Naval Chart AUS 195 of Port Kembla and Wollongong with Approaches.
- 2 The pipelines, commencing at the control valves located in the fenced enclosure south of the Saltwater Intake Channel Latitude 34 degrees 28.02 minutes south Longitude 150 degrees 53.91 minutes east thence proceeding northerly for approximately 90 metres to the southern training wall at the entrance to the Inner Harbour thence north westerly across that entrance for approximately 270 metres to the Northern Breakwater where there is a diverter and valves located at Latitude 34 degrees 27.77 minutes south Longitude 150 degrees 54.09 minutes east thence:
 - (a) a pipeline generally easterly for approximately 470 metres to the inshore end of the Oil Berth thence southerly along that berth for approximately 40 metres to the control valves located at the outer end, and
 - (b) a pipeline generally westerly for 300 metres to Latitude 34 degrees 27.72 minutes south Longitude 150 degrees 53.92 minutes east thence generally northerly to the southern end of Coal Berth No 1 thence generally northerly beneath Coal Berth No 1 to Coal Berth No 2 and terminating at a Compressor Station at Latitude 34 degrees 27.26 minutes south Longitude 150 degrees 53.82 minutes east.

Marine Pollution Regulation 2001

Purpose-built pipelines

Schedule 2

The submarine portion of the pipelines is located across the entrance to Inner Harbour, Port Kembla, as shown by one line of symbols on a copy of Naval Chart AUS 195 of Port Kembla and Wollongong with Approaches.

- 3 The pipeline commencing at a point on No 4 Jetty, Outer Harbour, Port Kembla, Latitude 34 degrees 28.45 minutes south Longitude 150 degrees 54.67 minutes east thence proceeding generally south easterly for 25 metres thence generally southerly for approximately 220 metres to the inshore end of that jetty thence generally southerly for approximately 180 metres to the Terminal. No 4 Jetty, Outer Harbour, Port Kembla, is shown on a copy of Naval Chart AUS 195 of Port Kembla and Wollongong with Approaches.

Marine Pollution Regulation 2001

Schedule 3 Modifications to Marine Orders

Schedule 3 Modifications to Marine Orders

(Clause 20)

1 Modifications to Marine Orders, Part 91 (Marine Pollution Prevention—Oil)

The Marine Orders, Part 91 (Marine Pollution Prevention—Oil) are adopted subject to the following modifications:

- (a) Clause 1.1 is omitted.
- (b) The matter “Paragraph 33 (1) (a) of the Pollution Prevention Act” is omitted from clause 1.2 and replaced by the matter “Section 61 of the Act”.
- (c) Clause 1.3 is replaced by the following:
 - 1.3 This Part of Marine Orders gives effect to Regulations 13 to 19 (inclusive) and 22 to 25 (inclusive) of Annex I of MARPOL, and prescribes matters for the purposes of section 10 (10) and Division 2 of Part 5 of the Act.
- (d) The words “(or by the Chief Executive Officer of the Waterways Authority constituted under the *Ports Corporatisation and Waterways Management Act 1995*)” are inserted after the words “Ship Inspections,” in the definition of *Chief Marine Surveyor* in clause 2.
- (e) The definition of *IOPP Certificate* is omitted from clause 2 and replaced by the following definition:

IOPP Certificate means a ship construction certificate referred to in section 39 (4) of the Act.
- (f) The definition of *survey authority* is omitted from clause 2 and replaced by the following definition:

survey authority means a corporation or association for the survey of shipping approved for the purposes of the *Marine Pollution Regulation 2001* by any of the following::

 - (a) AMSA,
 - (b) the Department of Transport and Works of the Northern Territory,
 - (c) the Department of Transport of Queensland,

Marine Pollution Regulation 2001

Modifications to Marine Orders

Schedule 3

- (d) the Department of Transport of South Australia,
- (e) the Navigation and Survey Authority of Tasmania,
- (f) the Marine Board of Victoria,
- (g) the Department of Transport of Western Australia.
- (g) The following definition is inserted in alphabetical order in clause 2:
the Act means the *Marine Pollution Act 1987*.
- (h) The definition of *the Pollution Prevention Act* is omitted from clause 2.
- (i) Clauses 3.4 and 3.5 are omitted.
- (j) The words “Subject to sub-section 33 (2) of the Pollution Prevention Act and sub-section 267 (2) of the Navigation Act, this Part” are omitted from clause 4.1 and replaced by the words “This Part”.
- (k) Clauses 4.2, 5.2, 6 and 7 are omitted.
- (l) The words “of the Commonwealth” are omitted from clause 8.1 and 8.2 wherever occurring and replaced by the words “of New South Wales”.
- (m) The matter “section 11 of the Pollution Prevention Act, in addition to the meanings set out in subsection 11 (10)” is omitted from clause 8.3 and replaced by the matter “section 10 (10) of the Act, in addition to the meanings set out in that subsection”.
- (n) Clauses 10.1 and 11 are omitted.

2 Modifications to Marine Orders, Part 93 (Marine Pollution Prevention—Noxious Liquid Substances)

The Marine Orders, Part 93 (Marine Pollution Prevention—Noxious Liquid Substances) is adopted subject to the following modifications:

- (a) Clause 1.1 is replaced by the following:
 - 1.1 This Part prescribes matters under the Act for the purposes of giving effect to Annex II of the Convention.
- (b) The matter “Paragraph 33 (1) (a) of the Pollution Prevention Act” is omitted from clause 1.2 and replaced by the matter “Section 61 of the Act”.

Marine Pollution Regulation 2001

Schedule 3 Modifications to Marine Orders

- (c) Clause 1.3 is replaced by the following:
- 1.3 This Part of Marine Orders prescribes matters for the purposes of Division 3 of Part 5 of the Act.
- (d) The words “(or by the Chief Executive Officer of the Waterways Authority constituted under the *Ports Corporatisation and Waterways Management Act 1995*)” are inserted after the words “Ship Inspections,” in the definition of **Chief Marine Surveyor** in clause 2.
- (e) The definition of **IPP Certificate** is omitted from clause 2 and replaced by the following definition:
- IPP Certificate** means a chemical tanker construction certificate referred to in section 267Q of the *Navigation Act 1912* of the Commonwealth or section 44 (2) of the Act.
- (f) The definition of **survey authority** is omitted from clause 2 and replaced by the following definition:
- survey authority** means a corporation or association for the survey of shipping approved for the purposes of the *Marine Pollution Regulation 2001* by any of the following:
- (a) AMSA,
 - (b) the Department of Transport and Works of the Northern Territory,
 - (c) the Department of Transport of Queensland,
 - (d) the Department of Transport of South Australia,
 - (e) the Navigation and Survey Authority of Tasmania,
 - (f) the Marine Board of Victoria,
 - (g) the Department of Transport of Western Australia.
- (g) The following definition is inserted in alphabetical order in clause 2:
- the Act** means the *Marine Pollution Act 1987*.
- (h) The definition of **the Pollution Prevention Act** is omitted from clause 2.
- (i) Clauses 3.4 and 3.5 are omitted.

Marine Pollution Regulation 2001

Modifications to Marine Orders

Schedule 3

-
- (j) The words “Subject to sub-section 33 (2) of the Pollution Prevention Act and sub-section 267 (2) of the Navigation Act, this Part” are omitted from clause 4.1 and replaced by the words “This Part”.
 - (k) Clauses 4.2, 5.2, 6 and 7 are omitted.
 - (l) The words “regulation 5A and regulation 8 of Annex II have the force of law as part of the law of the Commonwealth” are omitted from clause 8.1 and replaced by the words “regulation 5A, regulation 8 and regulation 13 of Annex II have the force of law as part of the law of New South Wales”.
 - (m) Clause 10.1 is replaced by the following:

10.1 Form of certificate

For the purposes of section 41 of the Act, the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk appearing in Appendix V of Annex II is the prescribed form.
 - (n) The matter “section 267S or section 267U of the Navigation Act” is omitted from clause 10.2 and replaced by the matter “section 42 of the Act”.
 - (o) Clause 11 is omitted.

Motor Dealers Amendment (Transitional) Regulation 2001

under the

Motor Dealers Act 1974

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Dealers Act 1974*.

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to extend until 1 September 2002 the period during which registers and notices, complying with the requirements of the repealed *Motor Dealers Regulation 1986*, may be used for the purposes of the *Motor Dealers Regulation 1999*.

This Regulation is made under the *Motor Dealers Act 1974*, including section 57 (the general regulation-making power).

Clause 1 Motor Dealers Amendment (Transitional) Regulation 2001

Motor Dealers Amendment (Transitional) Regulation 2001

1 Name of Regulation

This Regulation is the *Motor Dealers Amendment (Transitional) Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

3 Notes

The explanatory note does not form part of this Regulation.

4 Amendment of Motor Dealers Regulation 1999

The *Motor Dealers Regulation 1999* is amended by omitting "1 September 2001" from clause 70 (3) and by inserting instead "1 September 2002".

National Parks and Wildlife (Fauna Protection) Regulation 2001

under the

National Parks and Wildlife Act 1974

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *National Parks and Wildlife Act 1974*.

CARMEL TEBBUTT, M.L.C.,
Minister for the Environment

Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *National Parks and Wildlife (Fauna Protection) Regulation 1994*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision for or with respect to the following:

- (a) licences and registration certificates under the *National Parks and Wildlife Act 1974*, and
- (b) the payment of royalty, and
- (c) the care and protection of fauna, and
- (d) other matters of a minor, consequential or ancillary nature.

The Regulation is made under the *National Parks and Wildlife Act 1974*, including section 154 (the general regulation-making power).

National Parks and Wildlife (Fauna Protection) Regulation 2001

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Clause 1 National Parks and Wildlife (Fauna Protection) Regulation 2001

Part 1 Preliminary

National Parks and Wildlife (Fauna Protection) Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *National Parks and Wildlife (Fauna Protection) Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *National Parks and Wildlife (Fauna Protection) Regulation 1994*, which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

fauna provisions of the Act means Parts 7, 7A and 9 of the Act and, to the extent to which any other provisions of the Act relate to fauna, those other provisions.

tag includes a label, slip or other object for affixing or attaching to the skins or carcasses of fauna.

the Act means the *National Parks and Wildlife Act 1974*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

National Parks and Wildlife (Fauna Protection) Regulation 2001

Clause 5

Licences and certificates

Part 2

Part 2 Licences and certificates

5 Applications for licences or registration certificates

- (1) Applications for the issue of licences or registration certificates under the Act must be made in a form approved by the Director-General.
- (2) If a form of application requires a fee or charge to accompany it, that fee or charge must be lodged with the application.

6 Terms of licences or registration certificates

A licence or registration certificate issued under the Act is in force (unless cancelled):

- (a) until midnight on 31 December following the date of issue, or
- (b) if an expiry date is specified in the licence or certificate—until midnight on that date.

7 Authorisation for issue of licences

In accordance with paragraph (b) (ii) of the definition of *authorised officer* in section 119 of the Act, each of the following is a prescribed office, position or rank for the purposes of the provisions of Part 9 of the Act:

- (a) Manager, Field Services,
- (b) Manager, Wildlife Licensing Unit,
- (c) Executive Officer (Wildlife).

8 Issue of tags

- (1) The Director-General or an officer authorised by the Director-General may (on payment of such fees or charges as may be fixed by the Director-General) issue tags for affixing or attaching to the skin or carcase of any fauna in compliance with a condition of a licence under Part 9 of the Act.
- (2) Commercial tags may be issued for affixing or attaching to the skins or carcasses of kangaroos, wallaroos or wallabies harmed for sale.
- (3) Non-commercial tags may be issued for affixing or attaching to the skins or carcasses of kangaroos, wallaroos or wallabies harmed otherwise than for sale.

Clause 8	National Parks and Wildlife (Fauna Protection) Regulation 2001
Part 2	Licences and certificates

- (4) A separate series of commercial tags is to be issued for each year. Commercial tags may be used only during the year for which they are issued.

9 Supply of tags to trappers

An occupier's licence authorising the licensee to permit a person to harm kangaroos, wallaroos or wallabies is subject to the condition that the licensee must make available to any person permitted to harm kangaroos, wallaroos or wallabies under the licence a quantity of commercial tags or non-commercial tags equal in number to the number of kangaroos, wallaroos or wallabies that the person is permitted to harm.

10 Grounds for refusing import or export licence

For the purposes of section 126 (3) of the Act, the grounds on which an application for an import or export licence may be refused are as follows:

- (a) that, in the opinion of the Director-General, the proposed import or export of protected fauna, if effected:
- (i) could be detrimental to the protection and conservation of fauna in the State, or
 - (ii) could result in a person contravening a law of the State, or
 - (iii) could result in a person contravening a law of the place from which it is intended to import, or to which it is intended to export, the protected fauna, or
 - (iv) could introduce species of protected fauna which do not normally occur in the State and that may constitute a threat to agricultural or horticultural activities in the State, or
 - (v) could introduce species of protected fauna which cannot readily be kept in captivity or confinement,
- (b) that the applicant is not the holder of a licence under the Act (other than an import or export licence) that authorises dealings with the protected fauna proposed to be imported or exported,

National Parks and Wildlife (Fauna Protection) Regulation 2001	Clause 10
Licences and certificates	Part 2

- (c) that the applicant has not given a written undertaking to the Director-General:
 - (i) in the case of an application for an import licence—to notify an authorised officer of details of the protected fauna imported, and of the time of import, within the 48 hours immediately following that time, or
 - (ii) in the case of an application for an export licence—to notify the authority (if any) responsible for the protection of fauna at the place to which the protected fauna is proposed to be exported of details of the protected fauna, and of the time of intended export, within the 48 hours immediately preceding that time,
- (d) that the applicant has, within the period of 2 years immediately preceding the making of the application, been convicted of:
 - (i) an offence under a provision of Part 7 of the Act or an offence under a similar provision of the fauna protection legislation of another State or Territory, or
 - (ii) an offence under the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* of the Commonwealth, or
 - (iii) an offence under the *Prevention of Cruelty to Animals Act 1979* or the *Exhibited Animals Protection Act 1986*.

11 Grounds for cancelling import or export licence

For the purposes of section 134 (2) of the Act, the grounds on which an import or export licence may be cancelled are as follows:

- (a) that the licensee has made a statement is false or misleading in a material particular in, or in connection with, the application for the licence,
- (b) that the licensee has been convicted of an offence under a provision of Part 7 of the Act or an offence under a similar provision of the fauna protection legislation of another State or Territory,
- (c) that the licensee has been convicted of an offence under the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* of the Commonwealth.

Clause 12 National Parks and Wildlife (Fauna Protection) Regulation 2001

Part 2 Licences and certificates

12 Payment of royalty

- (1) A fauna dealer (kangaroo) who deals as a wholesaler must pay to the Director-General, at times determined by the Director-General, a royalty of 60 cents for each skin or carcase of a kangaroo, wallaroo or wallaby received from the holder of a trapper's licence.
- (2) The holder of a trapper's licence (birds) must, in accordance with the conditions of the licence, pay a royalty of \$2.50 for each bird harmed.
- (3) In this clause:

fauna dealer (kangaroo) means a person licensed under section 125 of the Act to deal in the skins of kangaroos, wallaroos or wallabies (but not in the skins of any other kind of fauna).

trapper's licence (birds) means a trapper's licence (issued under section 123 of the Act) which authorises a person to harm birds for the purpose of sale.

wholesaler means a person who deals in kangaroos, wallaroos or wallabies otherwise than by retail or as a skin dealer.

Note. Section 142 (2) of the Act provides that royalty is not payable in respect of a skin or carcase to which there has been affixed or attached (in compliance with a condition of a licence) a tag for which a fee or charge has been paid pursuant to regulations made under section 154 (e) of the Act.

National Parks and Wildlife (Fauna Protection) Regulation 2001

Clause 13

Care and protection of fauna

Part 3

Part 3 Care and protection of fauna

13 Caging and confinement of protected fauna

- (1) A person who consigns or offers for sale any protected fauna must comply with the conditions set out in Schedule 1.

Maximum penalty: 10 penalty units.

- (2) A person who keeps any protected fauna must comply with the conditions specified in clause 1 (5)–(10) of Schedule 1.

Maximum penalty: 10 penalty units.

- (3) In Schedule 1, *cage* includes an aviary.

- (4) A person must comply with any requirement of the Director-General or an officer duly authorised by the Director-General to ring, band or otherwise mark or identify protected fauna kept in captivity by the person.

Maximum penalty: 10 penalty units.

- (5) A person must not remove or interfere with any such ring, band, mark or identification unless authorised to do so by the Director-General.

Maximum penalty: 10 penalty units.

- (6) This clause does not apply:

- (a) to birds being transported or consigned to, or exhibited at, a show conducted or sponsored by a recognised avicultural association, society or other organisation which adopts internationally accepted standards for display and showing, or
- (b) to sick or injured fauna held temporarily in strict confinement for the purpose of treatment, or
- (c) to fauna being transported or consigned to, or held for treatment by, a registered veterinary surgeon, or
- (d) to fauna being transported, consigned or kept under a licence issued under the Act for the purpose of scientific research.

Clause 14 National Parks and Wildlife (Fauna Protection) Regulation 2001

Part 3 Care and protection of fauna

14 Consignment or sale of young birds

A person must not consign or offer for sale any of the following:

- (a) a young bird that is (except in the case of a naturally flightless bird) incapable of flight unaided,
- (b) a young bird that cannot stand unaided,
- (c) a young bird that is incapable of feeding itself.

Maximum penalty: 10 penalty units.

15 Native waterfowl not to be interbred with non-native waterfowl

- (1) A person must not interbreed, or allow the interbreeding of, native ducks, geese or swans that are under the person's control with ducks, geese or swans that are not native.

Maximum penalty: 10 penalty units.

- (2) In this clause:

native means native to Australia.

16 Minimum approach distances to certain marine mammals

- (1) This clause applies to all marine mammals except the following:

- (a) *Delphinus delphis* (Common Dolphin),
- (b) *Tursiops truncatus* (Bottlenose Dolphin).

- (2) For the purposes of section 112G of the Act, the following distances are prescribed in respect of a marine mammal to which this clause applies:

- (a) 30 metres, if the person approaching the mammal is a swimmer or diver,
- (b) 300 metres, if the person approaching the mammal:
 - (i) is in an aircraft (including a glider or hang-glider but not including a helicopter), or
 - (ii) is in or on a vessel (powered or unpowered but not including a jet ski),
- (c) 400 metres, if the person approaching the mammal:
 - (i) is in a helicopter, or
 - (ii) is on a jet ski.

National Parks and Wildlife (Fauna Protection) Regulation 2001

Clause 16

Care and protection of fauna

Part 3

- (3) However:
- (a) if a slow speed approach is made by a vessel (other than a jet ski) from a distance of at least 300 metres, the minimum approach distance is:
 - (i) 200 metres, if the mammal is a calf or accompanying a calf, and
 - (ii) 100 metres, in any other case, or
 - (b) if a slow speed approach is made by a jet ski from a distance of at least 400 metres, the minimum approach distance is 300 metres.
- (4) The prescription of a distance under this clause does not apply to a person approaching a sick, injured or stranded marine mammal if an officer of the National Parks and Wildlife Service has given a direction as to the manner of approaching the mammal and the person is approaching the mammal in accordance with that direction.
- (5) In this clause:
- slow speed approach* means an approach at a constant, slow, no wake speed that is no faster than the speed of the mammal (or slowest mammal) being approached.
- vessel* includes boat, surf boat, boogie board, wind surfer, wave jumper, sail board and any other water-borne craft used or capable of being used for the conveyance of a person (including use wholly or partly submerged).

Clause 17 National Parks and Wildlife (Fauna Protection) Regulation 2001

Part 4 Miscellaneous

Part 4 Miscellaneous

17 Ex-officio rangers

- (1) For the purposes of section 16 (2) of the Act, the following classes and descriptions of officers and employees of State Forests (the Forestry Commission) are prescribed:
 - (a) Regional Foresters,
 - (b) Deputy Regional Foresters,
 - (c) District Foresters,
 - (d) Foresters,
 - (e) Forest Assistants,
 - (f) Foremen under the *Forestry Employees (Forestry Commission of New South Wales) Award*,
 - (g) Forest Rangers under the *Forestry Employees (Forestry Commission of New South Wales) Award*.
- (2) For the purposes of section 19 (1) of the Act, ex-officio rangers have and may exercise such functions as are conferred or imposed by or under sections 157 (1) and 158 of the Act on officers of the Service.
- (3) This clause applies to and in respect of matters arising under the fauna provisions of the Act only.

18 Notification of possession of certain animals

For the purposes of sections 101 (5) (c) (ii) of the Act:

- (a) the prescribed manner of notification is by a notice in writing to the Director-General, and
- (b) the prescribed time is the period ending 7 days after the animal comes into the person's possession.

19 Prescribed substances

- (1) For the purposes of section 110 of the Act, the following substances are prescribed:
 - (a) the substances stated in the Poisons List (proclaimed under section 8 of the *Poisons and Therapeutic Goods Act 1966*) as in force for the time being,
 - (b) copper sulphate,

National Parks and Wildlife (Fauna Protection) Regulation 2001	Clause 19
Miscellaneous	Part 4

(c) birdlime, glue, adhesive substances and viscid substances.

- (2) A person authorised to use a prescribed substance by the Director-General (or an officer of the National Parks and Wildlife Service authorised by the Director-General) is exempt from the provisions of section 110 (1) and (2) of the Act if the person uses the prescribed substance in accordance with the authorisation.

20 Notice of preparation of plan of management for marine mammals

For the purposes of section 112D (1) of the Act, the prescribed notice is a notification published in the Gazette.

21 Proceedings for offences—prescribed officers of the National Parks and Wildlife Service who may issue evidentiary certificates

- (1) For the purposes of section 181 (5) of the Act, the following are prescribed officers:
- (a) a Deputy Director,
 - (b) the Manager, Natural Resources Management Division,
 - (c) the Head, Wildlife Conservation and Regulator Services Branch,
 - (d) the Chief Law Enforcement Officer.
- (2) This clause applies to and in respect of matters arising under the fauna provisions of the Act only.

22 Savings provision

Any act, matter or thing that, immediately before the repeal of the *National Parks and Wildlife (Fauna Protection) Regulation 1994* had effect under that Regulation continues to have effect under this Regulation.

National Parks and Wildlife (Fauna Protection) Regulation 2001

Schedule 1 Caging of protected fauna

Schedule 1 Caging of protected fauna

(Clause 13)

1 Conditions for caging of protected fauna

- (1) Cages used for the housing of birds offered for sale must contain a removable tray having a flat base.
- (2) Birds offered for sale in cages must be housed in cages of a box type enclosed all over (with the exception of the front, which must be wired).
- (3) Birds consigned for sale in cages must be housed in cages of a box type.
- (4) Birds must be housed in cages so as to provide adequate ventilation (to the satisfaction of the Director-General or an officer authorised by the Director-General) with direct or indirect draughts avoided as far as reasonably possible.
- (5) Cages used in the housing of birds must be maintained in an adequate sanitary state to the satisfaction of the Director-General or an officer authorised by the Director-General.
- (6) Cages used in the housing of birds must contain (in addition to roosting perches) one or two perches for the purpose of steps, but one perch is sufficient for one bird.
- (7) A sufficient number of roosting perches of a size adequate for the bird or birds housed must be provided in a cage, the perches being so situated that:
 - (a) each bird has sufficient room to turn around and sit without any part of its plumage touching the cage, and
 - (b) each bird's tail does not rub the sides or bottom of the cage nor its head touch the top when it is perched, and
 - (c) drinking vessels and food receptacles in the cage will not be fouled.
- (8) Drinking vessels and food receptacles containing sufficient clean water and food to sustain the fauna in the cage must be placed in each cage.
- (9) Sufficient space must be provided in each cage to enable the birds in it to roost comfortably without overcrowding.

National Parks and Wildlife (Fauna Protection) Regulation 2001

Caging of protected fauna

Schedule 1

- (10) Mammals such as kangaroos or wallabies, and large birds such as emus, being consigned or offered for sale in cages must be given sufficient room to enable them to turn completely around, stand erect at full height and have free movement.

Occupational Health and Safety Amendment (Shops) Regulation 2001

under the

Occupational Health and Safety Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

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

Explanatory note

The object of this Regulation is to amend clause 359 of the *Occupational Health and Safety Regulation 2001* to clarify the continuing application to shops of certain provisions of the *Factories, Shops and Industries Act 1962* and the *Factories (Health and Safety) General Regulations 1913* that relate to factories.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including section 33 (the general regulation-making power) and clause 1 of Schedule 3 to that Act (savings, transitional and other provisions).

Clause 1 Occupational Health and Safety Amendment (Shops) Regulation 2001

Occupational Health and Safety Amendment (Shops) Regulation 2001

1 Name of Regulation

This Regulation is the *Occupational Health and Safety Amendment (Shops) Regulation 2001*.

2 Amendment of Occupational Health and Safety Regulation 2001

The *Occupational Health and Safety Regulation 2001* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Occupational Health and Safety Amendment (Shops) Regulation 2001

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

[1] Clause 359 Continuation of former OHS shop provisions

Insert “, subject to subclause (4)” after “means” in clause 359 (1).

[2] Clause 359, Note

Insert at the end of clause 359 (3):

Note. Immediately before the commencement of this Regulation, certain provisions applied to shops by virtue of section 61 of the *Factories, Shops and Industries Act 1962*.

[3] Clause 359 (4)

Insert at the end of clause 359:

- (4) For the purpose of the definition of *former OHS shop provisions* in subclause (1), the following provisions are taken to have applied to shops immediately before the commencement of this Regulation:
- (a) sections 19, 20, 21, 23, 24, 33, 34, 38, 40, 45, 50, 57, 58, 59, 60 and 61 of the *Factories, Shops and Industries Act 1962*,
 - (b) Regulations 3, 4, 6, 8, 9, 10, 11, 12, 16A, 17, 17A and 25 of the *Factories (Health and Safety) General Regulations 1913*.

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LEGISLATION

Regulations — *continued*

Passenger Transport (Private Hire Vehicle Services) Regulation 2001

under the

Passenger Transport Act 1990

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

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to replace, without substantial alteration but with additional matter, the *Passenger Transport (Private Hire Vehicle Services) Regulation 1995*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The additional matter in this Regulation:

- (a) sets out the criteria to be met by applicants for various accreditations and authorisations under the *Passenger Transport Act 1990* (such as an accreditation to carry on private hire vehicle services), and
- (b) prescribes certain fees in relation to those accreditations and authorisations, and
- (c) specifies certain conditions to which those accreditations and authorisations are subject.

This Regulation also deals with the following matters:

- (a) the operation of private hire vehicle services (Part 2), including:
 - (i) provisions with respect to private hire vehicle operators (Division 1), and
 - (ii) provisions with respect to private hire vehicle drivers (Division 2),

Passenger Transport (Private Hire Vehicle Services) Regulation 2001

Explanatory note

- (b) private hire vehicle hirings (Part 3),
- (c) the conduct of passengers in private hire vehicles (Part 4),
- (d) ancillary, consequential and formal matters (Parts 1 and 5).

This Regulation is made under the *Passenger Transport Act 1990* and, in particular, under section 63 (the general regulation-making power) and various other sections referred to in the Regulation (including sections that are to be inserted in the *Passenger Transport Act 1990* by the *Passenger Transport Amendment Act 2000* (as amended by the *Statute Law (Miscellaneous Provisions) Act 2001*), which is to commence at the same time as the Regulation).

Passenger Transport (Private Hire Vehicle Services) Regulation 2001

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Passenger Transport (Private Hire Vehicle Services) Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Passenger Transport (Private Hire Vehicle Services) Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Passenger Transport (Private Hire Vehicle Services) Regulation 1995* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

accredited private hire vehicle operator has the same meaning as it has in section 36A of the Act.

authorised officer includes a person authorised by the Director-General for the purposes of this Regulation.

authorised private hire vehicle driver has the same meaning as it has in section 36A of the Act.

drive a private hire vehicle includes cause or allow the private hire vehicle to stand.

driver of a private hire vehicle means an authorised private hire vehicle driver.

driver licence has the same meaning as it has in the *Road Transport (Driver Licensing) Act 1998*.

driver's authority card means an authority card issued under clause 40.

non-compliance notice means a notice referred to in clause 37.

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operator means:

- (a) in relation to a private hire vehicle service, the accredited private hire vehicle operator for the service, and
- (b) in relation to a private hire vehicle, the accredited private hire vehicle operator for the service to which the private hire vehicle belongs.

qualified accountant means either of the following:

- (a) a Certified Practising Accountant member of CPA Australia, New South Wales Division, or
- (b) a member of the Institute of Chartered Accountants in Australia, New South Wales Branch, who holds a Certificate of Public Practice issued by that Institute.

the Act means the *Passenger Transport Act 1990*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

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Part 2 Operation of private hire vehicle services

Division 1 Operators of private hire vehicle services and private hire vehicles

5 Criteria to be met by applicants for accreditation to carry on private hire vehicle services

- (1) An applicant for accreditation under Division 3 of Part 4A of the Act (that is, accreditation to carry on a private hire vehicle service) must meet, to the satisfaction of the Director-General, the criteria set forth in this clause.
- (2) If the applicant is a corporation, the directors or managers of the corporation who are nominated as designated directors or managers under section 41 of the Act must meet, to the satisfaction of the Director-General, the criteria set forth in this clause (other than the criteria specifically to be met by corporation applicants).
- (3) **Applicant to be of good repute**
The applicant must be of good repute. Evidence of the applicant's good repute is to be provided in the form of references from 2 persons (being persons of any class approved by the Director-General) who have known the applicant for at least 2 years.
- (4) **Applicant to be fit and proper person to carry on private hire vehicle service**
The applicant must be a fit and proper person to carry on a private hire vehicle service. 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*,

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- (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 (5),

the Director-General may, for the purpose of determining the applicant's fitness to be an accredited private hire vehicle operator, cause any investigation that the Director-General considers appropriate to be made into the winding up, conviction or charge concerned.

- (5) 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.
- (6) If there are no convictions or pending proceedings against the applicant (as referred to in subclause (5)), the applicant must give the Director-General a written statement to that effect.
- (7) **Applicant to be competent to carry on private hire vehicle service**
The applicant must demonstrate that the applicant has the necessary knowledge and competence to carry on a private hire vehicle service. In particular, the applicant must satisfy the Director-General as to the applicant's knowledge of the following:
- (a) the relevant provisions of the Act and this Regulation,
 - (b) other laws relating to traffic,
 - (c) the relevant provisions of the *Occupational Health and Safety Act 2000*.
- (8) **Applicant to be financially capable of carrying on private hire vehicle service**
The applicant must be financially capable of carrying on a private hire vehicle service. Evidence of the applicant's financial standing is to be provided in the form of a signed statement from a qualified accountant (on the accountant's business letterhead) containing the following:

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- (a) a report on the applicant's financial capacity to carry on a private hire vehicle 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 private hire vehicles that, in the opinion of the accountant, can be accommodated by the private hire vehicle 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.
- (9) **Applicant to have access to garaging and maintenance facilities for private hire vehicles**
 The applicant must have access to adequate garaging and maintenance facilities for the vehicles intended to be used to provide the private hire vehicle service. The applicant must provide the Director-General with full details of the following:
- (a) the garaging to be provided for the vehicles,
 - (b) the premises to be used for the maintenance and repair of the vehicles,
 - (c) the repairer's licence issued under the *Motor Vehicle Repairs Act 1980* in respect of both the person who will be carrying out any necessary repairs on the vehicles (whether or not that person is the applicant) and the premises on which those repairs will be carried out,
 - (d) if the repairs are to be carried out by a person or persons other than the applicant—the name, address and telephone number of the person or persons concerned.
- (10) In this clause, *Corporations Act* means the *Corporations Act 2001* of the Commonwealth.

6 Conditions of accreditation to carry on private hire vehicle services

- (1) The conditions set forth in this clause are prescribed for the purposes of section 38D (1) (a) of the Act (that is, they are conditions to which an accreditation to carry on private hire vehicle services is subject).

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(2) **Safety of drivers, passengers and the public**

The accredited private hire vehicle operator must:

- (a) ensure that the vehicles used to provide the private hire vehicle service at all times meet the requirements of the law as to registration and vehicle safety and roadworthiness, and
- (b) ensure that persons engaged to drive the private hire vehicles are authorised private hire vehicle drivers and hold an appropriate driver licence.

(3) **Records concerning roadworthiness of private hire vehicles**

The accredited private hire vehicle operator must make and keep, for at least 2 years after they are made, records concerning the roadworthiness of the private hire vehicles used to provide the private hire vehicle service.

(4) The records must take the form of a detailed roadworthiness assurance plan or system that:

- (a) is consistent with the private hire vehicle manufacturer's maintenance standards and with the Roadworthiness Assurance Guidelines published by the Director-General, and
- (b) specifies the steps taken to ensure that the private hire vehicles are roadworthy, and
- (c) specifies the way in which the private hire vehicles are maintained, and
- (d) is capable of being audited.

(5) **Management of day-to-day operation of private hire vehicle services provided by corporation**

If the accredited private hire vehicle operator is a corporation, it must not suffer or permit any person other than a designated director or manager to have management of the day-to-day operations of the private hire vehicle service provided by the corporation (except for a person appointed, under any law, to manage the affairs of the corporation).

7 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,

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- (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 cars 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:
- (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,

in accordance with the *Road Transport (Vehicle Registration) Regulation 1998*, whichever first occurs.

8 Condition of private hire vehicles

The operator of a private hire vehicle must ensure that, while the private hire vehicle is in use, its interior, exterior and fittings (including seats, seat covers and floor coverings and any device required by or under the Act to be fitted to the private hire vehicle) are clean, undamaged and in good repair.

Maximum penalty: 5 penalty units.

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9 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 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.

10 Non-compliance notices

The operator of a private hire vehicle must not allow the vehicle to be driven if:

- (a) the expiry date of a non-compliance notice affixed to the vehicle has passed, or
- (b) a non-compliance notice has been unlawfully removed from the vehicle.

Maximum penalty: 10 penalty units.

11 Records of drivers

- (1) The operator of a private hire vehicle must not permit a person to drive the private hire vehicle unless satisfied that the person is the holder of:
 - (a) an appropriate authorisation, and
 - (b) an appropriate licence under the *Road Transport (Driver Licensing) Act 1998*.

Maximum penalty: 10 penalty units.

- (2) The operator of a private hire vehicle must keep a written record of the following particulars for each person who drives the private hire vehicle:
 - (a) the person's full name and residential address,
 - (b) the dates and times during which the private hire vehicle was driven by the person.

Maximum penalty: 10 penalty units.

- (3) This clause does not apply to a private hire vehicle that is driven otherwise than for hire.

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12 Retention of books and records in relation to the operation of a private hire vehicle

A person who is or has been an operator of a private hire vehicle:

- (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 it 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.

13 Third party property insurance

- (1) The operator of a private hire vehicle must maintain an insurance policy in accordance with this clause.

Maximum penalty: 10 penalty units.

- (2) The policy:

- (a) must provide cover of at least \$5,000,000 against liability for damage to property caused by or arising out of the use of the private hire vehicle, and
- (b) must be maintained with a corporation authorised under the *Insurance Act 1973* of the Commonwealth to carry on insurance business.

Division 2 Private hire vehicle drivers

14 Criteria for authorisation to drive private hire vehicles

- (1) The object of this clause is to set forth, for the purposes of section 40B (2) of the Act, the criteria that an applicant for an authorisation to drive private hire vehicles must meet before the application is granted.
- (2) The applicant:
 - (a) must have attained the age of 20 years, and
 - (b) must hold a driver licence, and

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- (c) must have passed an examination or assessment, at a level determined by the Director-General, of medical fitness, and
- (d) must satisfy the Director-General that he or she:
 - (i) is of good repute and in all other respects a fit and proper person to be the driver of a private hire vehicle, and
 - (ii) has sufficient responsibility to drive a private hire vehicle in accordance with law and custom.
- (3) In this clause:

driver licence means a driver licence excluding a 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), learner licence, probationary licence, provisional licence, restricted licence and driver licence receipt.

15 Driver to notify Director-General of alleged offence

- (1) The driver of a private hire 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,
 - (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 private hire vehicle in respect of an offence referred to in subclause (1) (a) are pending—details of the charge are to be furnished within 48 hours after that commencement, unless the driver of the private hire vehicle is acquitted of the charge within 24 hours after that commencement, or
 - (b) a penalty notice of the kind referred to in subclause (1) (b) is in force against a driver of a private hire vehicle—details of the penalty notice are to be furnished within 48 hours after that commencement.

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- (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.

16 Driver to produce driver's authority card

The driver of a private hire vehicle must not fail to produce the appropriate driver's authority card for inspection on demand made by an authorised officer.

Maximum penalty: 5 penalty units.

17 Private hire vehicle to be clean

The driver of a private hire vehicle must ensure that the vehicle is clean and tidy.

Maximum penalty: 2 penalty units.

18 Non-compliance notices

A driver must not drive a private hire vehicle if:

- (a) the expiry date of a non-compliance notice affixed to the vehicle has passed, or
- (b) the driver is aware that a non-compliance notice has been unlawfully removed from the vehicle.

Maximum penalty: 10 penalty units.

19 Carriage of goods

The driver of a private hire 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.

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20 Lost property given to drivers

A driver who is given lost property under clause 36 or who finds such property, must, within 24 hours after being given or finding the property, give it to the operator of the private hire vehicle service to which the driver's private hire vehicle belongs.

Maximum penalty: 5 penalty units.

21 Behaviour of drivers

- (1) The driver of a private hire vehicle must not do any of the following:
 - (a) smoke tobacco or any other substance while in the private hire vehicle, whether or not the vehicle is being driven in the course of the provision of a private hire vehicle service,
 - (b) eat or drink in the private hire vehicle while the vehicle is hired or available for hire,
 - (c) move the vehicle while the doors are open,
 - (d) negligently or wilfully move or cause the vehicle to be moved so that any passenger or intending passenger is subjected to the risk of injury.

Maximum penalty: 5 penalty units.

- (2) Nothing in this clause prohibits a driver of a private hire vehicle from eating or drinking in the vehicle for medical reasons.
- (3) In this clause, *smoke* includes be in possession of a lighted cigarette, cigar, pipe or similar article.

22 Medical condition of driver

- (1) The driver of a private hire vehicle must, at the driver's own expense, furnish the Director-General:
 - (a) at intervals of 36 months until the driver attains the age of 60 years, and
 - (b) at intervals of 12 months on and after attaining that age,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.

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- (2) The Director-General may, by notice in writing, require a driver of a private hire vehicle to attend a medical practitioner specified in the notice, by the date specified in the notice, for the purposes of undergoing a medical fitness examination.
- (3) The driver of a private hire 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 private hire vehicles safely, with written details of the change.

Maximum penalty: 10 penalty units.

23 Dress and conduct of drivers

The driver of a private hire vehicle must not fail to do the following:

- (a) be clean and tidy and wear clean and tidy clothes when driving the vehicle as part of a private hire vehicle service,
- (b) behave in an orderly manner and with civility and propriety towards any passenger, intending passenger, driver of another private hire vehicle or authorised officer,
- (c) comply with every reasonable requirement of any passenger.

Maximum penalty: 10 penalty units.

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Part 3 Private hire vehicle hirings

Part 3 Private hire vehicle hirings

24 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 private hire vehicle.

Maximum penalty: 5 penalty units.

- (2) The driver of a private hire vehicle must not, by the driver's employee, agent or contractor, tout or solicit for passengers for, or for a hiring of, a private hire vehicle.

Maximum penalty: 5 penalty units.

25 No plying or standing for hire

The driver of a private hire vehicle must not:

- (a) ply or stand 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.

Maximum penalty: 50 penalty units.

26 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.

- (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.

Passenger Transport (Private Hire Vehicle Services) Regulation 2001

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Private hire vehicle hirings

Part 3

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- (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.

27 Termination of hiring by hirer

The hirer of a private hire vehicle may discharge the hire at any time.

28 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.

29 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.

30 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 3 Private hire vehicle hirings

(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.

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Clause 31

Conduct of passengers

Part 4

Part 4 Conduct of passengers

31 Offensive behaviour or language

A passenger must not, in a private hire vehicle:

- (a) behave in an offensive manner, or
- (b) use any offensive language.

Maximum penalty: 10 penalty units.

32 Smoking

- (1) A passenger must not smoke tobacco or any other substance in any private hire vehicle.

Maximum penalty: 5 penalty units.

- (2) In this clause, *smoke* includes be in possession of a lighted cigarette, cigar, pipe or similar article.

33 Luggage and soiled clothing

- (1) If, in the opinion of the driver of a private hire vehicle or an authorised officer, a passenger's or an intending passenger's clothing or luggage (or any other thing on or carried by the passenger or intending passenger):

- (a) may soil or damage the private hire vehicle or the clothing or luggage of other passengers, or
- (b) is of such a size or has such dimensions that it cannot be accommodated in the private hire vehicle without inconvenience or danger to other persons,

the driver or authorised officer may direct the person concerned to leave, or not to enter, the private hire vehicle.

- (2) A person must not fail to comply with such a direction.

Maximum penalty: 5 penalty units.

Clause 34 Passenger Transport (Private Hire Vehicle Services) Regulation 2001

Part 4 Conduct of passengers

34 Passengers who are causing nuisance

- (1) If, in the opinion of the driver of a private hire vehicle or an authorised officer, a passenger or intending passenger is causing, or is likely to cause, a nuisance or annoyance to the driver or other passengers, the driver or authorised officer may direct the person concerned to leave, or not to enter, the private hire vehicle.
- (2) A person must not fail to comply with such a direction.
Maximum penalty: 5 penalty units.

35 Leaving vehicle when directed

- (1) If, in the opinion of the driver of a private hire vehicle or an authorised officer, a passenger is committing an offence under this Part, the driver or authorised officer may direct the passenger to leave the vehicle.
- (2) A person must not fail to comply with such a direction.
Maximum penalty: 5 penalty units.

36 Lost property

A passenger who finds any article in or on a private hire vehicle must:

- (a) return it to its owner, or
- (b) give it to the driver of the private hire vehicle.

Maximum penalty: 5 penalty units.

Passenger Transport (Private Hire Vehicle Services) Regulation 2001

Clause 37

Miscellaneous

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Part 5 Miscellaneous

37 Non-compliance notices

- (1) An authorised officer, or a person carrying out an inspection of a private hire vehicle under section 55A of the Act, may affix a notice (a *non-compliance notice*) to the vehicle if it appears to the authorised officer or other person that the vehicle does not comply with a notice issued under clause 7 or meet the requirements set out in clause 8.
- (2) The notice is to 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 private hire vehicle service unless the notice has been removed by an authorised officer.
- (3) An authorised officer may remove a non-compliance notice from a private hire vehicle if satisfied on inspection of the vehicle that the necessary action specified in the notice has been taken.
- (4) A person who is not an authorised officer must not remove a non-compliance notice from a private hire vehicle.

Maximum penalty: 10 penalty units.

38 Reduced fees for licences

The Director-General, in accordance with section 39I (2) of the Act, may fix a licence fee at less than the current value of the licence on the open market or may decide not to impose a licence fee for the licence in circumstances where, in the opinion of the Director-General, the service concerned would for economic or other reasons be unlikely to be provided if the full licence fee were to be imposed.

39 Change of address or name of operator or driver

If:

- (a) an operator of a private hire vehicle service, or
- (b) a driver of a private hire vehicle,

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changes his or her name or residential address, the operator or driver concerned must, within 7 days after the change, give written notice of the fact and of the new name or address to the Director-General.

Maximum penalty: 5 penalty units.

40 Driver's authority cards

- (1) The Director-General may issue an authority card to the holder of an authorisation to drive private hire vehicles.
- (2) A driver's 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.
- (3) A driver's authority card expires at midnight on the date specified on the card as the expiry date.
- (4) A person's authority to drive private hire vehicles and driver's authority card do not have any effect, either for the purposes of Division 5 of Part 4A of the Act or for the purposes of this Regulation, while the person's driver licence is cancelled or suspended.

41 Misuse of authorities and authority cards

- (1) This clause applies to authorities to drive private hire vehicles and to drivers' authority cards.
- (2) A person must not:
 - (a) alter or deface any authority or driver's authority card, or
 - (b) lend or part with any authority or driver's authority card.Maximum penalty: 5 penalty units.
- (3) An authority or driver's authority card that has been altered or defaced is void and may be returned to the Director-General for replacement.

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- (4) On the return of an authority or driver's authority card, or on proof to the satisfaction of the Director-General that an authority or driver's authority card has been destroyed, stolen or lost, the Director-General may cause a duplicate of it to be issued, and any such duplicate then becomes, for the purposes of the Act and this Regulation, the authority or driver's authority card in respect of which the duplicate is issued, and the original authority or driver's authority card, if it is not already void, becomes void.

42 Fees

- (1) For the purposes of section 38A (2) of the Act, the prescribed fee for consideration of an application for an accreditation to carry on a private hire vehicle service is \$100.
- (2) For the purposes of section 38C (2) of the Act, the prescribed fee for the renewal of an accreditation to carry on a private hire vehicle service is \$45.
- (3) For the purposes of section 40A (2) of the Act, the prescribed fee for consideration of an application for an authorisation to drive private hire vehicles is \$45.
- (4) For the purposes of section 40C (2) of the Act, the prescribed fee for the renewal of an authorisation to drive private hire vehicles is \$45.

43 Lost property given to operator of private hire vehicle service

Any lost property given to the operator of a private hire vehicle service 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.

44 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

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- (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).

45 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 1 is declared to be a penalty notice offence, and
 - (b) the prescribed penalty for such an offence is the amount specified in Column 4 of Schedule 1.
- (2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

46 Short descriptions

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 1 consists of consists of:
 - (a) if one or more IPB Codes are set out in relation to the offence in Column 2 of Schedule 1, any of the IPB Codes together with:
 - (i) the text set out in relation to the offence in Column 3 of that Schedule, or
 - (ii) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence, or
 - (b) if no IPB Code is set out in relation to the offence in Column 2 of Schedule 1:
 - (i) the text set out in relation to the offence in Column 3 of that Schedule, or
 - (ii) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence.

Passenger Transport (Private Hire Vehicle Services) Regulation 2001	Clause 46
Miscellaneous	Part 5

- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 1, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.
- (5) In this clause:
 - (a) ***Infringement Processing Bureau*** means the Infringement Processing Bureau within the Police Service.
 - (b) ***IPB Code***, in relation to an offence, means the code allocated to the offence by the Infringement Processing Bureau.

47 Saving

Any act, matter or thing that had effect under the *Passenger Transport (Private Hire Vehicle Services) Regulation 1995* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

Passenger Transport (Private Hire Vehicle Services) Regulation 2001

Schedule 1 Penalty notice offences

Schedule 1 Penalty notice offences

(Clauses 45 and 46)

Part 1 Offences under the Passenger Transport Act 1990

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Section 37 (1) (a)	8717 2446	unaccredited person carry on hire car service	\$ 1,000
Section 37 (1) (b)	8719 2447	use unlicensed hire car to carry on service	\$ 1,000
Section 38D (3)	4377 2448	hire car operator contravene condition of accreditation	\$ 500
Section 40 (2)	8723 2449	unauthorised person drive hire car	\$ 500
Section 53B (1)	8724 2450	not return authority/licence relating to hire car	\$ 500
Section 53B (2)	5064 2451	not return hire car number-plates relating to cancelled/suspended/discontinued licence	\$ 500

Part 2 Offences under the Passenger Transport (Private Hire Vehicle Services) Regulation 2001

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 7 (4)	8726 2438	use non-complying vehicle as hire car	\$ 500
Clause 8	4378 1796	interior/exterior/fittings of hire car dirty/damaged/not in good repair	\$ 150

Passenger Transport (Private Hire Vehicle Services) Regulation 2001

Penalty notice offences

Schedule 1

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 9	8727 1797	fail to notify modification to hire car	\$ 200
Clause 10 (a)	5045 2144	allow hire car be driven after expiry non-compliance notice	\$ 200
Clause 10 (b)	5046 2145	allow hire car be driven after unlawful removal notice	\$ 200
Clause 11 (1) (a)	5047 2146	allow unauthorised person drive hire car	\$ 200
Clause 11 (1) (b)	5048 2147	allow unlicensed person drive hire car	\$ 200
Clause 11 (2) (a)	5049 2148	not keep record hire car driver's name/address	\$ 150
Clause 11 (2) (b)	5050 2149	not keep record hire car driver's dates/times of driving	\$ 200
Clause 12 (b)	5051 2150	not retain hire car record	\$ 200
Clause 12 (c)	5052 2151	not produce hire car record to authorised officer	\$ 200
Clause 12 (d)	5053 2152	not deliver hire car record to Director-General	\$ 200
Clause 13	5054 2153	hire car operator not maintain required insurance	\$ 300
Clause 16	8728 2154	hire car driver not produce authority card	\$ 150
Clause 17	4380 1798	driver not ensure hire car is clean and tidy	\$ 150
Clause 18 (a)	5056 2155	drive hire car after expiry non-compliance notice	\$ 200
Clause 18 (b)	5057 2156	drive hire car after unlawful removal non-compliance notice	\$ 200
Clause 19	5058 2157	allow hire car carry article inconvenient to other person	\$ 150
Clause 20	8730 2439	driver fail to give lost property to operator	\$ 100

Passenger Transport (Private Hire Vehicle Services) Regulation 2001

Schedule 1 Penalty notice offences

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 21 (1) (a)	9277 2464	driver smoke in hire car	\$ 150
Clause 21 (1) (b)	9278 2465	driver eat/drink in hired hire car/hire car available for hire	\$ 150
Clause 21 (1) (c)	4383 1801	move hire car with doors open	\$ 150
Clause 21 (1) (d)	4384 1802	risk safety of hire car passengers	\$ 200
Clause 23 (a)	4385 1803	hire car driver not clean/tidy/wearing clean/tidy clothes	\$ 75
Clause 23 (b)	4386 1804	hire car driver fail to behave in orderly manner/with civility/propriety	\$ 200
Clause 23 (c)	4387 1805	fail to comply with requirement of hire car passenger	\$ 150
Clause 24 (1)	8737 1800	tout/solicit for passengers for/hiring of hire car	\$ 150
Clause 24 (2)	9279 2466	driver of hire car by employer/agent/contractor tout/solicit for passengers for/hiring of hire car	\$ 150
Clause 25 (a)	8758 2440	ply/stand hire car for hire on road/road-related area	\$750
Clause 25 (b)	8770 2441	use hire car to carry out unbooked hiring	\$ 750
Clause 26 (1) (a)	4388 1806	hire car driver refuse/fail to carry out hiring punctually	\$ 150
Clause 26 (1) (b)	4389 1807	hire car driver fail to drive by shortest route	\$ 150
Clause 28 (a)	4390 1808	take additional hire car passenger without hirer's consent	\$ 150
Clause 29 (a)	5060 2158	charge fare when hire car delayed by fuel shortage/accident	\$ 150
Clause 29 (b)	5061 2159	charge fare when hire car delayed by avoidable cause	\$ 150

Passenger Transport (Private Hire Vehicle Services) Regulation 2001

Penalty notice offences

Schedule 1

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 30 (1)	8772 2442	hire car passenger fail to pay fare	\$ 100
Clause 30 (3)	8773 2443	fail to pay arranged fare	\$ 100
Clause 31 (a)	4391 1809	offensive behaviour in hire car	\$ 200
Clause 31 (b)	4392 1810	offensive language in hire car	\$ 200
Clause 32	4393 1811	passenger smoke in hire car	\$ 150
Clause 33 (2)	4394 1812	person with soiled clothing/bulky luggage fail to leave hire car when directed	\$ 100
Clause 34 (2)	4395 1813	intoxicated/offensive person fail to leave hire car when directed	\$ 100
Clause 35 (2)	4396 1814	person committing offence fail to leave hire car when directed	\$ 100
Clause 36	5062 2160	passenger not deal properly with property found in hire car	\$ 100
Clause 37 (4)	5063 2161	unauthorised person remove non-compliance notice	\$ 300
Clause 39 (a)	4397 1815	hire car service operator fail to notify change of address	\$ 150
Clause 39 (b)	4399 2444	hire car driver fail to notify change of address	\$ 150
Clause 41 (2) (a)	4398 1816	alter/deface hire car authority/authority card	\$ 150
Clause 41 (2) (b)	5055 2445	lend/part with hire car authority/authority card	\$ 150

Passenger Transport (Taxi-cab Services) Regulation 2001

under the

Passenger Transport Act 1990

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

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to replace, without substantial alteration but with additional matter, the *Passenger Transport (Taxi-cab Services) Regulation 1995*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The additional matter in this Regulation:

- (a) sets out the criteria to be met by applicants for various accreditations and authorisations under the *Passenger Transport Act 1990* (such as an accreditation to carry on taxi-cab services and an authorisation to drive a taxi-cab), and
- (b) prescribes certain fees in relation to those accreditations and authorisations, and
- (c) specifies certain conditions to which those accreditations and authorisations are subject.

This Regulation refers to the Australian/New Zealand Standard called *Child restraint systems for use in motor vehicles* and numbered AS/NZS 1754:2000, published on 1 February 2000 by Standards Australia and Standards New Zealand and to Amendment 1 to that Standard published on 27 April 2001.

Passenger Transport (Taxi-cab Services) Regulation 2001

Explanatory note

This Regulation is made under the *Passenger Transport Act 1990* and, in particular, under section 63 (the general regulation-making power) and the sections specifically referred to in the Regulation (including sections that are to be inserted in the *Passenger Transport Act 1990* by the *Passenger Transport Amendment Act 2000* (as amended by the *Statute Law (Miscellaneous Provisions) Act 2001*), which is to commence at the same time as the Regulation).

Passenger Transport (Taxi-cab Services) Regulation 2001

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Passenger Transport (Taxi-cab Services) Regulation 2001

Clause 1

Preliminary

Part 1

Passenger Transport (Taxi-cab Services) Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Passenger Transport (Taxi-cab Services) Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Passenger Transport (Taxi-cab Services) Regulation 1995* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

accredited taxi-cab operator has the same meaning as it has in section 29A of the Act.

alarm means a security device referred to in clause 12.

approved, in relation to:

- (a) a driver protection screen, 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 operations of a taxi-cab means the area within which the taxi-cab is authorised by its licence to ply for hire.

assistance animal means an animal referred to in section 9 (Disability discrimination—guide dogs, hearing assistance dogs and trained animals) of the *Disability Discrimination Act 1992* of the Commonwealth.

Clause 3 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 1 Preliminary

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:
 - (i) the fare determined (or the arrangement for remuneration approved) by the Director-General under section 60A of the Act, or
 - (ii) if no such fare or arrangement is determined or approved—the conditions of the licence for the taxi-cab, and
- (b) if the hiring is a multiple hiring—75% of the amount referred to in paragraph (a),

and includes the night-time surcharge rate.

authorised officer includes a person authorised by the Director-General for the purposes of this Regulation.

authorised taxi-cab driver has the same meaning as it has in section 29A of the Act.

authorised taxi-cab network provider has the same meaning as it has in section 29A of the Act.

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 1754:2000, published on 1 February 2000 by Standards Australia and Standards New Zealand, as amended by Amendment 1 published on 27 April 2001.

Corporations Act means the *Corporations Act 2001* of the Commonwealth.

drive a taxi-cab includes cause or allow the taxi-cab to stand.

driver of a taxi-cab means an authorised taxi-cab driver.

driver licence has the same meaning as it has in the *Road Transport (Driver Licensing) Act 1998*.

driver protection screen means a screen that is designed to protect the driver of a taxi-cab from attack from behind by other persons in the taxi-cab.

driver's authority card means an authority card in force under clause 79.

hirer of a taxi-cab means the person by whom the taxi-cab is hired.

Passenger Transport (Taxi-cab Services) Regulation 2001

Clause 3

Preliminary

Part 1

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.

maxi-cab means a taxi-cab that has seating accommodation for 6 or more adult persons other than the driver.

multiple hiring, in relation to a taxi-cab, means a hiring under clause 68 (1).

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.

non-compliance notice means a notice referred to in clause 81.

operator of a taxi-cab means the accredited taxi-cab operator of the taxi-cab service to which the taxi-cab belongs.

qualified accountant means either of the following:

- (a) a Certified Practising Accountant member of CPA Australia, New South Wales Division, or
- (b) a member of the Institute of Chartered Accountants in Australia, New South Wales Branch, who holds a Certificate of Public Practice issued by that Institute.

receiver means a receiver referred to in section 31G of the Act.

registration number has the same meaning as it has under the *Road Transport (Vehicle Registration) Act 1997*.

road has the same meaning as it has in the *Road Transport (General) Act 1999*.

RTA means the Roads and Traffic Authority constituted by the *Transport Administration Act 1988*.

security camera system means a system that records images of persons in or about a taxi-cab.

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.

taxi-cab booking service has the same meaning as it has in section 29A of the Act.

Clause 3 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 1 Preliminary

taxi-cab network has the same meaning as it has in section 29A of the Act.

taxi-cab service has the same meaning as it has in section 29A of the Act.

taxi zone means a zone designated by a traffic sign of the kind referred to in rule 182 of the *Australian Road Rules*, whether the zone is appointed or approved under clause 80 of this Regulation or under another law.

the Act means the *Passenger Transport Act 1990*.

transport district means a transport district referred to in section 108 of 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 belongs.

wheelchair accessible taxi-cab means a taxi-cab that has wheelchair access.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 5
Operation of taxi-cab services	Part 2
Operators of taxi-cab services and taxi-cabs	Division 1

Part 2 Operation of taxi-cab services

Division 1 Operators of taxi-cab services and taxi-cabs

5 Criteria to be met by applicants for accreditation to carry on taxi-cab services

- (1) An applicant for accreditation under Division 3 of Part 4 of the Act (that is, accreditation to carry on a taxi-cab service) must meet, to the satisfaction of the Director-General, the criteria set forth in this clause.
- (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, to the satisfaction of the Director-General, the criteria set forth in this clause (other than the criteria specifically to be met by corporation applicants).
- (3) **Applicant to be of good repute**
The applicant must be of good repute. Evidence of the applicant's good repute is to be provided in the form of references from 2 persons (being persons of any class approved by the Director-General) who have known the applicant for at least 2 years.
- (4) **Applicant to be fit and proper person to carry on taxi-cab services**
The applicant must be a fit and proper person to carry on a taxi-cab service. 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

Clause 5 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 2 Operation of taxi-cab services

Division 1 Operators of taxi-cab services and taxi-cabs

- (ii) discloses any convictions or charges in accordance with subclause (5),

the Director-General may, for the purpose of determining the applicant's fitness to be an accredited taxi-cab operator, cause any investigation that the Director-General considers appropriate to be made into the winding up, conviction or charge concerned.

- (5) 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.
- (6) If there are no convictions or pending proceedings against the applicant (as referred to in subclause (5)), the applicant must give the Director-General a written statement to that effect.
- (7) **Applicant to be competent to carry on taxi-cab services**
The applicant must demonstrate that the applicant has the necessary knowledge and competence to carry on a taxi-cab service. 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) laws relating to bailment of motor vehicles,
 - (iv) the relevant provisions of the *Occupational Health and Safety Act 2000*, and
 - (b) undertake and successfully complete (or pass an examination in respect of) such course relating to the operation of taxi-cab services as is approved by the Director-General and conducted by a person or body so approved.

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 5
Operation of taxi-cab services	Part 2
Operators of taxi-cab services and taxi-cabs	Division 1

- (8) **Applicant to be financially capable of carrying on taxi-cab services**
 The applicant must be financially capable of carrying on a taxi-cab service. Evidence of the applicant's financial standing is to be provided in the form of a signed statement from a qualified accountant (on the accountant's business letterhead) containing the following:
- (a) a report on the applicant's financial capacity to carry on taxi-cab services, 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 taxi-cabs that, in the opinion of the accountant, can be accommodated by the taxi-cab services 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.
- (9) **Applicant to have access to maintenance facilities for taxi-cabs**
 The applicant must have access to adequate maintenance facilities for the vehicles intended to be used to provide the taxi-cab service. The applicant must provide the Director-General with full details of the following:
- (a) the premises at which the taxi-cabs will normally be kept when not available for hire,
 - (b) the premises to be used for the maintenance and repair of the vehicles,
 - (c) the repairer's licence issued under the *Motor Vehicle Repairs Act 1980* in respect of both the person who will be carrying out any necessary repairs on the vehicles (whether or not that person is the applicant) and the premises on which those repairs will be carried out,
 - (d) if the repairs are to be carried out by a person or persons other than the applicant—the name, address and telephone number of the person or persons concerned.

Clause 6 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 2 Operation of taxi-cab services

Division 1 Operators of taxi-cab services and taxi-cabs

6 Conditions of accreditation to carry on taxi-cab services

- (1) The conditions set forth in this clause are prescribed for the purposes of section 31D (1) (b) of the Act (that is, they are conditions to which an accreditation to carry on taxi-cab services is subject).
- (2) **Safety of drivers, passengers and the public**
The accredited taxi-cab operator must:
 - (a) ensure that the vehicles used to provide the taxi-cab service at all times meet the requirements of the law as to registration and vehicle safety and roadworthiness, and
 - (b) ensure that persons engaged to drive the taxi-cabs are authorised taxi-cab drivers and hold an appropriate driver licence, and
 - (c) take part in any driver monitoring program of the taxi-cab network to which the operator is affiliated, so as to permit the counselling and (if necessary) disciplining of any of the operator's taxi-cab drivers who fail to comply with any requirement to which, as authorised taxi-cab drivers, they are subject.
- (3) **Records concerning roadworthiness of taxi-cabs**
The accredited taxi-cab operator must make and keep, for at least 2 years after they are made, records concerning the roadworthiness of the taxi-cabs used to provide the taxi-cab service.
- (4) The records must take the form of a detailed roadworthiness assurance plan or system that:
 - (a) is consistent with the taxi-cab manufacturer's maintenance standards and with the Roadworthiness Assurance Guidelines published by the Director-General, and
 - (b) specifies the steps taken to ensure that the taxi-cabs are roadworthy, and
 - (c) specifies the way in which the taxi-cabs are maintained, and
 - (d) is capable of being audited.
- (5) **Cleaning of taxi-cabs**
The accredited taxi-cab operator must maintain a cleaning program so as to ensure that the interior, exterior and fittings (including seats, seat covers and floor covers and any device that is required by or under the Act to be fitted to the taxi-cab) of the taxi-cab are clean, undamaged and in good condition.

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 6
Operation of taxi-cab services	Part 2
Operators of taxi-cab services and taxi-cabs	Division 1

(6) **Identification of taxi-cabs**

The accredited taxi-cab operator must notify the Director-General in writing of the registration number of each taxi-cab used to provide the taxi-cab service.

(7) **Changes to information provided**

The accredited taxi-cab operator must notify the Director-General in writing of any of the following changes within the time specified in relation to the change:

- (a) a change in the registration number of a taxi-cab used to provide the taxi-cab service—no later than 48 hours after the change,
- (b) a change of address of the premises from which the taxi-cab service is carried on—no later than 7 days after the change,
- (c) a change of address of the premises at which the taxi-cabs are kept—no later than 7 days after the change.

(8) **Management of day-to-day operation of taxi-cab services provided by corporation**

If the accredited taxi-cab operator is a corporation, it must not suffer or permit any person other than a designated director or manager to have management of the day-to-day operations of the taxi-cab services provided by the corporation (except for a person appointed, under any law, to manage the affairs of the corporation).

7 Operator training

- (1) An accredited taxi-cab 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 taxi-cab services as is approved by the Director-General and conducted by a person or body so approved.
- (2) The Director-General may:
 - (a) suspend an accreditation issued to an accredited taxi-cab 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 taxi-cab operator will be renewed only on the satisfactory completion of (or on the passing of an examination in respect of) such a course.

Clause 8 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 2 Operation of taxi-cab services

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8 Wheelchair accessible taxi-cabs

An accredited taxi-cab operator whose taxi-cab service involves the use of a wheelchair accessible taxi-cab must ensure that the taxi-cab concerned:

- (a) is capable of being fitted with, and (at all times that it is available for hire) carries, a child restraint, and
- (b) is not driven by more than one person between the hours of 12 midday and 5 pm on any day, and
- (c) 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 person or body approved by the Director-General) in respect of the care and transport of persons with physical disabilities.

Maximum penalty: 40 penalty units.

9 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.

- (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) Subclause (2) does not apply to a maxi-cab and subclauses (2) and (3) do not apply to a 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 unoccupied).
- (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.

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 9
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- (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:
- had such a seat installed, and
 - was being used as a taxi-cab, immediately before the commencement of this clause.

10 Maximum age of taxi-cabs

- (1) A person must not operate a vehicle licensed as a taxi-cab in respect of the Metropolitan transport district if the vehicle is more than 6 years old.
Maximum penalty: 10 penalty units.
- (2) A person must not operate a vehicle licensed as a 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) Despite subclauses (1) and (2), a person may operate a wheelchair accessible taxi-cab that is more than 6 or 8 years old, but only if it is no more than 10 years old.
- (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:
- an identification plate is fitted to the vehicle, or
 - an operations plate is installed in the vehicle, or
 - a certificate of approved operations is issued in respect of the vehicle,

in accordance with the *Road Transport (Vehicle Registration) Regulation 1998*, whichever first occurs.

Clause 11 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 2 Operation of taxi-cab services

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11 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 published by the Director-General.

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 must be 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.

- (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.
- (7) Without limiting the standards for taxi-meters that the Director-General may publish, the standards may include standards relating specifically to taxi-meters to be fitted to wheelchair accessible taxi-cabs.

12 Security devices

- (1) The operator of a taxi-cab that is connected to a taxi-cab network must ensure that the taxi-cab is fitted with a security device (of a kind declared by the Director-General, by order published in the Gazette, to be a mandatory security device for taxi-cabs of that type) in the form of an alarm by which the driver can, in a discreet manner, notify the driver's whereabouts to the network from anywhere within the taxi-cab's area of operations.

Maximum penalty: 10 penalty units.

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 12
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- (2) The operator must ensure that a taxi-cab that has a fully enclosed boot compartment is equipped with a lock release device that complies with subclause (3).

Maximum penalty: 10 penalty units.

- (3) The lock release device:
- (a) must enable the boot compartment to be opened from inside the compartment, and
 - (b) must have a distinctively coloured and easily accessible handle, and
 - (c) must not be able to be rendered inoperable from outside the compartment when the boot is closed.

13 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 a security device of the kind required by clause 12 (1).
- (3) A person must not knowingly:
- (a) interfere with any part of an approved vehicle tracking device 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 device.

Maximum penalty: 10 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.

Clause 14 Passenger Transport (Taxi-cab Services) Regulation 2001

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Division 1 Operators of taxi-cab services and taxi-cabs

14 Driver protection screens and security cameras

- (1) The operator of a taxi-cab:
- (a) that operates within the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area, and
 - (b) that is connected to a taxi-cab network,
- must ensure that the taxi-cab is fitted with either an approved driver protection screen or an approved security camera system.
- Maximum penalty: 10 penalty units.
- (2) The operator of a taxi-cab:
- (a) that operates within the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area, and
 - (b) in respect of which the operator has been exempted by the Director-General from the provisions of section 31G (a) of the Act,
- must ensure that the taxi-cab is fitted with an approved driver protection screen.
- Maximum penalty: 10 penalty units.
- (3) A person must not deliberately:
- (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: 10 penalty units.
- (4) A person must not deliberately:
- (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: 10 penalty units.

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 14
Operation of taxi-cab services	Part 2
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- (5) 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).
- (6) 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 or a security camera system.

15 Air-conditioning

The operator of a taxi-cab must ensure that the taxi-cab is fitted with an air-conditioning system that is fully operational and in good repair.

Maximum penalty: 10 penalty units.

16 Condition of taxi-cabs

The operator of a taxi-cab must ensure that, while the taxi-cab is being driven for hire:

- (a) its interior (including the interior of the boot compartment), and
- (b) its exterior (including the body and door panels, the bumper bars, the trim, the wheels and the network decals), and
- (c) its fittings (including the seats, the seat covers, the floor coverings and any device or equipment required by this Regulation to be fitted to the taxi-cab),

are clean and undamaged and (in the case of its fittings) are duly fitted, securely in place and (in the case of devices, equipment, interior lights and window winding mechanisms) in good condition and fully operational.

Maximum penalty: 5 penalty units.

17 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 in use.

Maximum penalty: 5 penalty units.

- (2) The following information must be displayed:

- (a) a summary of the rights and obligations of the hirer,

Clause 17 Passenger Transport (Taxi-cab Services) Regulation 2001

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- (b) brief details (including a telephone number) as to how complaints 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 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.
- (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.

18 Certificate of inspection to be displayed

The operator of a taxi-cab must ensure that the current certificate of inspection (that is, the certificate issued by or on behalf of the RTA 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.

19 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 or bolts that is or are capable of securing any child restraint.

Maximum penalty: 5 penalty units.

20 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

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 20
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- (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) A taxi-cab that is authorised by its licence to ply for hire in an urban area 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 11 (2) from the provisions of clause 11 (1) (that is, from the requirement that the taxi-cab be fitted with a taxi-meter that complies with the standards for taxi-meters published by the Director-General).
- (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.
- (6) In the case of a taxi-cab the subject of an exemption under clause 11 (2) from the provisions of clause 11 (1) (that is, from the requirement that the taxi-cab be fitted with a taxi-meter that complies with the standards for taxi-meters published by the Director-General), the roof sign lamp and amber lamp must each be operated so that:

Clause 20 Passenger Transport (Taxi-cab Services) Regulation 2001

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- (a) while the taxi-cab is engaged or not for hire, both the roof sign lamp and the amber lamp will be extinguished, and
 - (b) while the taxi-cab is available for hire, both the roof sign lamp and the amber lamp will be illuminated.
- (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.
- (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 deliberately:
- (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.

21 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.

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 21
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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.

22 Taxi-cabs to display registration details

- (1) The operator of a taxi-cab that is authorised by its licence to ply for hire within the Metropolitan transport district must ensure that, on and from 1 January 2002, 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 numbers must be displayed as follows:
- (a) on 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.
- (3) This clause does not apply to or in respect of a stand-by taxi-cab.

23 Advertisements within 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 within or on the outside of the taxi-cab unless the advertisement and its location has been approved by the Director-General.

Maximum penalty: 5 penalty units.

24 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.

Clause 24 Passenger Transport (Taxi-cab Services) Regulation 2001

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- (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.
- (4) A motor vehicle that is operated as a stand-by taxi-cab must, at the time of its last registration under the *Road Transport (Vehicle Registration) Act 1997*, have complied 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 8 (a)–(c).
- (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 operations, 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.

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 25
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25 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 section 55A of the Act:

- (a) the taxi-cab complies in all respects with the requirements of clause 9, and
- (b) the taxi-cab does not exceed the maximum permissible age as specified in clause 10 (1) or (2) (as appropriate), and
- (c) the taxi-cab is duly fitted with a taxi-meter of the kind referred to in clause 11 (unless the taxi-cab is exempted under clause 11 (2)), and
- (d) the taxi-cab is duly fitted with a security device and lock release device as required by clause 12, and
- (e) the taxi-cab is fitted with an approved tracking device as required by clause 13, and
- (f) the taxi-cab is duly fitted with any approved driver protection screen or approved security camera system required by clause 14, and
- (g) the taxi-cab is fitted with an air-conditioning system as required by clause 15, and
- (h) the interior, exterior and fittings of the taxi-cab comply in all respects with the requirements of clause 16, and
- (i) the information required by clause 17 is duly displayed in the taxi-cab, and
- (j) the taxi-cab is duly fitted with the child restraint anchorage bolt or bolts required by clause 19, and
- (k) the taxi-cab is duly fitted with the roof sign lamp and other roof lamps required by clause 20, and
- (l) 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 21 (1) (a) are mounted on the taxi-cab, and
 - (iii) the taxi-cab is painted as required by clause 21 (1) (b).

Maximum penalty: 5 penalty units.

Clause 26 Passenger Transport (Taxi-cab Services) Regulation 2001

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26 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.

27 Non-compliance notices: operator

The operator of a taxi-cab must not allow the taxi-cab to be driven if:

- (a) the expiry date or expiry time of a non-compliance notice affixed to the taxi-cab has passed, or
- (b) a non-compliance notice has been unlawfully removed from the taxi-cab.

Maximum penalty: 10 penalty units.

28 Network uniforms

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.

29 Driver's 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's authority card in such a manner as to enable the driver to display the card as required by clause 35.

Maximum penalty: 10 penalty units.

30 Records of drivers

- (1) The operator of a taxi-cab must not permit a person to drive the taxi-cab unless satisfied that the person is the holder of:
 - (a) an appropriate authorisation, and
 - (b) an appropriate licence under the *Road Transport (Driver Licensing) Act 1998*.

Maximum penalty: 10 penalty units.

Passenger Transport (Taxi-cab Services) Regulation 2001	Clause 30
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- (2) The operator of a taxi-cab must keep a record in written or electronic form of the following particulars for each person who drives the taxi-cab:
- (a) the person's full name and residential address,
 - (b) the dates and times during which the taxi-cab was driven by the person,
 - (c) the person's driver's authority number (that is, the number allocated by the Director-General and displayed on the front of the person's driver's authority card).

Maximum penalty: 10 penalty units.

- (3) The operator of a taxi-cab must provide each person who drives the taxi-cab with blank drivers' worksheets, of a kind approved by the Director-General, for the person to complete in accordance with the requirements of clause 38.

Maximum penalty: 10 penalty units.

- (4) This clause does not apply to a taxi-cab that is driven otherwise than for hire.

31 Retention of records and worksheets in relation to operation of taxi-cab

A person who is or has been an operator of a taxi-cab:

- (a) must keep in the English language any record (including any worksheet given to the person as referred to in clause 38 (2) (b)) 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 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.

Clause 32 Passenger Transport (Taxi-cab Services) Regulation 2001

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Division 1 Operators of taxi-cab services and taxi-cabs

32 Insurance

- (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.
- (2) The operator must maintain one or more policies that:
 - (a) provide cover of at least \$5,000,000 against liability for damage to property caused by or arising out of the use of the taxi-cab, and
 - (b) 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 policy referred to in subclause (2) (b) is current and is carried in the taxi-cab at all times.

Division 2 Taxi-cab drivers

33 Criteria for authorisation to drive taxi-cabs

- (1) The object of this clause is to set forth, for the purposes of section 33B (2) of the Act, the criteria that an applicant for an authorisation to drive taxi-cabs must meet before the application is granted.
- (2) The applicant:
 - (a) must be at least 20 years of age, and
 - (b) must hold a driver licence, and
 - (c) must have successfully completed a taxi-cab driver training course approved by the Director-General (or must have such competence as a driver of a taxi-cab as the Director-General considers appropriate), and

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- (d) must have passed an examination or assessment, at a level determined by the Director-General, in the following:
 - (i) geographical knowledge of areas in which taxis ply for hire,
 - (ii) medical fitness,
 - (iii) knowledge of this Regulation, and
 - (e) must 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), and
 - (f) must satisfy the Director-General that he or she:
 - (i) is of good repute and in all other respects a fit and proper person to be the driver of a taxi-cab, and
 - (ii) has sufficient responsibility to drive a taxi-cab in accordance with law and custom.
- (3) In this clause:

driver licence means a driver licence excluding a 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), learner licence, probationary licence, provisional licence, restricted licence and driver licence receipt.

34 Driver of wheelchair accessible taxi-cab to be trained

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 person or body approved by the Director-General) in respect of the care and transport of persons with physical disabilities.

Maximum penalty: 40 penalty units.

35 Driver to display driver's authority card

- (1) The driver of a taxi-cab must not drive the taxi-cab unless the appropriate driver's authority card:
 - (a) is contained in a holder firmly affixed to the interior of the taxi-cab, and

Clause 35 Passenger Transport (Taxi-cab Services) Regulation 2001

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- (b) is displayed so that its face can be easily seen by any passenger in the taxi-cab.

Maximum penalty: 5 penalty units.

- (2) The driver of a taxi-cab must not fail to produce the appropriate driver's authority card for inspection on demand made by an authorised officer.

Maximum penalty: 5 penalty units.

36 Driver to notify Director-General of alleged offence

- (1) The driver of a taxi-cab 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,
- (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 taxi-cab in respect of an offence referred to in subclause (1) (a) are pending—details of the charge are to be furnished within 48 hours after that commencement, unless the driver of the taxi-cab is acquitted of the charge within 24 hours after that commencement, or
- (b) a penalty notice of the kind referred to in subclause (1) (b) is in force against a driver of a taxi-cab—details of the penalty notice 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.

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Clause 37

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Part 2

Taxi-cab drivers

Division 2

37 Driver training

- (1) The driver of a taxi-cab must, whenever reasonably required to do so by the Director-General, undertake and satisfactorily complete (or pass an examination in respect of) a taxi-cab driver training or refresher course approved by the Director-General.
- (2) The Director-General may:
 - (a) suspend a driver's authorisation to drive taxi-cabs 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 taxi-cabs will be renewed only on the satisfactory completion of (or on the passing of an examination in respect of) such a course.

38 Drivers' 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's authority card number, and
 - (ii) the date and time the shift began, 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.

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

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- (b) must, at the end of each driving shift, give his or her driver's worksheet for that shift to the operator of the taxi-cab.

Maximum penalty: 5 penalty units.

- (3) In this clause, *driver's worksheet* means a driver's worksheet of a kind supplied in accordance with clause 30 (3).

39 Taxi-cab to be clean

The driver of a taxi-cab must ensure that the taxi-cab is clean and tidy.

Maximum penalty: 2 penalty units.

40 Non-compliance notices: driver

A driver must not drive a taxi-cab if:

- (a) the expiry date or expiry time of a non-compliance notice affixed to the taxi-cab has passed, or
- (b) the driver is aware that a non-compliance notice has been unlawfully removed from the taxi-cab.

Maximum penalty: 10 penalty units.

41 Carriage of goods and animals

- (1) The driver of a taxi-cab must not permit any person to place or carry in or on the taxi-cab any article that is of such size or has such dimensions that it cannot be accommodated in or on the taxi-cab without inconvenience or danger to any other person.

Maximum penalty: 2 penalty units.

- (2) The driver of a taxi-cab must not permit any person to place or carry in or on the taxi-cab 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 taxi-cab must not refuse to carry an assistance animal (or an assistance animal in training) in the taxi-cab.

Maximum penalty: 10 penalty units.

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42 Lost property given to drivers

A driver who is given lost property under clause 77 or who finds such property, must, within 24 hours after being given or finding the property:

- (a) give the property to the operator of the network to which the driver's taxi-cab is connected, or
- (b) if the operator has been exempted by the Director-General from the provisions of section 31G (a) of the Act—give the property to the accredited operator of the taxi-cab or to a police officer at a police station.

Maximum penalty: 5 penalty units.

43 Behaviour of drivers

(1) 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,
- (b) display, affix or install, or permit a person to display, affix or install, any advertisement within or on the outside of the taxi-cab unless the advertisement has been approved by the Director-General,
- (c) smoke tobacco or any other substance while in the taxi-cab, whether or not the taxi-cab is being driven for hire,
- (d) eat or drink in the taxi-cab while the taxi-cab is hired or available for hire,
- (e) move the taxi-cab while the doors are open,
- (f) negligently or wilfully move or cause the taxi-cab to be moved so that any passenger or intending passenger is subjected to the risk of injury.

Maximum penalty: 5 penalty units.

(2) Nothing in this clause prohibits a driver of a taxi-cab from eating or drinking in the taxi-cab for medical reasons.

(3) In this clause, *smoke* includes be in possession of a lighted cigarette, cigar, pipe or similar article.

Clause 44 Passenger Transport (Taxi-cab Services) Regulation 2001

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44 Medical condition of driver

- (1) The driver of a taxi-cab must, at the driver's own expense, furnish the Director-General:
 - (a) at intervals of 36 months until the driver attains the age of 60 years, and
 - (b) at intervals of 12 months on and after attaining that age, 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 taxi-cab 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 taxi-cab 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 taxi-cabs safely, with written details of the change.

Maximum penalty: 10 penalty units.

45 Dress and conduct of drivers

The driver of a taxi-cab must not fail to do the following:

- (a) be clean and tidy and wear clean and tidy clothes when driving the taxi-cab for hire,
- (b) behave in an orderly manner and with civility and propriety towards any passenger, intending passenger, driver of another taxi-cab or authorised officer,
- (c) comply with every reasonable requirement of any passenger.

Maximum penalty: 10 penalty units.

46 Drivers to wear uniforms

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 cab for hire.

Maximum penalty: 5 penalty units.

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47 Driver to remain with taxi-cab

The driver of a taxi-cab must not, without reasonable excuse, move more than 3 metres from the taxi-cab.

Maximum penalty: 5 penalty units.

48 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.

- (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 vacant 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 vacant position in the taxi zone.

Clause 49 Passenger Transport (Taxi-cab Services) Regulation 2001

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49 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.

50 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 belongs, and
- (b) must otherwise observe the published rules and by-laws of the network, and
- (c) must comply with all reasonable requests of the network in relation to the provision of public passenger services.

Maximum penalty: 5 penalty units.

51 Display of destination sign on taxi-cab at end of driving shift

- (1) A taxi-cab that is available for hire may display a sign approved by the Director-General showing the name of the locality to which the driver is proceeding.
- (2) The sign:
 - (a) may be displayed only when the driver is proceeding between the hours of:
 - (i) 1.30 am and 4.30 am, or
 - (ii) 12.30 pm and 4.30 pm,in the general direction of the locality shown on the sign for the purpose of terminating a driving shift, and

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- (b) must:
- (i) be of a type, size and material, and
 - (ii) contain only the wording, and
 - (iii) be located in a position,
approved by the Director-General.
- (3) The driver of a taxi-cab to which such a sign is affixed:
- (a) must immediately proceed in the general direction of the locality shown on the sign, and
 - (b) must remove the sign when the taxi-cab is hired, on arrival at the place in that locality or at 4.30 am or 4.30 pm (as appropriate), whichever is the sooner.
- Maximum penalty: 5 penalty units.

Division 3 Taxi-cab networks

52 Criteria to be met 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, to the satisfaction of the Director-General, the criteria set forth in this clause.
- (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, to the satisfaction of the Director-General, the criteria set forth in this clause (other than the criteria specifically to be met by corporation applicants).
- (3) **Applicant to be of good repute**
The applicant must be of good repute. Evidence of the applicant's good repute is to be provided in the form of references from 2 persons (being persons of any class approved by the Director-General) who have known the applicant for at least 2 years.

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- (4) **Applicant to be fit and proper person to operate taxi-cab network**
The applicant must be a fit and proper person to operate a taxi-cab network. The applicant must declare in writing that the applicant is aware of the following:
- (a) authorisation will be refused if the applicant is disqualified, under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act*, from managing corporations,
 - (b) authorisation 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 (5),

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.
- (5) 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.
- (6) If there are no convictions or pending proceedings against the applicant (as referred to in subclause (5)), the applicant must give the Director-General a written statement to that effect.

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- (7) **Applicant to have technical competence to operate taxi-cab network**
 The applicant must demonstrate that the applicant has the necessary technical knowledge, equipment and competence to operate a taxi-cab network. In particular, the applicant must:
- (a) provide the Director-General with the following:
 - (i) a copy of the applicant's licence to operate a radio network issued by the Australian Communications 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 operations 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 alarms 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 clause 14 to be fitted with an approved driver protection screen or 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, 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 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,
 - (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.

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- (8) **Applicant to have financial competence to operate taxi-cab network**
 The applicant must be financially capable of operating a taxi-cab network. Evidence of the applicant's financial standing is to be provided in the form of the following:
- (a) a report from a qualified accountant 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, as lodged with the Director-General of the Department of Fair Trading,

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).
- (9) **Applicant to have managerial competence to operate taxi-cab network**
 The applicant must satisfy the Director-General that the applicant has the necessary managerial skills and expertise to operate a taxi-cab network. 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, alarms, 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 (a) (ii).

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Clause 53

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Division 3

53 Conditions of authorisation to operate taxi-cab network

- (1) The conditions set forth in this clause are prescribed for the purposes of section 34D (1) (b) of the Act (that is, they are conditions to which an authorisation to operate a taxi-cab network is subject).
- (2) **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 alarms in taxi-cabs and the prompt response of network operators when such an alarm is activated, and
 - (b) equipment that registers the activation of alarms 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 clause 14 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.
- (3) **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 accredited taxi-cab operator, 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.
- (4) **Child restraints to be carried in at least 10% of taxi-cabs**
The authorised taxi-cab network provider must ensure that on every day:
 - (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

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- (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),

is capable of being fitted with, and carries, a child restraint.

(5) **Wheelchair accessible taxi-cabs**

The authorised taxi-cab network provider must ensure that every person who books a wheelchair accessible taxi-cab through the network is advised, within a reasonable time, of the time at which it is estimated that the taxi-cab will arrive at the nominated collection point.

(6) **Lost property**

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.

- (7) 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.

(8) **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,
- (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 accredited taxi-cab operator who is affiliated to the network connects a new taxi-cab to the network—the registration number of the taxi-cab concerned.

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(9) **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.

(10) **Use of network equipment**

The authorised taxi-cab network provider:

- (a) must not adopt any radio 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.

Clause 54 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 3 Taxi-cab hirings

Part 3 Taxi-cab hirings

54 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 taxi-cab.

Maximum penalty: 5 penalty units.

- (2) The driver of a taxi-cab must not, by the driver's employee, agent or contractor, tout or solicit for passengers for, or for a hiring of, a taxi-cab.

Maximum penalty: 5 penalty units.

- (3) The Director-General may by instrument in writing exempt a person or a class of persons from the provisions of subclause (1) or (2).

55 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 51 (Display of destination sign on taxi-cab at end of driving shift), 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 operations, or
- (e) if the intending passenger is smoking (within the meaning of clause 72), eating or drinking and refuses to stop doing so, or

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-
- (f) if the intending passenger is a person referred to in clause 74 (Luggage and soiled clothing) or 75 (Passengers who are causing nuisance), 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, or
 - (h) if the intending passenger cannot, on request, satisfy the driver that the person is able to pay the estimated fare.

56 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.

57 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 55 (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.

- (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

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- (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.

58 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 operations, 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 operations, 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.

59 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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Clause 60

Taxi-cab hirings

Part 3

60 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.

61 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 or arrange for the hirer to be advised by telephone 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 affixed 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 specified in the conditions of the licence for the taxi-cab 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 20 to be hired and not available for hire.

62 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.

Clause 62 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 3 Taxi-cab hirings

- (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,
 - (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.

63 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.

64 Termination of hiring by hirer

The hirer of a taxi-cab may discharge the hire at any time.

Passenger Transport (Taxi-cab Services) Regulation 2001

Clause 65

Taxi-cab hirings

Part 3

65 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 55 (2),
 - (b) if a passenger behaves in an offensive manner or uses offensive language in contravention of clause 71,
 - (c) if any passenger who is 16 years of age or younger is not wearing a seat belt or other restraint that is properly adjusted and securely fastened.
- (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.

66 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.

67 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.

Clause 67 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 3 Taxi-cab hirings

- (3) The driver of a shared taxi-cab must not demand payment from any passenger other than the hirer.

Maximum penalty: 5 penalty units.

68 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.

- (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.

69 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 70 (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.

Passenger Transport (Taxi-cab Services) Regulation 2001

Clause 69

Taxi-cab hirings

Part 3

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- (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 attachments 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
 - (b) must state the amount of any extra charge for luggage, goods, tolls or charges.

Maximum penalty: 5 penalty units.

- (4) This clause does not apply to a hiring of a kind referred to in clause 68 (1).

70 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 operations, or
 - (b) the taxi-cab is a maxi-cab hired (otherwise than by way of a multiple hiring) to carry more than 5 passengers,

and the fare is negotiated and agreed with the hirer before the start of the journey.

Maximum penalty: 5 penalty units.

Clause 70 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 3 Taxi-cab hirings

- (2) After the termination of a hiring (or on leaving the taxi-cab in compliance with a direction given under clause 76), the hirer must pay to the driver of the taxi-cab the authorised fare for the hiring.

Maximum penalty: 5 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.

- (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 a driver to contravene clause 39, the driver of the taxi-cab 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 or, if no such fee is determined, a fee equivalent to one hour of the waiting time fee specified in the conditions document of the taxi-cab licence.

- (7) A hirer who fails to comply with the requirements of subclause (6) is guilty of an offence.

Maximum penalty: 5 penalty units.

Passenger Transport (Taxi-cab Services) Regulation 2001

Clause 71

Conduct of passengers

Part 4

Part 4 Conduct of passengers

71 Offensive behaviour or language

A passenger must not, in a taxi-cab:

- (a) behave in an offensive manner, or
- (b) use any offensive language.

Maximum penalty: 10 penalty units.

72 Passenger not to smoke, eat or drink in taxi-cab

- (1) A passenger must not smoke tobacco or any other substance in any taxi-cab.

Maximum penalty: 5 penalty units.

- (2) A passenger must not eat or drink in any taxi-cab.

Maximum penalty: 5 penalty units.

- (3) Nothing in this clause prohibits a passenger from eating or drinking in a taxi-cab for medical reasons.

- (4) In this clause, *smoke* includes be in possession of a lighted cigarette, cigar, pipe or similar article.

73 Animals

- (1) A passenger must not take into any taxi-cab any dog, cat, bird or other animal unless it is suitably confined in a box, basket or other container.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply to an assistance animal or an assistance animal in training.

74 Luggage and soiled clothing

- (1) If, in the opinion of the driver of a taxi-cab or an authorised officer, a passenger's or an intending passenger's body, clothing or luggage (or any other thing on or carried by the passenger or intending passenger) may:

- (a) soil or damage the taxi-cab or the clothing or luggage of other passengers, or

Clause 74 Passenger Transport (Taxi-cab Services) Regulation 2001

Part 4 Conduct of passengers

- (b) is of such a size or has such dimensions that it cannot be accommodated in the taxi-cab without inconvenience to other passengers,

the driver or authorised officer may direct the person concerned not to enter or to leave the taxi-cab.

- (2) A person must not fail to comply with such a direction.

Maximum penalty: 5 penalty units.

75 Passengers who are causing nuisance

- (1) If, in the opinion of the driver of a taxi-cab or an authorised officer, a passenger or an intending passenger is causing, or is likely to cause, a nuisance or annoyance to the driver or to other passengers, the driver or authorised officer may direct the person concerned not to enter or to leave the taxi-cab.

- (2) A person must not fail to comply with such a direction.

Maximum penalty: 5 penalty units.

76 Leaving taxi-cab when directed

- (1) If, in the opinion of the driver of a taxi-cab or an authorised officer, a passenger is committing an offence under this Part, the driver or authorised officer may direct the person to leave the taxi-cab.

- (2) A person must not fail to comply with such a direction.

Maximum penalty: 5 penalty units.

77 Lost property

A passenger who finds any article in or on a taxi-cab:

- (a) must return it to its owner, or
(b) must give it to the driver of the taxi-cab.

Maximum penalty: 5 penalty units.

Passenger Transport (Taxi-cab Services) Regulation 2001

Clause 78

Miscellaneous

Part 5

Part 5 Miscellaneous

78 Drivers of wheelchair accessible taxi-cabs

A person who successfully completes a course of training and instruction referred to in clause 8 (c) 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.

79 Driver's authority cards

- (1) The Director-General may issue a driver's authority card to an authorised taxi-cab driver.
- (2) A driver's authority card must display:
 - (a) a photograph of the authorised taxi-cab driver, and
 - (b) the number of the authority, and
 - (c) the expiry date for the card.
- (3) A driver's 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's authority card expires at midnight on the date specified on the card as the expiry date.
- (5) A person's authority to drive taxi-cabs and driver's authority card do not have any effect, either for the purposes of Division 5 of Part 4 of the Act or for the purposes of this Regulation, while the person's driver licence is cancelled or suspended.

80 Appointment of taxi zones

- (1) The Director-General may appoint taxi zones for taxi-cabs.
- (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.

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Part 5 Miscellaneous

- (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.

81 Non-compliance notices

- (1) An authorised officer, or a person carrying out an inspection of a taxi-cab under section 55A of the Act, may affix a notice (a *non-compliance notice*) to the taxi-cab if it appears to the authorised officer or other person that the taxi-cab does not meet the requirements set out in clause 25.
- (2) The notice is to specify:
 - (a) the action necessary to be taken in order for the taxi-cab to meet the relevant requirements, and
 - (b) an expiry date or expiry time after which the taxi-cab must not be used to provide a taxi-cab service unless the notice has been removed by an authorised officer.
- (3) An authorised officer may remove a non-compliance notice from a taxi-cab if satisfied on inspection of the taxi-cab that the necessary action specified in the notice has been taken.
- (4) A person who is not an authorised officer must not remove a non-compliance notice from a taxi-cab.
Maximum penalty: 10 penalty units.

82 Reduced fees for licences

- (1) The Director-General, in accordance with section 32I (2) of the Act, may fix a licence fee at less than the current value of the licence on the open market or may decide not to impose a licence fee for the licence in circumstances where, in the opinion of the Director-General, the service concerned would for economic or other reasons be unlikely to be provided if the full licence fee were to be imposed.
- (2) Without limiting the generality of subclause (1), circumstances of the kind referred to in that subclause may include the following:
 - (a) if the service is to be provided for the benefit of persons who have disabilities,

Passenger Transport (Taxi-cab Services) Regulation 2001

Clause 82

Miscellaneous

Part 5

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- (b) if the service is to be provided in a fringe area of a transport district or outside such a district.

83 Director-General to be notified of lease of licence for taxi-cab

- (1) The holder of a licence for a taxi-cab who lets the licence to another person must cause written notice of the letting 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 let.
- (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 sublets the licence in the same way as it applies to the lessor of the licence.

84 Change of address or name of operator or driver

- (1) An accredited taxi-cab operator or an authorised taxi-cab driver who changes his or her 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 taxi-cab driver must also give the written notice required by subclause (1) to the accredited operator of each of the taxi-cabs that the driver drives.

Maximum penalty: 5 penalty units.

85 Misuse of authorities and authority cards

- (1) This clause applies to authorities to drive taxi-cabs and to drivers' authority cards.
- (2) A person must not:
- (a) alter or deface any authority or driver's authority card, or
 - (b) lend or part with any authority or driver's authority card, or

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Part 5 Miscellaneous

- (c) fraudulently obtain a driver's authority card, or assist another person to obtain such a card fraudulently.

Maximum penalty: 5 penalty units.

86 Replacement of authorities and authority cards

- (1) An authority or driver's 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 an authority or driver's authority card, or on proof to the satisfaction of the Director-General that an authority or driver's authority card has been destroyed, stolen or lost, the Director-General may cause a duplicate of it to be issued, and any such duplicate then becomes, for the purposes of the Act and this Regulation, the authority or driver's authority card in respect of which the duplicate is issued, and the original authority or driver's authority card, if it is not already void, becomes void.

87 Fees

- (1) For the purposes of section 31A (2) of the Act, the prescribed fee for consideration of an application for an accreditation to carry on a taxi-cab service is \$100.
- (2) For the purposes of section 33A (2) of the Act, the prescribed fee for consideration of an application for an authorisation to drive taxi-cabs is \$100.
- (3) For the purposes of section 33C (2) of the Act, the prescribed fee for the renewal of an authorisation to drive taxi-cabs is \$120.
- (4) For the purposes of section 34A (2) of the Act, the prescribed fee for consideration of an application for an authorisation to operate a taxi-cab network is \$500.
- (5) For the purposes of section 34C (2) of the Act, the prescribed fee for the renewal of an authorisation to operate a taxi-cab network is \$300.

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Clause 88

Miscellaneous

Part 5

88 Fee for renewal of accreditation to carry on taxi-cab services

- (1) For the purposes of section 31C (2) of the Act, the prescribed fee for the renewal of an accreditation to carry on taxi-cab services (that is, an accreditation under Division 3 of Part 4 of the Act) is as follows:
 - (a) except as provided by paragraph (b), the amount calculated in accordance with the following rate:

\$5 for each week of the period during which the accreditation is in force, multiplied by the number of taxi-cabs managed (as at the assessment date) by the accredited taxi-cab operator,
 - (b) if no taxi-cabs are managed by the accredited taxi-cab operator as at the assessment date—\$260.
- (2) An accreditation under Division 3 of Part 4 of the Act can be renewed only if the prescribed renewal fee is paid before the end of the period during which the accreditation is in force.
- (3) In this clause:

assessment date means a date, as determined by the Director-General, occurring during the period during which the accreditation concerned is in force.

89 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).

90 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 2 is declared to be a penalty notice offence, and

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Part 5 Miscellaneous

- (b) the prescribed penalty for such an offence is the amount specified in Column 4 of Schedule 2.
- (2) If the reference to a provision in Column 1 of Schedule 2 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.

91 Short descriptions

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 2 consists of:
 - (a) if one or more IPB Codes are set out in relation to the offence in Column 2 of Schedule 2, any of the IPB Codes together with:
 - (i) the text set out in relation to the offence in Column 3 of that Schedule, or
 - (ii) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence, or
 - (b) if no IPB Code is set out in relation to the offence in Column 2 of Schedule 2:
 - (i) the text set out in relation to the offence in Column 3 of that Schedule, or
 - (ii) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 2, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.

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Clause 91

Miscellaneous

Part 5

- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.
- (5) In this clause:
- (a) ***Infringement Processing Bureau*** means the Infringement Processing Bureau within the Police Service.
 - (b) ***IPB Code***, in relation to an offence, means the code allocated to the offence by the Infringement Processing Bureau.

92 Saving

Any act, matter or thing that had effect under the *Passenger Transport (Taxi-cab Services) Regulation 1995* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

Passenger Transport (Taxi-cab Services) Regulation 2001

Schedule 1 Approved security camera systems

Schedule 1 Approved security camera systems

(Clause 14 (5))

1 Definitions

In this Schedule:

authorised purpose, in relation to the use of a video recording made by a security camera system, means the purpose of, or any purpose in connection with, prosecution of, or the issue of a penalty notice in respect of, an offence committed in or about 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 taxi-cab to be indicated

The operator of a taxi-cab must ensure that signs are conspicuously placed within and on the outside of a taxi-cab that is fitted with a security camera system, advising persons that they may be under video surveillance while in or about the taxi-cab.

Maximum penalty: 5 penalty units.

4 Storage of recordings made by security camera

- (1) The operator of a taxi-cab network must cause:
 - (a) such security safeguards as the Director-General may specify, and

Passenger Transport (Taxi-cab Services) Regulation 2001

Approved security camera systems

Schedule 1

- (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.

- (2) The Director-General may, by notice in writing to the operator of a taxi-cab network, specify reasonable security safeguards for the purposes of subclause (1) (a).

5 Disposal of recordings made by security camera

- (1) The operator of a taxi-cab network 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 of Transport 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 of Transport but which is not 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.

Passenger Transport (Taxi-cab Services) Regulation 2001

Schedule 2 Penalty notice offences

Schedule 2 Penalty notice offences

(Clauses 90 and 91)

Part 1 Offences under the Passenger Transport Act 1990

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Section 30 (1) (a)	8776 1569	unaccredited person carry on taxi-cab service	\$1,000
Section 30 (1) (b)	8777 1570	use unlicensed taxi-cab to carry on taxi-cab service	\$1,000
Section 31D (3)	8781 1614	taxi-cab operator contravene condition of accreditation	\$500
Section 33 (2)	8782 1652	unauthorised person drive taxi-cab	\$500
Section 34D (3)	8783 1655	taxi-cab network provider contravene condition of authorisation	\$1,000
Section 53B (1)	7980 1656	not return authority/licence relating to taxi-cab	\$500
Section 53B (2)	4940 1657	not return number-plates relating to cancelled/suspended/discontinued licence	\$500

Passenger Transport (Taxi-cab Services) Regulation 2001

Penalty notice offences

Schedule 2

Part 2 Offences under the Passenger Transport (Taxi-cab Services) Regulation 2001

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 8 (a)	7292 1177	wheelchair accessible taxi not able be fitted with restraint/not carry restraint	\$400
Clause 8 (b)	7295 1179	wheelchair accessible taxi driven by more than one person	\$400
Clause 8 (c)	7296 1180	wheelchair accessible taxi driven by untrained driver	\$400
Clause 9 (1)	8784 1958	taxi operator operate non-complying taxi	\$200
Clause 10 (1)	8785 1750	operate taxi beyond maximum age (metro area)	\$300
Clause 10 (2)	8787 1658	operate taxi beyond maximum age (non-metro area)	\$300
Clause 11 (1)	8788 1751	operate taxi without meter/with non-conforming meter	\$300
Clause 11 (5)	4403 1752	interfere/permit interference with taxi-meter	\$300
Clause 12 (1)	4404 1659	taxi operator not fit mandatory security device	\$300
Clause 12 (2)	8789 1754	taxi operator not fit complying emergency boot-lock release	\$300
Clause 13 (1)	4919 1959	taxi operator not fit vehicle tracking device	\$300

Passenger Transport (Taxi-cab Services) Regulation 2001

Schedule 2 Penalty notice offences

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 13 (3)	8790 1665	interfere/cause/permit interference with vehicle tracking device	\$300
Clause 14 (1)	8791 1666	network taxi operator not fit security screen or camera	\$300
Clause 14 (2)	8792 1669	non-network taxi operator not fit security screen	\$300
Clause 14 (3)	8793 1670	interfere/cause/permit interference with driver protection screen	\$300
Clause 14 (4)	8794 1671	interfere/cause/permit interference with security camera system	\$300
Clause 15	4921 1961	taxi operator not fit air conditioning	\$300
Clause 16	8795 1755	interior/exterior/fittings of taxi dirty/damaged/not good repair	\$150
Clause 17 (1)	4407 1756	taxi operator not display information	\$150
Clause 18	8796 1962	taxi operator not display current certificate of inspection	\$300
Clause 19	8798 1963	taxi operator not fit complying child restraint anchorage bolts	\$200
Clause 20 (8)	7981 1672	taxi operator not ensure necessary equipment fitted/properly connected/wired/adjusted	\$200
Clause 20 (9)	8015 2452	interfere/cause/permit interference with necessary equipment/connections/wiring/adjustments	\$300

Passenger Transport (Taxi-cab Services) Regulation 2001

Penalty notice offences

Schedule 2

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 21 (1) (a)	8799 1673	taxi operator not ensure taxi fitted with approved decal signs	\$150
Clause 21 (1) (b)	8800 1674	taxi operator not ensure taxi painted in approved colours	\$150
Clause 22 (1)	8016 2453	taxi operator not display registration number as required	\$150
Clause 23	9257 1005 1006	taxi operator display/affix/install advertisement/permit display/affixing/installation of advertisement	\$150
Clause 24 (2)	4924 1964	taxi operator not maintain stand-by taxi records	\$200
Clause 24 (3)	4409 1758	taxi operator not correctly display stand-by taxi sign	\$100
Clause 25	8801 1759	taxi not comply on inspection	\$150
Clause 26	4411 1760	taxi operator not give notice of alteration to taxi	\$200
Clause 27 (a)	8802 1675	operator allow taxi be driven after expiry of notice	\$200
Clause 27 (b)	8803 1676	operator allow taxi be driven after removal of notice	\$200
Clause 28	8804 1677	operator not provide approved uniforms	\$200
Clause 30 (1)	8805 1678	operator allow non-authorized person drive taxi	\$200

Passenger Transport (Taxi-cab Services) Regulation 2001

Schedule 2 Penalty notice offences

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 30 (2) (a)	4925 1682	operator not keep record of taxi driver's name and address	\$150
Clause 30 (2) (b)	8806 1683	operator not keep record of taxi driver's driving times	\$200
Clause 30 (2) (c)	9260 2454	operator not keep record of taxi driver's driver's authority number	\$200
Clause 30 (3)	8807 1684	operator not provide worksheets	\$150
Clause 31	8808 1685	operator not keep/retain/produce/deliver records	\$200
Clause 32 (1)	8809 1686	operator not maintain/produce insurance policies	\$300
Clause 34	9261 2455	non-trained driver drive wheelchair accessible taxi-cab	\$400
Clause 35 (1)	8810 1687	taxi driver not keep authority card in holder/display authority card correctly	\$150
Clause 35 (2)	8811 1688	taxi driver not produce driver's authority card	\$150
Clause 36 (1)	9004 1819	taxi driver not notify details of charge/penalty notice	\$300
Clause 38 (1)	9006 1838	taxi driver not complete worksheet	\$75
Clause 38 (2)	9012 1840	taxi driver not produce worksheet/give worksheet to operator	\$75
Clause 39	9262 2456	driver not ensure taxi clean and tidy	\$150

Passenger Transport (Taxi-cab Services) Regulation 2001

Penalty notice offences

Schedule 2

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 40 (a)	9013 1971	taxi driver drive taxi after expiry of notice	\$200
Clause 40 (b)	9014 1841	taxi driver drive taxi after removal of notice	\$200
Clause 41 (1)	9016 1876	taxi driver allow inconvenient goods in taxi	\$200
Clause 41 (2)	9018 1892	taxi driver allow unconfined animal in taxi	\$150
Clause 41 (4)	9019 1893	taxi driver refuse to carry assistance animal in taxi	\$200
Clause 42	9264 2457	taxi driver not deal with lost property as required	\$150
Clause 43 (1) (a)	9022 1903	taxi driver display surcharge rate when not payable	\$150
Clause 43 (1) (b)	9306 1908	taxi driver display/affix/install advertisement/permit display/affixing/installation of advertisement	\$150
Clause 43 (1) (c)	9265 2458	taxi driver smoke in taxi	\$75
Clause 43 (1) (d)	9269 2460	taxi driver eat/drink in hired taxi/taxi available for hire	\$75
Clause 43 (1) (e)	9024 1915	move taxi with doors open	\$150
Clause 43 (1) (f)	4417 1922	risk safety of taxi passengers	\$200

Passenger Transport (Taxi-cab Services) Regulation 2001

Schedule 2 Penalty notice offences

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 45 (a)	4418 1923	taxi driver not clean and tidy	\$75
Clause 45 (b)	9025 2034	taxi driver not behave in orderly manner/with civility and propriety	\$200
Clause 45 (c)	9026 2035	taxi driver not comply with requirement of passenger	\$150
Clause 46	9027 2036	taxi driver not wear proper uniform	\$75
Clause 47	4421 2037	taxi driver not remain with taxi	\$150
Clause 48 (1)	9028 1771	illegally place/keep taxi in taxi zone	\$150
Clause 48 (2)	4423 1772	fail to close up on stand	\$150
Clause 48 (6)	9029 1973	taxi driver leave taxi zone/pick-up area/set-down area contrary to direction	\$200
Clause 49	9030 2038	taxi driver stand taxi otherwise than in taxi zone	\$150
Clause 50 (a)	9031 2039	taxi driver use receiver incorrectly	\$150
Clause 50 (b)	9032 2040	taxi driver not observe network's rules	\$150
Clause 50 (c)	9033 2049	taxi driver not comply with network's requests	\$150
Clause 51 (3) (a)	4424 2061	taxi driver not proceed in direction indicated by destination	\$150

Passenger Transport (Taxi-cab Services) Regulation 2001

Penalty notice offences

Schedule 2

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 51 (3) (b)	9054 2065	taxi driver show destination sign when taxi hired/after 4.30am/after 4.30pm	\$150
Clause 54 (1)	9055 1764	tout/solicit for passengers for/hiring of taxi-cab	\$150
Clause 54 (2)	9271 2461	driver of taxi-cab by employer/agent/contractor tout/solicit for passengers/hiring	\$150
Clause 55 (1)	9189 1774	taxi driver not accept hiring immediately	\$150
Clause 56 (1)	7297 1182	not prefer hiring offered by person in wheelchair	\$150
Clause 56 (2)	9258 1183	not accept hiring offered by person in wheelchair	\$150
Clause 57 (2)	4935 2081	taxi driver not carry out hiring as directed by police officer	\$150
Clause 58 (1) (a)	9259 1775	taxi driver refuse/fail to carry out hiring punctually	\$150
Clause 58 (1) (b)	4427 1776	taxi driver not drive by shortest route	\$150
Clause 58 (3)	4936 2093	taxi driver set down/pick up passengers otherwise than close to/parallel to kerb	\$150
Clause 59	9267 2094	taxi driver not ensure wheelchair secured to taxi-cab	\$200
Clause 60	9272 2098	taxi driver refuse to operate air- conditioning	\$150

Passenger Transport (Taxi-cab Services) Regulation 2001

Schedule 2 Penalty notice offences

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 62 (1)	4428 2408	taxi driver not convey luggage on request	\$150
Clause 62 (3)	9273 2423	taxi driver not convey luggage correctly	\$150
Clause 63 (1)	4429 2462	taxi driver fail to wait	\$150
Clause 65 (2)	4937 1977	hirer fail to pay fare after driver terminates hiring	\$150
Clause 66 (a)	9275 1779	extra person in taxi without hirer's consent	\$150
Clause 66 (b)	9276 2424	action intended to result in extra person in taxi	\$150
Clause 67 (2)	9280 2425	not comply with hirer's request concerning passengers	\$150
Clause 67 (3)	9284 2426	unauthorised demand for payment from passenger in shared cab	\$150
Clause 68 (2)	9292 2427	unauthorised multiple hiring	\$150
Clause 69 (1)	4431 1780	taxi driver fail to operate meter correctly	\$150
Clause 70 (1)	9294 1784	taxi driver demand more than correct fare	\$150
Clause 70 (2)	9295 2428	taxi passenger fail to pay fare	\$100
Clause 70 (3)	4434 1783	taxi driver fail to offer change	\$150

Passenger Transport (Taxi-cab Services) Regulation 2001

Penalty notice offences

Schedule 2

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 70 (4)	7299 1184	not give receipt to person in wheelchair	\$150
Clause 70 (7)	4938 2429	hirer fail to pay for taxi cleaning	\$150
Clause 71 (a)	4436 1785	offensive behaviour in taxi	\$200
Clause 71 (b)	4437 1786	offensive language in taxi	\$200
Clause 72 (1)	4438 1787	taxi passenger smoke	\$150
Clause 72 (2)	9296 2430	taxi passenger eat/drink	\$150
Clause 73	9297 2431	passenger take unconfined animal into taxi	\$50
Clause 74 (2)	4439 1788	person with soiled clothing/ bulky luggage fail to leave taxi when directed	\$100
Clause 75 (2)	4440 2433	offensive person fail to leave taxi when directed	\$100
Clause 76 (2)	4441 1790	person committing offence fail to leave taxi when directed	\$100
Clause 81 (4)	4939 1979	unlawfully remove non-compliance notice from taxi	\$300
Clause 83	9298 2434	licensee not advise Director-General of lease of licence	\$200
Clause 84 (1)	4941 1791	taxi operator/driver fail to notify change of address to Director-General	\$150

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Passenger Transport (Taxi-cab Services) Regulation 2001

Schedule 2 Penalty notice offences

Column 1	Column 2	Column 3	Column 4
Provision	IPB Code	Short description	Penalty
Clause 84 (2)	9274 2463	taxi driver fail to notify change of address to taxi operator	\$150
Clause 85 (2)	4443 1792	alter/deface/lend authorisation/authority card	\$150
Schedule 1, clause 2	9299 2435	unauthorised use of video recording	\$500
Schedule 1, clause 3	9300 2436	no proper surveillance signs	\$200
Schedule 1, clause 4 (1)	9330 2437	not take safeguards against misplacement/ unauthorised use of recording	\$200

Police Service Amendment (IPB Fees and Charges) Regulation 2001

under the

Police Service Act 1990

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

PAUL WHELAN, M.P.,
Minister for Police

Explanatory note

The object of this Regulation is to make provision with respect to the imposition of fees and charges for services provided by the Police Service.

This Regulation is made under the *Police Service Act 1990*, including section 219 (the general power to make regulations) and section 208.

Clause 1 Police Service Amendment (IPB Fees and Charges) Regulation 2001

Police Service Amendment (IPB Fees and Charges) Regulation 2001

1 Name of Regulation

This Regulation is the *Police Service Amendment (IPB Fees and Charges) Regulation 2001*.

2 Amendment of Police Service Regulation 2000

The *Police Service Regulation 2000* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Police Service Amendment (IPB Fees and Charges) Regulation 2001

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 2)

Clause 106

Omit the clause. Insert instead:

106 Fees and charges payable to Commissioner under section 208

- (1) The Commissioner is entitled to demand from a person (including a public authority or local council) such fees and charges as the Commissioner may from time to time determine with respect to the following services provided to the person, at the person's request, by a member of the Police Service:
 - (a) the processing, on behalf of the person, of penalty notices issued by or on behalf of the person,
 - (b) the provision to the person of training services in connection with the procedures to be followed in relation to the issuing of penalty notices.
- (2) In this clause, *penalty notice* has the same meaning as it has in the *Fines Act 1996*.

State Emergency Service Regulation 2001

under the

State Emergency Service Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *State Emergency Service Act 1989*.

BOB DEBUS, M.P.,
Minister for Emergency Services

Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *State Emergency Service Regulation 1996*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- the term of appointment, revocation of appointment and annual review of division controllers, local controllers and unit controllers (clause 5),
- the appointment and revocation of appointment of deputy controllers (clause 6),
- the establishment of division headquarters units (clause 7),
- the control of SES units (clause 8),
- the granting of membership to, the suspension of membership of, and the withdrawal of membership from, SES units (clause 9),
- the keeping of records of donations to SES units (clause 10),
- other minor, consequential and ancillary matters (clauses 1–4 and 11).

This Regulation relates to matters of a machinery nature.

State Emergency Service Regulation 2001

Explanatory note

This Regulation is made under the *State Emergency Service Act 1989*, and, in particular, under section 29 (the general regulation-making power).

State Emergency Service Regulation 2001

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Clause 1 State Emergency Service Regulation 2001

State Emergency Service Regulation 2001

1 Name of Regulation

This Regulation is the *State Emergency Service Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *State Emergency Service Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

controller means a division controller, a local controller or a unit controller.

Service means the State Emergency Service.

the Act means the *State Emergency Service Act 1989*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

5 Controllers

- (1) A controller is to be appointed for such term (not exceeding 2 years) as is specified in his or her instrument of appointment, but is, at the end of that term, eligible for re-appointment.
- (2) The Director-General may revoke the appointment of a controller at any time and for any reason.
- (3) The Director-General is to ensure that each controller is subject to an annual review and report.

6 Deputy controllers

- (1) A controller may appoint a person as his or her deputy.
- (2) A controller may revoke the appointment of his or her deputy at any time and for any reason.

-
- (3) The functions of a controller may be exercised by his or her deputy during any absence from duty of the controller.

7 Division headquarters

- (1) The Service may make available such of its staff and facilities as the Director-General considers appropriate to establish a headquarters for a division.
- (2) A division controller, together with:
- (a) the staff of the Service attached to the headquarters for the division, and
 - (b) any volunteers assisting in the running of the headquarters, may be registered as an SES unit (as a *division headquarters unit*).
- (3) The functions of a division headquarters unit are to assist the division controller in the exercise of his or her responsibilities.

8 Control of units

- (1) The unit controller of an SES unit is responsible for the control and co-ordination of the activities of the unit.
- (2) In exercising those responsibilities, the unit controller is subject to the directions of the Director-General, the relevant division controller and the relevant local controller.
- (3) In the case of a local government area for which there is only one SES unit, the unit controller for that unit is the local controller for that area.

9 Granting, suspension and withdrawal of membership

- (1) Membership of an SES unit may be granted, suspended or withdrawn:
- (a) by the Director-General, or
 - (b) by a controller.
- (2) Membership of an SES unit:
- (a) may be withdrawn at any time and for any reason, and
 - (b) may be suspended at any time, but only for the purpose of conducting an investigation into:
 - (i) the member's alleged offence against any law, or
 - (ii) the member's alleged contravention of, or failure to comply with, the procedures or instructions of the Service.

Clause 9 State Emergency Service Regulation 2001

- (3) A person whose membership of an SES unit is withdrawn may appeal to the Director-General against that action.
- (4) The procedures for:
 - (a) suspending or withdrawing membership of an SES unit, and
 - (b) appealing against the withdrawal of membership of an SES unit,are to be as set out in the procedure manuals maintained by the Service.

10 Donations of financial or material support

- (1) The unit controller of an SES unit must keep written records of any donations of financial or material support provided to the unit.
- (2) A copy of those records is to be furnished to the Director-General immediately on request.

11 Savings

Any act, matter or thing that, immediately before the repeal of the *State Emergency Service Regulation 1996*, had effect under that Regulation continues to have effect under this Regulation.

Strata Schemes Management Amendment (Residential Tribunal) Regulation 2001

under the

Strata Schemes Management Act 1996

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Strata Schemes Management Act 1996*.

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

On the commencement of the amendment to section 222 of the *Strata Schemes Management Act 1996 (the Strata Act)* by Schedule 1.27 [8] to the *Statute Law (Miscellaneous Provisions) Act (No 2) 2000*, the provisions of the *Residential Tribunal Act 1998* and the regulations made under that Act will apply in relation to proceedings under the Strata Act before the Residential Tribunal, subject to any modifications prescribed by the regulations under the Strata Act.

The object of this Regulation is to amend the *Strata Schemes Management Regulation 1997* to provide that:

- (a) certain provisions of the *Residential Tribunal Act 1998* and the *Residential Tribunal Regulation 1999* that relate to representation of parties, costs and procedural matters do not apply to proceedings under the Strata Act before the Residential Tribunal, and

Strata Schemes Management Amendment (Residential Tribunal) Regulation 2001

Explanatory note

- (b) section 25 (2) of the *Residential Tribunal Act 1998* (which concerns service of process) applies to those proceedings, but in a modified manner.

This Regulation is made under the *Strata Schemes Management Act 1996*, including sections 222 and 246 (the general regulation-making power).

Strata Schemes Management Amendment (Residential Tribunal)
Regulation 2001

Clause 1

Strata Schemes Management Amendment (Residential Tribunal) Regulation 2001

1 Name of Regulation

This Regulation is the *Strata Schemes Management Amendment (Residential Tribunal) Regulation 2001*.

2 Commencement

This Regulation commences on the commencement of Schedule 1.27 to the *Statute Law (Miscellaneous Provisions) Act (No 2) 2000*.

3 Amendment of Strata Schemes Management Regulation 1997

The *Strata Schemes Management Regulation 1997* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Strata Schemes Management Amendment (Residential Tribunal)
Regulation 2001

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 19 Conduct of proceedings before Tribunal

Insert after clause 19 (2):

- (3) This clause is a modification of the provisions of the *Residential Tribunal Act 1998*, and of the regulations under that Act, for the purposes of section 222 (1) of the *Strata Schemes Management Act 1996*.

[2] Clause 19A

Insert after clause 19:

19A Modification of applied provisions of Residential Tribunal Act 1998 and regulations: section 222 (1)

- (1) The following provisions do not apply in relation to proceedings before the Tribunal under the Act:
 - (a) sections 27 (5) (g) and (h), 33 and 48 of the *Residential Tribunal Act 1998*,
 - (b) Part 5 (being clauses 11 to 15) and clauses 16 and 26 of the *Residential Tribunal Regulation 1999*.
- (2) Section 25 (2) of the *Residential Tribunal Act 1998* applies in relation to notices of application for an order in addition to section 135 of the *Strata Schemes Management Act 1996*, and for that purpose the words “this section” in that subsection are taken to refer to section 135 (1) of the *Strata Schemes Management Act 1996*.

Note. Section 222 (1) of the Act provides that the provisions of the *Residential Tribunal Act 1998*, and of the regulations made under that Act, apply in relation to proceedings under the *Strata Schemes Management Act 1996* before the Residential Tribunal, subject to any modifications prescribed by the regulations.

Various provisions of the Act (for example, Parts 1 and 2, Divisions 1–11 of Part 4 and Division 3 of Part 5 of Chapter 5 of the Act) do not relate to proceedings before the Residential Tribunal and therefore are not affected by section 222 (1).

Surveyors (Practice) Regulation 2001

under the

Surveyors Act 1929

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Surveyors Act 1929*.

KIM YEADON, M.P.,
Minister for Information Technology

Explanatory note

The object of this Regulation is to replace, without substantial alteration, the provisions of the *Surveyors (Practice) Regulation 1996*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) duties of surveyors,
- (b) procedures and standards in relation to different types of surveys,
- (c) adoption of a datum line,
- (d) survey marks,
- (e) field notes,
- (f) special procedures when water is a boundary.

This Regulation is made under the *Surveyors Act 1929* and, in particular, under section 23 (the general regulation-making power) and various other provisions of the Act referred to in the Regulation.

Surveyors (Practice) Regulation 2001

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Surveyors (Practice) Regulation 2001

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Surveyors (Practice) Regulation 2001

Clause 1

Preliminary

Part 1

Surveyors (Practice) Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Surveyors (Practice) Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Surveyors (Practice) Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Application of Regulation

This Regulation applies to every survey made after the commencement of this Regulation, whether or not the survey was started before that commencement.

4 Interpretation

(1) In this Regulation:

AHD means Australian Height Datum, that is, a system of control points for height based on a network of levelling measurements that covered the whole of Australia and that was fitted to mean sea level, as measured at tide gauges distributed around the Australian coast, over the period 1968–1970.

appropriate accuracy means such accuracy as is reasonably practicable to attain in any particular survey.

approved means approved by the Surveyor-General.

chisel mark means a wing or pair of wings cut in solid rock, concrete or fixed timber 80mm long and 20mm wide and not less than 10mm deep.

established permanent mark means a permanent mark the horizontal position of which is precisely determined as approved by the Surveyor-General.

Clause 4 Surveyors (Practice) Regulation 2001

Part 1 Preliminary

level or undulating terrain means terrain with slopes that are generally 10 degrees or less.

MGA means Map Grid of Australia, that is, 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 *Survey (Geocentric Datum of Australia) Act 1999*).

monument means a natural or artificial object, or a point on it, or a mark, used for the purpose of locating or relocating a boundary or a point in a survey.

permanent mark means a permanent mark placed in accordance with the provisions of the *Survey Co-ordination Act 1949* and connected by measurement to a survey mark.

plan of survey means a representation or drawing of land surveyed, prepared from particulars recorded in the field book of the survey and carried out for delivery to or lodgment with any government department or public authority or person as evidence of a survey, but does not include plans compiled from previous surveys or sketches in illustration of any report or similar document prepared in explanation of or arising from any survey.

ppm means parts per million.

reference mark means a survey mark of a durable nature placed or situated within 30 metres of, and connected by measurement to, only one corner, angle, line mark or tangent point of any survey.

road includes any road, street, laneway, pathway or parcel of land used for access in a community scheme, either existing or being created by the subject survey.

rural survey means a survey that is not an urban survey.

State Control Survey means a comprehensive set of points marked, under the supervision of the Surveyor-General, by monuments of standard form, being points of known horizontal position or height (or both) throughout the State.

steep or mountainous terrain means terrain with slopes that are generally greater than 10 degrees.

survey mark means a permanent mark, reference mark, or corner mark, as referred to in Part 5.

the Act means the *Surveyors Act 1929*.

Surveyors (Practice) Regulation 2001

Clause 4

Preliminary

Part 1

urban survey means a survey of land:

- (a) that is within a zone identified in an environmental planning instrument, within the meaning of the *Environmental Planning and Assessment Act 1979*, as being residential, rural residential, commercial or industrial, or
 - (b) on which development for residential, rural residential, commercial or industrial purposes is permitted by or under that Act to be carried out.
- (2) In this Regulation a reference to a Form is a reference to a Form set out in Schedule 1.
 - (3) The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Clause 5 Surveyors (Practice) Regulation 2001

Part 2 General duties of surveyor

Part 2 General duties of surveyor

5 Surveys under supervision of surveyor

Nothing in this Regulation prevents a survey being made under the supervision of a surveyor.

6 Nature of supervision

When a survey is made under the supervision of a surveyor, the surveyor must:

- (a) personally attend on the ground for such time during the making of the survey, and
- (b) exercise such immediate oversight and personal direction of the work,

as will ensure that the surveyor has a comprehensive knowledge of all aspects of the survey and that the survey has been carried out in accordance with sound professional practice and this Regulation.

7 General principles of survey

When carrying out a survey, a surveyor must, in accordance with this Regulation:

- (a) ascertain the positions of monuments relevant to the survey, and
- (b) locate or relocate the boundaries of the land surveyed, and
- (c) mark the survey as required by this Regulation, and
- (d) make complete field notes of the survey, and
- (e) if the purpose of the survey so requires, prepare a plan of survey of the land.

8 Surveyor to indicate type of survey

A surveyor must indicate on each plan of survey whether the survey is an urban or rural survey.

Surveyors (Practice) Regulation 2001

Clause 9

General duties of surveyor

Part 2

9 Surveyor to record nature of boundaries

- (1) A surveyor must show on a plan of survey:
 - (a) the nature of the boundaries at the time of the survey, whether defined by survey marks, lockspits, lines, fences, roads, natural or artificial features or buildings or walls, and
 - (b) the width of all walls used in common and the position of the boundaries in those walls, and
 - (c) the description (including the age, nature, construction material and relationship to the boundary) of any substantial structure within 1 metre of the boundary or otherwise relevant to the boundary definition.
- (2) If a boundary is the face of a wall, the boundary must be described in the plan of survey as “face of wall”.
- (3) A wall must not be described with the expression “party wall” unless:
 - (a) it is the subject of such easements as are referred to in relation to party walls in the *Conveyancing Act 1919*, or
 - (b) the plan of survey is intended to create such easements in respect of the wall.

10 Surveyor to furnish certificate

- (1) When a surveyor furnishes a plan of survey, the surveyor must:
 - (a) endorse a certificate in Form 1 on the plan of survey, or
 - (b) provide a certificate in Form 1 with the plan of survey.
- (2) The certificate may be incorporated in any other certificate that must be endorsed or provided in accordance with any other Act or instrument made under an Act.

11 Notice of entry

- (1) The prescribed notice for the purposes of section 13 of the Act is Form 2.
- (2) The notice must be given prior to entry:
 - (a) by delivering the notice to a person apparently in occupation of the land to be entered, or
 - (b) if the land to be entered is apparently unoccupied, by attaching the notice to a place of residence, or some conspicuous object, on the land.

Clause 12 Surveyors (Practice) Regulation 2001

Part 2 General duties of surveyor

12 Surveyor to meet requisitions

A surveyor must promptly answer, or comply with, requisitions from the Surveyor-General or Registrar-General.

Surveyors (Practice) Regulation 2001

Clause 13

Measurement and calculations

Part 3

Part 3 Measurement and calculations

13 Surveyor to obtain information

A surveyor must obtain all relevant information on public record with government departments and public authorities necessary to locate or relocate the boundaries of any land to be surveyed.

14 Equipment for measurement of surveys

- (1) A surveyor must make every survey with appropriate equipment.
- (2) A surveyor must not use any equipment in making a survey unless the surveyor knows the accuracy obtained by its use. That accuracy must be determined in relation to:
 - (a) the Australian primary standard of measurement of length, within the meaning of the *National Measurement Act 1960* of the Commonwealth, or
 - (b) the State primary standard of measurement of length, within the meaning of that Act, that is under the control of the Surveyor-General.
- (3) A surveyor must not use any steel or invar band in making a survey unless it is verified at least once every 2 years and immediately after repair.
- (4) A surveyor must not use any electronic distance measuring equipment in making a survey unless it is verified against the State primary standard of measurement of length (as referred to above), by using pillared testlines, at least once each year and immediately after service or repair.
- (5) The accuracy and method of verification must be as approved.

15 Measurement of boundaries and lines

A surveyor must measure boundaries and lines by the most direct method that is reasonable and practicable.

16 Measurement by remote-sensing methods

- (1) A surveyor may use measurements derived from photogrammetry or approved remote-sensing methods.

Clause 16 Surveyors (Practice) Regulation 2001

Part 3 Measurement and calculations

- (2) If any methods referred to in subclause (1) are used, the surveyor must indicate the methods on the plan of survey.

17 Partial surveys

If a survey embraces only part of the land in a document of title, the surveyor must connect the terminals of the survey to monuments or points having a known relation to the corners of the land in the document so as to confirm the position of each terminal.

18 Surveys for easement purposes only

- (1) If a survey is carried out for the purpose of defining an easement, the surveyor must connect the site of the easement by measurement to relevant monuments.
- (2) Wherever the easement intersects a boundary of land held in different ownership or terminates on any current parcel boundary, the surveyor must redefine the existing parcel boundary and show connections on the plan of survey from the easement to the nearest parcel corner.
- (3) The surveyor need not mark easement corners in the manner specified by clauses 34 and 42.
- (4) The surveyor must:
- (a) ensure that the survey has one reference mark:
 - (i) for easements less than or equal to 200 metres in length—at one terminal of the easement, or
 - (ii) for easements greater than 200 metres in length—at each terminal of the easement, and
 - (b) show on the plan of survey by bearing and distance the essential dimensions of the site and note the site on the plan as “easement” or “proposed easement” (as applicable), and
 - (c) adopt a datum line in accordance with clause 30.
- (5) In addition, the survey must have:
- (a) for an urban survey—reference marks at intervals not exceeding 500 metres, or
 - (b) for a rural survey—reference marks at intervals not exceeding 1,000 metres.

Surveyors (Practice) Regulation 2001

Clause 18

Measurement and calculations

Part 3

- (6) If an easement is to be created over existing pipes and conduits that are underground or within a building and the precise location of those pipes and conduits cannot reasonably be determined, subclauses (3) and (4) do not apply, but the approximate positions must be shown on the plan of survey together with appropriate notations.

19 Re-survey of property boundaries

- (1) If a surveyor makes a re-survey, the surveyor must adopt the boundaries as originally marked on the ground as the true boundaries unless there is sufficient evidence to show that the marks were incorrectly placed or have been disturbed.
- (2) The surveyor must disclose on the plan of survey:
- (a) the extent of any discrepancy in the marking of boundaries, and
 - (b) if the marks are shown on an original Crown survey plan, the surveyor must advise the Surveyor-General of the discrepancy in writing within two months of the completion of the survey.

20 Surveys involving boundaries that include natural features

- (1) For the purpose of determining a boundary that is or includes a natural feature, the traverse lines of the survey must be positioned so that each change of course or direction of the boundary can be determined with appropriate accuracy.
- (2) Despite subclause (1), a surveyor may use remote sensing methods for the purpose of determining such a boundary and may use discretion as to the distance that the ground control of the survey is from the boundary.
- (3) If physical or environmental circumstances prevent compliance with the methods referred to in subclause (1) or (2) for determining such a boundary, a surveyor may use such other approved methods as will permit the survey determining the boundary to be of appropriate accuracy.
- (4) If any of the methods specified in subclause (2) or (3) are used, the surveyor must indicate the methods on the plan of survey.

Clause 21 Surveyors (Practice) Regulation 2001

Part 3 Measurement and calculations

21 Procedure if crooked fence defines boundary

- (1) If a crooked fence is used to define a boundary in a survey, the surveyor must survey the crooked fence and place the angle points of the boundary in such a way that the boundary line does not leave the material of the fence at the surface of the ground.
- (2) The surveyor must mark the angle points and show the nature of the points on the plan of survey. The surveyor must indicate on the plan of survey the age, type and condition of the fence at the date of the survey.

22 Calculation of areas of land

Areas of land must be computed by a method that provides appropriate accuracy and is recognised by surveyors as good practice.

23 Surveys using global positioning system (GPS)

When making a survey using global positioning system equipment, a surveyor must use an approved global positioning system surveying technique that will achieve an accuracy of Class “B” or better as specified in the *Standards & Practices for Control Surveys (SPI)—Version 1.4* published in November 2000 by the Inter-Governmental Advisory Committee on Surveying and Mapping.

24 Surveyor to check angular work

- (1) A surveyor who makes a survey in which the total length of surveyed boundaries exceeds 10,000 metres on level or undulating terrain or 6,000 metres on steep or mountainous terrain must check the angular work in the survey by astronomical observation or by a complete angular close or by a comparison with the State Control Survey.
- (2) Any such comparison must be shown on the plan of survey.
- (3) A surveyor must not, for the purposes of this clause, interpolate any angular measurement by another surveyor.

25 Determination of angular close

- (1) Whenever practicable, a complete angular close must be obtained.
- (2) The observed angular misclose must not exceed 20 seconds plus $10\sqrt{n}$ seconds or 2 minutes (whichever is the lesser):
 - (a) for the whole surround, and

Surveyors (Practice) Regulation 2001

Clause 25

Measurement and calculations

Part 3

- (b) between stations at which astronomical observations for azimuth have been made, and
 - (c) between pairs of established permanent marks.
- (3) In subclause (2), “n” is the number of traverse angular stations.

26 Checking and accuracy of all measurements

- (1) A surveyor must, if the nature of a survey permits, check all measurements made in a survey by closure of the eastings and northings of the lines in all surrounds in the survey computed in metres to 3 decimal places.
- (2) The internal closure of any survey must be such that the length of the misclose vector must not exceed:
- (a) 15mm + 100ppm of the perimeter, for boundaries crossing level or undulating terrain, or
 - (b) 15mm + 150ppm of the perimeter, for boundaries crossing steep or mountainous terrain.
- (3) The misclose vector must be determined as $\sqrt{a^2 + b^2}$, where “a” is the misclose in eastings and “b” is the misclose in northings.

27 Accuracy of length measurements

When making a survey, a surveyor must measure all lengths to an accuracy of 6mm + 30ppm or better at a confidence level of 95%.

28 Identification or re-marking surveys

- (1) A surveyor may make a survey of a parcel of land for the purpose of redefining the boundaries of the parcel, or of locating the parcel in relation to adjoining lands, in such manner as may be required by the nature of the survey.
- (2) A surveyor may make a survey requiring the re-marking of a parcel of land in such manner and with such marks in such positions as may be specially required by the relevant client, but such a survey must not be used for the purpose of any disposition of land or any interest in land.
- (3) Of this Regulation, only this clause and clauses 1–6, 7 (a), (b) and (d), 11, 13, 14, 23, 27, 31, 39 and 48–53 apply to a survey referred to in this clause.

Clause 29 Surveyors (Practice) Regulation 2001

Part 3 Measurement and calculations

29 Surveys not requiring strict accuracy

- (1) A surveyor may make a survey for a purpose not requiring strict accuracy under arrangements with a client, and in such a manner and with such marking as are agreed on between the surveyor and the client.
- (2) The plan of such a survey must show monuments as approximately located.
- (3) The surveyor must:
 - (a) endorse a certificate in Form 3 on the plan of the survey, or
 - (b) provide a certificate in Form 3 with the plan of the survey.
- (4) Of this Regulation, only this clause and clauses 1–6, 7 (d), 11, 13, 31, 39 and 48–53 apply to a survey referred to in this clause.
- (5) In addition, if the survey is to be lodged on public record and:
 - (a) the survey is of a class specified in the Surveyor-General's published directions to surveyors—the survey must comply with those directions, or
 - (b) the survey is not of a class so specified—the surveyor must obtain the Surveyor-General's approval for the survey and the survey must comply with the conditions of the approval.

Surveyors (Practice) Regulation 2001

Clause 30

Datum line

Part 4

Part 4 Datum line

30 Procedure for adopting datum line

- (1) A surveyor must determine, specifically for each survey, the position of the marks defining the datum line for the survey.
- (2) The bearing used for the orientation must be adopted from the grid bearing derived from the MGA co-ordinates of established permanent marks if the survey is within 300 metres of two established permanent marks (for an urban survey) or 1,000 metres of two established permanent marks (for a rural survey).
- (3) That bearing must be verified by angular, and (if practicable) distance, connection to at least one other established permanent mark.
- (4) If a comparison of those connections reveals differences exceeding $20\text{mm} + 100\text{ppm}$, the surveyor must show on the plan of survey all the observed and calculated bearings and distances and:
 - (a) include an additional connection to at least one other established permanent mark, or
 - (b) forward a report of the survey to the Surveyor-General.
- (5) If the survey does not fall within subclause (2), the bearing used for the orientation must be taken from a survey for which a plan or description is filed or recorded at a government department or public authority, or from astronomical observations or satellite observations, and the surveyor must state the origin of the orientation on the plan of survey.

31 Surveyor to record datum line in field notes

A surveyor must clearly indicate in the field notes the datum line of the survey and the origin of the orientation adopted.

32 Method of recording datum line on plan of survey

- (1) A surveyor must show the datum line of a survey on the plan of survey by distinguishing characters placed at the terminals of the datum line and must also note on that plan the nature of the marks defining the datum line.

Clause 32 Surveyors (Practice) Regulation 2001

Part 4 Datum line

- (2) If the orientation of the survey is adopted from the MGA co-ordinates, the co-ordinate values together with the zone, accuracy class and order, date, combined scale factor, and source, of all the established permanent marks used for orientation purposes are to be shown in a schedule on the plan of survey.
- (3) If astronomical or satellite observations are used to determine or confirm the orientation of the survey, the results of the observations are to be shown in a table on the plan of survey under the headings “Occupied station”, “Observed station” and “Astronomical body” or “Satellite system”, together with the derived bearing between the occupied and observed stations.

Surveyors (Practice) Regulation 2001

Clause 33

Monuments and reference marks

Part 5

Part 5 Monuments and reference marks

33 Connection of surveys and marks

- (1) A survey for any purpose (resulting in a plan of survey lodged on public record with a government department or public authority) must:
 - (a) for an urban survey—connect by measurement to at least 2 existing permanent marks if the marks are within 300 metres of the land surveyed, or
 - (b) for a rural survey—connect by measurement to at least 2 existing permanent marks if the marks are within 1,000 metres of the land surveyed.
- (2) If there are two established permanent marks within the relevant distance specified in subclause (1) (a) or (b), the connection referred to in that subclause must be made to those established permanent marks in preference to non-established permanent marks even if the latter are closer to the survey.
- (3) A survey that redefines or creates parcels of land must have, within 300 metres (for an urban survey) or 1,000 metres (for a rural survey), no less than the following number of permanent marks in relation to the following numbers of parcels:
 - (a) 1–10 parcels—2 marks,
 - (b) 11–20 parcels—3 marks,
 - (c) more than 20 parcels—4 marks plus 1 mark for every 20 (or part of 20) by which the number of parcels exceeds 40.
- (4) A maximum of two permanent marks connected in accordance with subclause (1) (a) or (b) may be included in the total number of marks required by subclause (3).
- (5) A survey that redefines a road frontage or that is conducted for the purposes of creating a road under any Act must have 2 or more permanent marks for each interval of 1,000 metres (for an urban survey) or 2,000 metres (for a rural survey).
- (6) A survey for the purposes of creating an easement must have 2 or more permanent marks for each interval of 2,000 metres (for an urban survey) or 4,000 metres (for a rural survey).

Clause 33 Surveyors (Practice) Regulation 2001

Part 5 Monuments and reference marks

- (7) Measurements between all permanent marks found or placed, and connections to the survey, must be proved by closed survey and shown on the plan of survey.
- (8) If two permanent marks connected in accordance with subclause (1) (a) have accurate AHD values, the locality sketch plan of each additional permanent mark placed in accordance with subclause (3), (5) or (6) must show:
 - (a) the AHD value derived by closed height differences to an accuracy of Class “LD” or “B” or better (as specified in the *Standards & Practices for Control Surveys (SPI)—Version 1.4* published in November 2000 by the Inter-Governmental Advisory Committee on Surveying and Mapping), and
 - (b) the AHD values, and the nature and source, of the 2 connected permanent marks.
- (9) A permanent mark placed in accordance with subclause (3), (5) or (6) must:
 - (a) be so located as to be suitable for an orientation of the survey and for redefinition of the survey, and
 - (b) be so located at road junctions, road intersections, road angles or crests of hills as to be visible between other permanent marks without obstruction, and to be suitable for subsequent inclusion in the State Control Survey, and
 - (c) be identified in location by a sketch plan that meets approved standards.
- (10) A sketch plan referred to in subclause (9) must be forwarded to the Surveyor-General within 2 months of the placement of the permanent mark.

34 Placement of pegs or marks

- (1) If a surveyor makes a survey other than a survey of a kind referred to in clause 28 (Identification or re-marking surveys) or clause 29 (Surveys not requiring strict accuracy), the surveyor must when possible firmly mark each corner (including corners of each parcel of land in a subdivision) with a peg or mark of the type prescribed by clause 42.
- (2) If it is not practicable to place such a peg or mark, a reference mark must be placed and the surveyor must note on the plan of survey that the corner was not marked.

Surveyors (Practice) Regulation 2001

Clause 34

Monuments and reference marks

Part 5

- (3) In a rural survey, if a fence post is on a corner at which a reference mark has been placed and reference is made to that post on the plan of survey, no further marking of the corner is required.

35 Urban surveys

In any urban survey, the survey must:

- (a) if the land abuts a road—have a reference mark at each extremity of the land and at intervals of not more than 100 metres throughout the length of the road frontage of the survey where there are intervening side boundaries, or
- (b) if the land does not abut a road—have at least 2 reference marks at suitable locations in relation to the land being surveyed.

36 Rural surveys

- (1) In a rural survey, a surveyor must mark definitely and durably all lines that form or are to form the boundaries between parcels. The marking is to be done with a peg or mark of the type prescribed by clause 42.
- (2) In addition, if a boundary is unfenced, the lines that form it must also be marked with lockspits cut in the direction of the boundary from each corner and angle or, if an obstacle exists at a corner or angle, with a suitable reference mark near that corner or angle.
- (3) On unfenced boundaries, the pegs and lockspits, or marks and lockspits, must be placed at intervals of not more than 200 metres, except where one peg or mark can be seen from the next. In that case, the distance can be increased to a maximum of 500 metres. The plan of survey must show the type and position of any line mark so placed.
- (4) Unless environmental considerations dictate otherwise, an unfenced boundary must be reasonably cleared and any tree that has a trunk diameter greater than 100mm and is within 500mm of the unfenced boundary must be blazed or, if situated on any boundary, must be double blazed.
- (5) The surveyor must connect or place and connect at least 2 reference marks for each parcel shown on the plan of survey in selected positions suitable for redefinition of the survey.
- (6) If a boundary (other than a road frontage) of the land exceeds 2,400 metres, a surveyor must place additional reference marks along the boundary at intervals of not more than 1,500 metres.

Clause 36 Surveyors (Practice) Regulation 2001

Part 5 Monuments and reference marks

- (7) If a boundary required to be marked is a road frontage, a surveyor must place reference marks in accordance with clause 37 (5).
- (8) This clause does not apply to a survey referred to in clause 18 (Surveys for easement purposes only).
- (9) In this clause, to *blaze* and to *double blaze* a tree means to mark the tree with cuts in the approved manner.

37 Placement of reference marks for roads

- (1) If a surveyor makes a survey for the purpose of the creation, redefinition or widening of a road under any Act, the surveyor must place reference marks in the positions prescribed by this clause and must show the type and location of the reference marks in the plan of the survey.
- (2) If the survey is an urban survey, reference marks must be placed:
 - (a) at the junction or intersection of roads:
 - (i) if a triangle is cut off from the corner formed by the intersection of the road boundaries, so as to refer to either end of the base line of the triangle, or
 - (ii) if the corner is rounded off, so as to refer to either tangent point, or
 - (iii) if the corner is not cut off or rounded off, so as to refer to the point of intersection of the road boundaries, and
 - (b) at the terminals of a road, and
 - (c) as far as is practicable, on the same side of the road, and
 - (d) if placed in a road that is variable in width, with connections made to both sides of the road, and
 - (e) at each angle and each tangent point or terminal of a series of chords of a regular curve in a road.
- (3) The requirement of subclause (2) (e) is subject to the condition that a reference mark need not be placed within 30 metres of another reference mark.

Note. Clause 35 (a) provides that in any urban survey, if the land abuts a road, the survey must have a reference mark at each extremity of the land and at intervals of not more than 100 metres throughout the length of the road frontage of the survey where there are intervening side boundaries.
- (4) If a reference mark placed in accordance with this clause is of the type prescribed by clause 43 (1) (e) (ie a drill hole and wing) and is to be placed in a concrete kerb cast in situ, there must be 2 such marks.

Surveyors (Practice) Regulation 2001

Clause 37

Monuments and reference marks

Part 5

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- (5) If the survey is a rural survey, reference marks must be placed so as to refer to the terminals of the road surveyed, to each junction or intersection of any roads and in pairs suitable for orientation purposes throughout the whole length of the road in selected positions so that the maximum distance between any 2 successive reference marks does not exceed 1,000 metres.
 - (6) If a road being created joins or intersects an existing road and reference marks have already been placed in the existing road in accordance with this clause or with any Act or any instrument made under an Act, those marks must be connected by survey with the reference marks placed in the road being created and the orientation of one series of reference marks must be compared with the orientation of the other series of reference marks and the comparison shown on the plan of survey.

38 Procedure on finding existing corner peg and reference mark

If a corner peg and reference mark are found together, a surveyor must determine the bearing and distance between them, and if a difference from the original reference is disclosed, the surveyor must decide from other evidence which of the monuments to adopt, and must note details of any difference on the plan of survey.

39 Procedure if monuments of original survey missing

To the extent that the relevant monuments of an original survey are missing, a surveyor must determine the boundaries and corners of the land being surveyed by measurement in correct relation to boundaries of adjacent parcels of land and parcels of land on opposite sides of roads, and to fences, and to such other evidence of correct location as may be found after full investigation and inquiry.

40 Procedure if differences exist between measured and recorded lengths

- (1) If a measurement discloses a boundary of land surveyed to be different from that indicated in the document of title to the land, the surveyor must verify the length of the boundary and make appropriate entries in the surveyor's field notes and show in the notes and on any plan of survey the monuments adopted.
- (2) In the absence of monuments defining the land surveyed, the surveyor must indicate on the plan of survey whether there is sufficient land available to permit the adoption of the measurement referred to in subclause (1) without causing any encroachment on any road or on any adjoining or adjacent parcel of land.

Clause 41 Surveyors (Practice) Regulation 2001

Part 5 Monuments and reference marks

41 Surveyor to note nature and position of all monuments

- (1) A surveyor must indicate in the field notes and on the plan of survey:
 - (a) the nature and position of any survey mark, object or monument found by the surveyor, and
 - (b) the nature of any survey mark (other than a peg) placed by the surveyor, and
 - (c) the essential measurements from any reference mark, permanent mark, object or monument to the nearest corner, angle or line mark.
- (2) If reference marks are placed or found at depths of more than 150mm below the existing surface of the ground, the surveyor must indicate the depths on the plan of survey.
- (3) If reference marks are found, the surveyor must note their origin on the plan of survey by reference to the number of the plan on which the marks first occur.
- (4) A monument that is important for the definition of the land must be shown on the plan of survey and in the surveyor's field notes with the annotation "found", "not found", "gone", "disturbed" or "inaccessible" as appropriate.
- (5) A monument must not be recorded as "gone" unless a thorough search for the monument has been made and the measurements of its probable site recorded in the field notes.

42 Marking of surveys

- (1) The marking of surveyed boundaries of land must be done so that the boundaries are readily and unambiguously discernible on the ground.
- (2) The marking of points must be done with a peg or drill hole in rock or concrete or other similar material or with a chisel mark or non-corrodible nail in fixed timber.
- (3) If lockspits are used, the lockspits must consist of trenches one metre long, 200mm wide and 150mm deep dug in the direction of the boundary lines and commencing 300mm from each corner or angle, or may consist of stones packed to similar or greater dimensions. However, if the type of soil renders trenches ineffective, direction stakes not less than 50mm by 30mm by 450mm may be placed in the direction of the boundary lines 4 metres distant from the corner or angle instead of trenches.

Surveyors (Practice) Regulation 2001

Clause 42

Monuments and reference marks

Part 5

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- (4) If a corner or angle is marked with a drill hole or non-corrodible nail in fixed timber:
- (a) if practicable—wings must be cut in solid rock or concrete or fixed timber 80mm long, 20mm wide and not less than 10mm deep commencing 50mm from and directed to the corner, or
 - (b) if the surface makes wings impracticable—lines at least 300mm long and 20mm wide may be painted on the surface in the direction of the boundary lines.
- (5) For:
- (a) rural surveys—pegs must be of sound durable hardwood or white cypress pine at least 450mm long and not less than 75mm by 75mm nominal section at the top end, or
 - (b) urban surveys—pegs must be of sound durable hardwood or white cypress pine at least 350mm long and not less than 75mm by 35mm nominal section at the top end.
- (6) Pegs must be pointed for about two-thirds of their length.
- (7) The centre of the top of a peg must represent the survey point except that, if conditions prevent the correct centring of a peg, the survey point may be represented by a non-corrodible tack or nail driven into the peg.
- (8) Pegs must be placed upright in the ground, point downwards, so that their tops are not more than 80mm above the ground level. The earth surrounding them must be securely compacted.
- (9) If a peg projecting above the surface of the ground could be hazardous or inconvenient to the public the peg may, at the discretion of the surveyor, be placed flush with the surface of the ground. If that is done, the fact must be noted on the plan of survey.
- (10) If the depth of soil is insufficient to permit the conventional placement of a peg, the peg may be driven to the point of refusal and then:
- (a) if there is sound rock under the peg, a drill hole and wing, a spike and wing or a chisel mark must be placed in the rock beneath the peg, or
 - (b) if there is no sound rock under the peg, a cairn of rocks must be built around the peg above the surface of the soil.

Clause 42 Surveyors (Practice) Regulation 2001

Part 5 Monuments and reference marks

- (11) If drill holes, chisel marks or similar marks are to be placed in an ornamental wall or ornamental path or similar structure, the size of the mark placed may be reduced at the discretion of the surveyor to avoid undue damage to the wall, path or other structure being marked, but only if the marking is durable and readily and unambiguously discernible.
- (12) The Surveyor-General may approve other types of marks for specific terrain.

43 Requirements relating to reference marks

- (1) Reference marks required to be placed by this Regulation must consist of:
 - (a) a permanent mark, or
 - (b) a reinforced concrete block in the form of a truncated pyramid 400mm long, 150mm square at the lower end and 100mm square at the upper end with a non-corrodible metal nail, peg or plug not less than 80mm long inserted at least 75mm into the block, or
 - (c) a galvanised iron pipe not less than 300mm long and 20mm internal diameter with a rim wall thickness of not less than 3mm, or
 - (d) a galvanised iron spike 100mm long driven completely into fixed timber with a wing 80mm long cut into the timber and directed to the spike, or
 - (e) a drill hole cut into a kerb or other substantial structure not less than 6mm in diameter and not less than 10mm deep with a wing 80mm long and directed to the drill hole, or
 - (f) if bedrock exists within 300mm of the natural surface of the ground, a drill hole not less than 10mm in diameter and 30mm deep cut into bedrock with a wing 80mm long directed to the drill hole, or
 - (g) a wing 80mm long cut into the sound wood of a suitable tree, facing directly towards the relevant corner and at a convenient height above ground level, the point of the wing or arrow being the reference point, or
 - (h) an approved mark of a durable character, or a specific point, on a permanent or substantial structure.

Surveyors (Practice) Regulation 2001

Clause 43

Monuments and reference marks

Part 5

- (2) The marks referred to in subclause (1) (b) and (c) must be placed vertically with the tops of the marks at least 80mm below the existing surface of the ground or, if placed on a boundary on which fencing is likely to be erected, sufficiently deep to permit the erection of the fence without disturbance of the mark.

44 Placement of reference marks

A reference mark that this Regulation requires to be placed must be located in such a position as to preserve the mark from disturbance.

45 Use of broad arrows

In any case in which the use of a broad arrow is authorised under the *Survey Marks Act 1902*, the marking may be used instead of a wing in the placement of a corner mark or reference mark (or both) in connection with the marking of a survey.

46 Datum used for levelling

- (1) All levels shown on a plan of survey must be related to AHD or such other datum as is approved.
- (2) AHD must be verified by closed height difference between 2 bench marks the heights of which have an approved accuracy.
- (3) All height differences verified or derived for a survey must attain an accuracy of Class "LD" or "B" or better as specified in the *Standards & Practices for Control Surveys (SPI)—Version 1.4* published in November 2000 by the Inter-Governmental Advisory Committee on Surveying and Mapping.
- (4) The plan of survey must specify the datum of the levels and the value, nature, accuracy class and order of the bench marks used to establish and verify that datum.

47 Bench marks

- (1) In a survey for the purpose of a limitation in height or depth (or both), the surveyor must relate the survey to 2 or more bench marks of which one or more must be external to the relevant parcel.
- (2) The value, nature, origin, accuracy class and position of the bench marks must be stated on the plan of survey.

Clause 47 Surveyors (Practice) Regulation 2001

Part 5 Monuments and reference marks

- (3) The external bench mark, or any one of the external bench marks, must be:
 - (a) an existing permanent mark within 300 metres of the parcel, or
 - (b) if it is impracticable to use an existing permanent mark, a mark placed by the surveyor in accordance with the requirements of clause 33 (9) for permanent marks within 300 metres of the parcel.
- (4) If a surveyor is required to place a bench mark in accordance with this Regulation, the bench mark must be a permanent mark or a mark of durable nature as approved.

Surveyors (Practice) Regulation 2001

Clause 48

Field notes

Part 6

Part 6 Field notes

48 Surveyor to make field notes

- (1) A surveyor must make field notes and record in them any facts, readings and observations immediately after they are ascertained.
- (2) Field notes must be neat, precise, complete and readily intelligible in accordance with the usage of surveyors.
- (3) A surveyor must keep an archive of:
 - (a) all field notes made by the surveyor with indices and cross references set out in a manner that facilitates the preparation of a complete and accurate plan of survey, and
 - (b) all other information and documentation relevant to those field notes.

49 Electronic records

If a survey has been recorded in whole or in part by electronic methods, an electronic copy (in the same form as the recording) and a paper copy of the reduced and formatted data must be retained in a manner that facilitates the preparation of a complete and accurate plan of survey.

50 Surveyor to record astronomical observations

If a surveyor makes an astronomical observation in the course of a survey, the surveyor must enter in the field notes the time and date and the latitude of the relevant station together with full particulars of all observations.

51 Method of recording bearings

A surveyor must observe and record all angles or, if appropriate, bearings in the field notes in degrees, minutes and seconds of arc, and all bearings must be reckoned and expressed clockwise from zero to 360 degrees.

52 Surveyor to record landmarks

A surveyor must enter in the field notes the names of estates, houses, roads, rivers, creeks, lakes and the like, and house numbers, as far as material to the survey and ascertainable by the surveyor.

Clause 53 Surveyors (Practice) Regulation 2001

Part 6 Field notes

53 Surveyor to sign and date field notes

- (1) A surveyor must personally sign and date each page or sheet of the field notes (or, in the case of a survey recorded by electronic means, of the reduced and formatted data) of a survey that has been performed by the surveyor personally or under the surveyor's supervision.
- (2) Before signing each page or sheet, the surveyor must be satisfied that the notes on it are accurate and that the date when the work recorded on it was performed appears on it.

54 Report by surveyor

A surveyor must disclose any doubt, discrepancy, difficulty or difference suggested by or encountered in a survey on the plan of survey or in an accompanying comprehensive report.

Surveyors (Practice) Regulation 2001

Clause 55

Water as a boundary

Part 7

Part 7 Water as a boundary

55 Location and relocation of mean high-water mark boundary

- (1) If, since the date of a previous survey, there has been a change in the position of a high-water mark forming a boundary of land to be surveyed and that change has been caused otherwise than by natural, gradual and imperceptible accretion or erosion, in any subsequent survey the position of the mean high-water mark as it was immediately before the change must be adopted.
- (2) For the purposes of preparing a plan of survey containing a high-water mark that forms a boundary of land, a reference in any previous plan of survey or description of land to a high-water mark is, unless a contrary intention appears, to be taken to be a reference to a mean high-water mark (that is, the line of mean high tide between the ordinary high-water spring and ordinary high-water neap tides).
- (3) For the purposes of preparing a plan of survey containing a high-water mark that forms a boundary of land, a reference to, or description of, a boundary of land that abuts tidal water in any previous plan of survey or description of land is, unless a contrary intention appears, to be taken to be a reference to, or a description of, the mean high-water mark.
- (4) The mean high-water mark must be determined with appropriate accuracy by a surveyor.
- (5) A surveyor must show on a plan of survey the description and relationship of any sea wall and reclaimed land adjacent to the mean high-water mark boundary.
- (6) If a surveyor determines a location of mean high-water mark in relation to land, approval of the determination must be obtained from:
 - (a) if the adjoining land below the mean high-water mark is Crown land—the Minister administering the *Crown Lands Act 1989* (or a person authorised by that Minister), or
 - (b) in any other case—the owner of that adjoining land,unless a prior determination of that location of that mean high-water mark has been approved in accordance with this clause or a corresponding provision of a previous regulation under the Act.

Clause 56 Surveyors (Practice) Regulation 2001

Part 7 Water as a boundary

56 Location and relocation of banks of non-tidal streams or lakes

- (1) If, since the date of a previous survey, there has been a change in the position of a bank of any non-tidal stream forming a boundary of land to be surveyed and that change has been caused otherwise than by natural, gradual and imperceptible accretion or erosion, in any subsequent survey the position of the bank as it was immediately before the change must be adopted.
- (2) The position of the boundary between adjoining land and any non-tidal lake is not subject to change by the doctrine of accretion or erosion.
- (3) For the purposes of this clause, the bed of a lake or stream includes that portion:
 - (a) that is alternately covered and left bare with an increase or diminution in the supply of water, and
 - (b) that is adequate to contain the lake or stream at its average or mean stage without reference to extraordinary freshets in time of flood or to extreme droughts.
- (4) For the purposes of this clause, a lake includes a permanent or temporary lagoon or similar collection of water not contained in an artificial work.
- (5) For the purposes of preparing a plan of survey containing a bank of a non-tidal lake or stream that forms a boundary of land, in any previous plan of survey or description relating to that land a reference to, or description of, a bank is, unless a contrary intention appears, to be taken to be a reference to, or description of, the limit of the bed of a non-tidal lake or stream.
- (6) The middle line of a stream need not be marked unless the purpose for which the survey is made so requires.
- (7) The natural feature boundary must be surveyed so that each change of course or direction of the boundary is determined with appropriate accuracy.
- (8) A surveyor must provide a comprehensive report to the Minister administering the *Crown Lands Act 1989* (or a person authorised by that Minister) regarding a determination of a boundary, and obtain the approval of that Minister (or that person) to the determination, if:
 - (a) the location of the boundary is the bank of a non-tidal lake or stream,
 - (b) the bed of the lake or stream is Crown land, and

Surveyors (Practice) Regulation 2001

Clause 56

Water as a boundary

Part 7

-
- (c) a prior determination of the boundary has not been approved in accordance with this clause or a corresponding provision of a previous regulation under the Act.
 - (9) A surveyor must provide a comprehensive report regarding a determination of a boundary to the Surveyor-General if:
 - (a) the location of the boundary is the bank of a non-tidal stream, and
 - (b) that boundary has been previously determined by survey, and
 - (c) the bank of the non-tidal stream has moved since that determination.

The comprehensive report must include the reason for the change and the process by which that change took place.
 - (10) A comprehensive report referred to in subclauses (8) and (9) must include:
 - (a) the basis and method of determining the location of the bank of the non-tidal lake or stream, and
 - (b) photographs, documentation, evidence, and any other information, relevant to the location of the boundary, as is reasonably required by the person to whom the report is to be provided.

57 Determination of landward boundary of reservation or Crown road fronting a natural feature

- (1) If the landward boundary of an existing reservation of stipulated width fronting tidal waters has not been defined by survey, on redefinition or subdivision of the adjoining land by a survey, the boundary must be defined by right lines approximately parallel to the position of the mean high-water mark as originally defined.
- (2) If the landward boundary between a parcel of land and an existing reservation or Crown road of stipulated width along a non-tidal stream or lake or other natural feature has not been defined by survey, on redefinition or subdivision of the adjoining land by a survey:
 - (a) the boundary must be defined by right lines approximately parallel to the position of that feature as originally defined, and
 - (b) the location of the natural feature as it existed at the time of the survey must be determined and shown on the plan of survey, and

Clause 57 Surveyors (Practice) Regulation 2001

Part 7 Water as a boundary

(c) the boundary need not be marked in accordance with clauses 34 and 42, but reference marks must be placed at the terminals of the boundary and at intervals of not more than 1,000 metres along the boundary.

(3) If a surveyor determines a landward boundary of a reservation or Crown road and there has not been a prior determination of that boundary approved in accordance with this clause or a corresponding provision of a previous regulation under the Act, the approval of the Minister administering the *Crown Lands Act 1989* (or a person authorised by that Minister) to the determination must be obtained.

58 Approval of Minister or adjoining owner to water boundary changes

(1) A surveyor must, when seeking approval from the Minister administering the *Crown Lands Act 1989* (or a person authorised by that Minister) or an adjoining owner to the determination of:

- (a) the landward boundary of a reservation or Crown road fronting a water boundary, or
- (b) a mean high water mark boundary that has changed or does not currently have such approval,

provide to the person concerned a comprehensive report regarding the determination.

(2) The comprehensive report must include:

- (a) the basis and method of determining the location of the bank of the stream or lake or the mean high-water mark, and
- (b) an opinion, supported by photographs, documentation and evidence, as to the reason for the change and the process by which that change took place, and
- (c) such other information, relevant to the location of the boundary, as is reasonably required by the person concerned.

59 Calculation of areas of land abutting a natural feature

(1) The area of land abutting a natural feature, such as a mean high-water mark or a non-tidal stream, must be ascertained by the surveyor with appropriate accuracy and must include all land to the natural feature.

(2) If a natural feature forms a boundary of land, appropriate details describing the natural feature must be shown on the plan of survey.

Surveyors (Practice) Regulation 2001

Clause 59

Water as a boundary

Part 7

- (3) Bearings and distances between the end points of the radiations or offsets used to determine the location and the area of land abutting the natural feature must be shown on the plan of survey.

Clause 60 Surveyors (Practice) Regulation 2001

Part 8 Miscellaneous

Part 8 Miscellaneous

60 Deferment of placement of survey marks

- (1) If it is likely that construction or development will disturb any survey marks placed on land that is the subject of a survey, a surveyor may defer the placement of the survey marks required by this Regulation on that land.
- (2) In such a case, the surveyor must:
 - (a) notify the Surveyor-General of the deferment, and
 - (b) deposit with the Surveyor-General an amount equivalent to 2 penalty units for each survey mark deferred (but not less than 5 penalty units for each survey), and
 - (c) comply with any requirement of the Surveyor-General, notice of which is served on the surveyor within 30 days of the date on which the surveyor notified the Surveyor-General of the deferment.
- (3) On completion of the construction or development, the surveyor must:
 - (a) place the deferred survey marks, and
 - (b) have their nature and position noted on the plan of survey in the manner approved by the Registrar-General, and
 - (c) inform the Surveyor-General that the survey has been carried out in compliance with this Regulation.
- (4) If the Surveyor-General is satisfied that the survey has been satisfactorily completed, the deposit must be returned to the surveyor less an administrative charge not exceeding 15 per cent of the amount deposited.
- (5) If the placement of survey marks has been deferred under this clause, the marks must be placed no later than the earlier of the following days:
 - (a) the day that falls 6 months after the completion of the survey, or
 - (b) the day that falls 28 days after the completion of the construction or development.

Surveyors (Practice) Regulation 2001

Clause 61

Miscellaneous

Part 8

61 Exemption by Surveyor-General

- (1) If the Surveyor-General is of the opinion that it is not practicable or necessary to comply with a requirement under this Regulation in relation to a survey, the Surveyor-General may in writing exempt the surveyor conducting the survey from complying with the requirement.
- (2) A surveyor who obtains an exemption under this clause must record the exemption number or type, and the clause or clauses that the exemption relates to, on the plan of survey.

62 Effect of contravention

If a survey or surveyor fails to comply with a provision of this Regulation, that failure does not constitute an offence, but, subject to section 14 of the Act (Power of board to deal with offences), constitutes a ground for action by the board under that section against the relevant surveyor.

63 Savings provision

Any act, matter or thing that had effect under the *Survey (Practice) Regulation 1996* immediately before the repeal of that Regulation by the *Subordinate Legislation Act 1989* is taken to have effect under this Regulation.

Surveyors (Practice) Regulation 2001

Schedule 1 Forms

Schedule 1 Forms

(Clause 4 (2))

Form 1 Survey certificate

(Surveyors (Practice) Regulation 2001—Clause 10)

I, [Insert Name] of [Insert Address], a surveyor registered under the *Surveyors Act 1929*, certify that the survey represented in this plan is accurate, has been made in accordance with the *Surveyors (Practice) Regulation 2001* and was completed on: [Insert date of completion of survey].

The survey relates to: [Specify the land actually surveyed, or specify any land shown in the plan that is not the subject of the survey]

Dated:

(Signature)

Surveyor registered under
the *Surveyors Act 1929*

Surveyors (Practice) Regulation 2001

Forms

Schedule 1

Form 2 Notice of entry

(Surveyors (Practice) Regulation 2001—Clause 11)

To the occupier of: [Insert reference to land proposed to be entered]

I, [Insert Name] of [Insert Address], a surveyor registered under the *Surveyors Act 1929*, give notice under section 13 of the *Surveyors Act 1929* that I intend to enter the land referred to above on: [Insert dates of proposed entry] together with my assistants for purposes relating to the making of a survey.

Dated:

(Signature)

Surveyor registered under
the *Surveyors Act 1929*

Form 3 Certificate as to survey not requiring strict accuracy

(Surveyors (Practice) Regulation 2001—Clause 29)

I, [Insert Name] of [Insert Address], a surveyor registered under the *Surveyors Act 1929*, certify that the survey represented in this plan (or sketch) was made in accordance with clause 29 of the *Surveyors (Practice) Regulation 2001* and [is/is not]* a survey to be lodged on public record as referred to in that clause.

(Signature)

Surveyor registered under
the *Surveyors Act 1929*

* Strike out inappropriate words.

Transport Administration (Staff) Amendment (Review and Probation) Regulation 2001

under the

Transport Administration Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Transport Administration Act 1988*.

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to amend the *Transport Administration (Staff) Regulation 2000*:

- (a) to omit the entitlement to an internal review by the SRA of an appointment to an SRA officer's position while preserving the right to appeal to a Transport Appeal Board in respect of such an appointment, and
- (b) to enable a person appointed on probation as an SRA officer to be appointed to a probation period of less than 6 months, and
- (c) to preserve an internal review or an entitlement to appeal existing immediately before the amendment.

This Regulation is made under the *Transport Administration Act 1988*, including sections 58 (Regulations relating to staff) and 119 (the general regulation-making power).

Clause 1 Transport Administration (Staff) Amendment (Review and Probation)
 Regulation 2001

Transport Administration (Staff) Amendment (Review and Probation) Regulation 2001

1 Name of Regulation

This Regulation is the *Transport Administration (Staff) Amendment (Review and Probation) Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

3 Amendment of Transport Administration (Staff) Regulation 2000

The *Transport Administration (Staff) Regulation 2000* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Transport Administration (Staff) Amendment (Review and Probation)
Regulation 2001

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 8

Omit clause 8. Insert instead:

8 Promotion appeals

- (1) For the purposes of this clause, an appointment to a position is *subject to appeal* if:
 - (a) the appointment is to an SRA officer's position with a maximum salary that is below the minimum salary for the position of Management Level 1, and
 - (b) the vacancy in the position was advertised.
- (2) An SRA officer may appeal to a Transport Appeal Board against the appointment of an SRA officer to a position that is subject to appeal.
- (3) An appeal may be lodged only by an SRA officer who was an unsuccessful applicant for the vacant position.
- (4) Despite subclause (1), a decision to appoint:
 - (a) an SRA officer to a position that was not advertised (or that the SRA filled under clause 5 (5) as if it had not been advertised), or
 - (b) a person who is not an SRA officer to any position, is not subject to appeal to a Transport Appeal Board.
- (5) The only ground on which an SRA officer may, under this clause, appeal to a Transport Appeal Board is that the merit of the officer is greater than that of the officer selected.

Note. Part 3 of the *Transport Appeal Boards Act 1980* applies to appeals to a Transport Appeal Board.

[2] Clause 9 Appointment on probation

Insert "or such shorter period as the SRA determines" after "6 months" in clause 9 (1).

Page 3

Transport Administration (Staff) Amendment (Review and Probation)
Regulation 2001

Schedule 1 Amendments

[3] Clause 9 (4)

Omit “any such total period of 12 months”.

Insert instead “a period of probation under this clause”.

[4] Clause 38

Insert after clause 37:

**38 Provisions consequent on making of Transport Administration
(Staff) Amendment (Review and Probation) Regulation 2001**

- (1) In this clause, *amending Regulation* means the *Transport Administration (Staff) Amendment (Review and Probation) Regulation 2001*.
- (2) Clause 8, as in force immediately before its amendment by the amending Regulation, continues to apply:
 - (a) to and in respect of any review under that clause that was not completed before that clause was amended, and
 - (b) to and in respect of any entitlement to appeal that had accrued under that clause before it was amended,as if that clause had not been amended.

Travel Agents Regulation 2001

under the

Travel Agents Act 1986

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

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

This Regulation replaces the *Travel Agents Regulation 1995* which is repealed on 1 September 2001 by section 10 of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters:

- (a) the fees payable under the *Travel Agents Act 1986* (including fees in relation to a travel agent's licence) (clauses 7, 8 and 13–15),
- (b) the matter that is to be included in an application for a travel agent's licence (clause 9),
- (c) requirements in relation to licences, including conditions and duration of a licence (clause 10),
- (d) the particulars and qualifications of a person in charge of a travel agent (clauses 11 and 18),
- (e) the particulars that are to be displayed at a travel agent (clause 17),
- (f) the particulars that are to be contained in certain registers (clauses 12 and 16)
- (g) a scheme for compensating persons who suffer pecuniary loss as a result of an act or omission by a travel agent (clause 20 and Schedule 1)
- (h) other miscellaneous matters (clauses 1–6, 19 and 21).

Travel Agents Regulation 2001

Explanatory note

This Regulation comprises or relates to matters arising under legislation that is substantially uniform or complementary with legislation of another State or Territory.

This Regulation is made under the *Travel Agents Act 1986*, including section 57 (the general power to make regulations).

Travel Agents Regulation 2001

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Clause 1 Travel Agents Regulation 2001

Travel Agents Regulation 2001

1 Name of Regulation

This Regulation is the *Travel Agents Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Travel Agents Regulation 1995* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

Director-General means the Director-General of the Department of Fair Trading.

the Act means the *Travel Agents Act 1986*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

5 Conveyances to which section 4 of Act does not apply

For the purposes of section 4 (1) (a) and (c) of the Act, a conveyance is a prescribed conveyance when it is intended to be, and is, used solely for the purpose of carrying passengers from a place and returning them to that place on the same day.

6 Business as travel agent includes making of travel related arrangement

- (1) For the purposes of section 4 (1) (d) of the Act, the making, by a person who carries on an activity referred to in section 4 (1) (a), (b) or (c) of the Act, of a travel related arrangement, either separately from or in conjunction with the activity, is a prescribed activity.
- (2) In this clause, **travel related arrangement** means an arrangement that may commonly be made in connection with an activity referred to in section 4 (1) (a), (b) or (c) of the Act, such as an arrangement for hotel

or other accommodation, car hire or the provision of travellers cheques.

7 Application fee

For the purposes of section 8 (3) of the Act, the prescribed fee for an application is \$64.

8 Licence fees

- (1) For the purposes of sections 8 (3), 10 (7) and 17 (1) of the Act, the prescribed fee for a licence is \$310 for each place in which the applicant proposes to carry on, or the licensee carries on, business as a travel agent.
- (2) The prescribed fee payable under section 17 of the Act, in the case of 2 or more persons who carry on business in partnership with each other, is to be paid on the anniversary of the date, or the earlier or earliest of the dates, on which, at the commencement of the carrying on of the business in partnership, licences had been granted to the partners in the business, whether or not all those persons were at that date partners.

9 Matters to be included in applications for licences

- (1) For the purposes of section 8 (4) (h) and (i) of the Act, an application for a licence is to include the following matters:
 - (a) the date of registration, under the *Business Names Act 1962*, of any business name under which it is intended to carry on the business of a travel agent,
 - (b) a description of the proposed business,
 - (c) date and place of birth of the applicant, if the applicant is a natural person,
 - (d) date and place of birth of any person it is proposed to have in charge of the day-to-day conduct of the business at each place at which it is intended to carry on the business of a travel agent,
 - (e) whether or not any one or more of the matters referred to in section 10 (3) of the Act applies to the applicant or any proposed person in charge,
 - (f) particulars of courses attended by, and the qualifications and experience of, any proposed person in charge,

Clause 9 Travel Agents Regulation 2001

- (g) if the applicant or a proposed partner of the applicant is a corporation—the name and address, and the date and place of birth, of each person who, within the meaning of the *Corporations Act 2001* of the Commonwealth, is a director, secretary or executive officer of the corporation,
- (h) particulars of any application to contribute to the compensation scheme,
- (i) such other information and particulars as the Director-General may reasonably require in respect of the application.

10 Duration of approval for licence

For the purposes of section 10B (3) of the Act, a period of 6 weeks, beginning on the date on which the approval is granted, is prescribed as the period for which an approval for a licence remains in force.

11 Prescribed particulars of person in charge

For the purposes of section 14 (2) of the Act, the prescribed particulars relating to a person it is proposed to have in charge at a place of business are those specified in clause 9 (d)–(f) in relation to such a person.

12 Register of licensees

For the purposes of section 15 (2) of the Act, the prescribed particulars to be contained in the register of licensees kept by the Director-General in relation to a licensee are the following:

- (a) the licensee's name,
- (b) the licence number,
- (c) the date on which the licence was granted,
- (d) the conditions and restrictions, if any, to which the licence is subject,
- (e) if any partner of the licensee is a natural person—the name and address of that person,
- (f) if the licensee or a partner of the licensee is a corporation—the address of its registered office and the names and addresses of each person who, within the meaning of the *Corporations Act 2001* of the Commonwealth, is a director, secretary or executive officer of the corporation,

-
- (g) the name under which the licensee carries on business as a travel agent.

13 Fee for search of register of licensees

For the purposes of section 15 (4) of the Act, the prescribed fee is \$17.

14 Late fee

For the purposes of section 17 (8) of the Act, the prescribed late fee is \$43.

15 Fee for duplicate licence

For the purposes of section 19 (1) of the Act, the prescribed fee for the issue of a duplicate licence is \$23.

16 Register of Undertakings

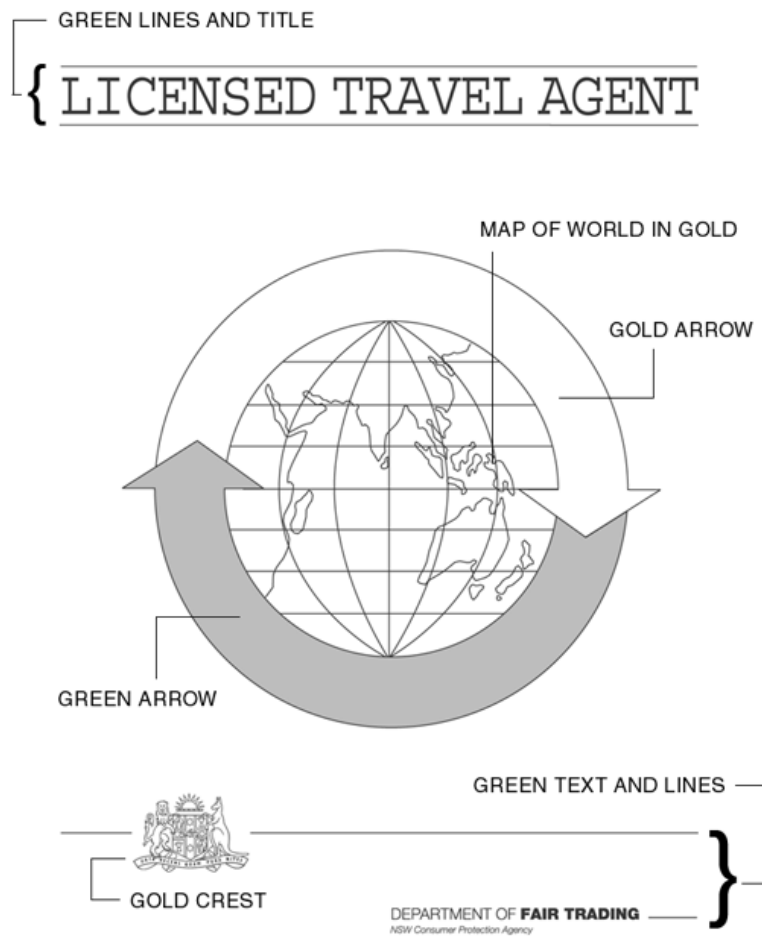
The prescribed particulars to be contained in the Register of Undertakings kept by the Director-General under section 30 (2) of the Act are the following:

- (a) the name and address of the person executing the deed,
- (b) the name in which the person carries on business,
- (c) the date on which the deed was executed,
- (d) brief particulars of the circumstances and unjust conduct the subject of the deed,
- (e) a summary of the undertakings given by the person.

Clause 17 Travel Agents Regulation 2001

17 Particulars to be displayed

For the purposes of section 33 of the Act, the prescribed form of notice is a notice in the form set out below and the prescribed particulars are those required by the form:



ALL COLOURS ON WHITE BACKGROUND
DIMENSIONS: NOT LESS THAN 200MM IN LENGTH AND HEIGHT

18 Qualifications of person in charge

- (1) For the purposes of section 36 of the Act, the prescribed qualifications for a person in charge of the day-to-day conduct of the business of a travel agent are the following:
- (a) if the business involves the sale of tickets or the arrangement of rights of passage by aircraft to or from a place outside Australia, whether or not it also involves the sale of tickets or arrangements referred to in paragraph (b) or (c), or both:
 - (i) 5 years of experience in the selling of tickets or the arrangement of rights of passage by aircraft to or from a place outside Australia, or
 - (ii) 2 years of experience in the selling of tickets or the arrangement of rights of passage by aircraft to or from a place outside Australia, together with the qualification set out in subclause (2),
 - (b) if the business involves the sale of tickets or the arrangement of rights of passage for travel (other than by aircraft) to or from a place outside Australia, whether or not it also involves the sale of tickets or arrangements referred to in paragraph (c):
 - (i) any of the qualifications referred to in paragraph (a), or
 - (ii) 2 years of experience in the selling of tickets or the arrangement of rights of passage for travel to or from a place outside Australia,
 - (c) if the business involves the sale of tickets or the arrangement of rights of passage by aircraft to or from a place within Australia:
 - (i) any of the qualifications referred to in paragraph (a) or (b), or
 - (ii) 1 year of experience in the selling of tickets or the arrangement of rights of passage by aircraft to or from a place within Australia.
- (2) The qualification referred to in subclause (1) (a) (ii) is completion of a travel agent's course that deals (whether wholly or in part) with the selling of tickets or the arrangement of rights of passage by aircraft to or from a place outside Australia and:
- (a) was recognised by the Australian Travel Training Review Panel (or any similar national body that succeeds that Panel) at the time the course was completed, or
 - (b) is approved by the Director-General.

Clause 19 Travel Agents Regulation 2001

19 Proceedings for offences

For the purposes of section 49 (1) (b) of the Act, the Director-General is a prescribed officer.

20 Compensation scheme

- (1) For the purposes of section 57 (2) of the Act, the compensation scheme for compensating persons who suffer a pecuniary loss by reason of an act or omission by a person who carries on, or carried on, business as a travel agent is the compensation scheme established by the trust deed made on 12 December 1986 by Deirdre Mary Grusovin, Peter Cornelis Spyker, Christopher John Sumner and Keith James Wilson, including all amendments to that deed that have taken effect on or before 3 March 2000.
- (2) Schedule 1 comprises a copy of the trust deed referred to in subclause (1), as amended by the amendments referred to in that subclause.

21 Savings

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

Travel Agents Regulation 2001

Compensation scheme

Schedule 1

Schedule 1 Compensation scheme

(Clause 20)

THIS DEED is made the **TWELFTH** day of **DECEMBER** 1986 by:

DEIRDRE MARY GRUSOVIN of 1 Oxford Street, Darlinghurst in the State of New South Wales (being the Minister for Consumer Affairs in that State) for the Crown in the right of that State,

PETER CORNELIS SPYKER of 500 Bourke Street, Melbourne in the State of Victoria (being the Minister for Consumer Affairs in that State) for the Crown in the right of that State,

CHRISTOPHER JOHN SUMNER of 25 Grenfell Street, Adelaide in the State of South Australia (being the Minister for Public and Consumer Affairs in that State) for the Crown in the right of that State,

KEITH JAMES WILSON of 600 Murray Street, West Perth in the State of Western Australia (being the Minister for Consumer Affairs in that State) for the Crown in the right of that State,

hereinafter referred to as “the settlors”.

WHEREAS

- A. The Governments of the States of New South Wales, Victoria, South Australia and Western Australia have entered into a Participation Agreement dated the 19th day of September 1986 (hereinafter referred to as “the Participation Agreement”) relating to the licensing of persons carrying on or intending to carry on business as travel agents and the regulation of their operations,
- B. Reference is made in the Participation Agreement to a compensation fund,

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- C. The settlors are the Ministers of the Crown who will be respectively responsible for the Act in each State,
- D. The settlors by this Deed appoint the persons named in this Deed to act as Trustees of the trust to be created upon the terms set out in this Deed in respect of a fund to be known as the Travel Compensation Fund and to be responsible for administration of the Scheme provided for in this Deed with a view to the Fund becoming the fund referred to in the Participation Agreement:

NOW THIS DEED WITNESSES as follows—

- I. The settlors hereby declare that the Trust shall be established on the terms and conditions which are set out in the Schedule hereto and that this Deed includes that Schedule (as it may be amended from time to time).
- II. The settlors appoint the following persons to act as Trustees:
 - (i) as the nominee of the New South Wales Minister under clause 4.1, John William Andrew Holloway of 39 Caroola Avenue, Chipping Norton in the State of New South Wales,
 - (ii) as the nominee of the Victorian Minister under clause 4.1, John David Hall of 70 Scott Street, Beaumaris in the State of Victoria,
 - (iii) as the nominee of the South Australian Minister under clause 4.1, Philip Herschel Nicholls of 5 Robert Street, Unley in the State of South Australia,
 - (iv) as the nominee of the Western Australian Minister under clause 4.1, Paul Richard Glanville of Unit 5, 286 Mill Point Road, South Perth in the State of Western Australia,
 - (v) as the nominees of the Ministers under clause 4.1, Osmond Francis William Pitts of 18 Greenfield Avenue, Middle Cove in the State of New South Wales,
 - (vi) Allen Charles Corbett of 2 Singleton Road, North Balwyn in the State of Victoria,

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- (vii) Michael Anthony Gilmour Thompson of 103 Monmouth Street, North Perth in the State of Western Australia,
- (viii) Francis William O’Gorman of 77 Rugby Street, Malvern in the State of South Australia, and
- (ix) as the nominee of the Ministers under clause 4.3, Neil Francis Francey of Unit 6, 59 Kirribilli Avenue, Kirribilli in the State of New South Wales.

III. This Deed shall come into force and effect when it is executed by each of the settlors and when the persons appointed to act as Trustees under clause II have consented so to act.

IV. As soon as this Deed comes into force and effect the settlors shall lodge with the Trustees the sum of one hundred dollars to be held by them on the trusts set out in this Deed.

IN WITNESS WHEREOF the settlors have executed this Deed on the date stated above.

**SIGNED, SEALED AND
DELIVERED** by the said
DEIRDRE MARY GRUSOVIN

}

DEIRDRE M GRUSOVIN

in the presence of: M ROELANDTS

**SIGNED, SEALED AND
DELIVERED** by the said
PETER CORNELIS SPIKER

}

PETER SPYKER

in the presence of: P VAN DYK

**SIGNED, SEALED AND
DELIVERED** by the said
CHRISTOPHER JOHN SUMNER

}

C J SUMNER

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in the presence of: ALAN MARTIN

**SIGNED, SEALED AND
DELIVERED** by the said
KEITH JAMES WILSON

}

KEITH WILSON

in the presence of: E RUSSELL

SCHEDULE

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1 INTERPRETATION

1.1 In this Deed and in any document or statement issued under it, unless a different meaning is indicated—

“*Act*” means—

- (a) the *Agents Act 1968* in force in the Australian Capital Territory, and
- (b) the *Travel Agents Act* in force in any other State,

“*AFTA*” means the Australian Federation of Travel Agents Limited,

“*agency*” means the government body administering the Act,

“*Appeal Committee*” means the committee established under clause 22,

“*bank*” means a bank—

- (a) as defined in the *Banking Act 1959* of the Commonwealth of Australia, or
- (b) that carries on banking business on behalf of a State under the authority of the laws of that State,

“*Board*” means the Board of Trustees referred to in clause 4,

“*Chief Executive Officer*” means the person employed as such under clause 4A.1 (c),

“*claim*” means a claim for compensation made under clause 16,

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“client account” means an account that only holds money received in advance in respect of travel arrangements or travel-related arrangements,

“contribution” means any contribution determined by the Board under clause 6,

“direct pecuniary loss” means the loss of the money or other valuable consideration actually paid to the travel agent,

“fee” means a fee determined by the Board under clause 6,

“Fund” means the Travel Compensation Fund referred to in clause 5,

“levy” means a levy determined by the Board under clause 6,

“licensing authority” means the person or body in a State responsible for licensing travel agents under the Act,

“management” includes direction, conduct and control,

“Management Committee” means the committee established under clause 20,

“member” means—

- (a) a member of a committee, or
- (b) a member of a Management Committee,

“Minister” means the Minister of the Crown in a State responsible for the Act,

“Ministerial Council” means the Ministerial Council established under the Participation Agreement,

“notice” includes a notification,

“operator” means a person who operates—

- (a) any transport system or transport facility, or
- (b) any hotel, lodging house or other place of accommodation, or
- (c) any restaurant or other eating or drinking place, or
- (d) any place of entertainment, leisure or study, or
- (e) any other facility or place in respect of which any travel arrangement or travel-related arrangement is made,

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“participant” means a person who is—

- (a) accepted as a participant of the Fund under clause 10, or
- (b) declared to be a participant of the Fund under clause 11,

“Participation Agreement” means the Agreement made on 19 September 1986 between certain States to establish the scheme,

“person” includes a body corporate, firm, partnership or other body,

“scheme” means the co-operative scheme referred to in the Participation Agreement,

“Standing Committee” means the Standing Committee of Officials of Consumer Affairs,

“State” means a State or Territory that participates in the scheme,

“travel agent” means a person who carries on business as a travel agent in a State within the meaning of the Act of that State,

“travel arrangement” means any arrangement entered into in a State with a travel agent for the provision of services which in that State constitutes the carrying on of business as a travel agent in that State,

“travel-related arrangement” means—

- (a) any arrangement relating to—
 - (i) hotel and airport transfers, or
 - (ii) accommodation and meals, or
 - (iii) car hire, or
 - (iv) theatre and entertainment tickets, or
 - (v) travellers cheques drawn against someone other than the person providing them, and
- (b) any other arrangement that in the opinion of the Board is normally incidental to travel arrangements,

“Trust” means the Trust established under clause 2,

“Trustee” means a person appointed as a Trustee under clause 4,

“year” means the period from 1 January to the next succeeding 31 December.

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- 1.2 A person who enters into a contract to provide services of which some are travel arrangements or travel-related arrangements and others are provided by the person as an operator is not an operator for the purpose of this Deed in respect of any of the services referred to in that contract.
- 1.3 Any parts of speech or grammatical forms of a word or expression defined in this Deed have corresponding meanings.
- 1.4 Words in the singular include the plural and words in the plural include the singular.
- 1.5 A reference to—
- (a) Parts and clauses is a reference to Parts and clauses, including subclauses and paragraphs, of this Schedule, and
 - (b) the Schedule is a reference to the Schedule to this Deed.
- 1.6 A reference to a statute is a reference to—
- (a) the statute as amended, consolidated or replaced by any other statute, and
 - (b) any orders, ordinances, regulations, rules and by-laws made under the statute.
- 1.7 A heading does not affect the interpretation of this Deed.

2 TITLE AND OBJECTS OF THE TRUST

- 2.1 The trust established by this Deed shall be known as the Travel Compensation Fund.
- 2.2 The object of the Trust is to provide a trust fund for the benefit of—
- (a) the Crown in the right of a State, and
 - (b) any person who entrusts money or other valuable consideration to a travel agent in respect of any travel arrangement or travel-related arrangement if—
 - (i) the travel agent fails to account for that money or consideration, or
 - (ii) the travel agent passes all or part of that money or consideration to another travel agent who fails to account for that money or consideration in the capacity as a travel agent.

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3 PURPOSES OF TRUST

3.1 The purposes of the Trust are—

- (a) to provide compensation to certain people who deal with travel agents, and
- (b) to provide for the operation of the Fund, and
- (c) to ensure that only persons who have sufficient financial resources to enable them to carry on business as a travel agent are participants of the Fund.

4 TRUSTEES

4.1 The Trust is to be operated by a Board of Trustees consisting of 11 Trustees appointed by the Ministerial Council of whom—

- (a) one is the chairperson, and
- (b) 2 are persons who have knowledge of the interests of travel consumers, and
- (c) 2 are persons who have knowledge and experience of the travel industry, and
- (d) 2 are other persons who have knowledge and experience of the travel industry, and
- (e) 4 are persons representing the Ministerial Council.

4.2 The Trustees are to be appointed by the Ministerial Council in the following manner:

- (a) the appointment of chairperson is to be made from applications submitted as a result of public advertisement of the position,
- (b) the appointments of the 2 persons referred to in clause 4.1 (b) are to be made from—
 - (i) applications submitted as a result of public advertisement of the positions, and
 - (ii) nominations made by the Australian Consumers Association and the Consumers Federation of Australia,
- (c) the appointments of the 2 persons referred to in clause 4.1 (c) are to be made from at least 4 nominations made by AFTA from its members,

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- (d) the appointment of the persons referred to in clause 4.1 (d) is to be made from—
 - (i) applications submitted as a result of public advertisement of the position, and
 - (ii) nominations made by travel agents not affiliated with AFTA submitted as the result of public advertisement of the position, and
 - (iii) nominations made by the Inbound Tourism Organisation of Australia Limited from its inbound tour operator members,
 - (e) the appointments of the 4 persons referred to in clause 4.1 (e) are to be made—
 - (i) in respect of the first person, of a representative of the agency of New South Wales, and
 - (ii) in respect of the second person, of a representative of the agency of Victoria, and
 - (iii) in respect of the third person, of a representative of the agency of Queensland or Western Australia on a rotating basis, and
 - (iv) in respect of the fourth person, a representative of the agency of South Australia, Tasmania or the Australian Capital Territory on a rotating basis.
- 4.3 Nominations for the appointments of Trustees are to be—
- (a) made by the closing date as fixed by the Ministerial Council, and
 - (b) lodged with the Standing Committee.
- 4.4 The Standing Committee is to—
- (a) consider all nominations, and
 - (b) submit to the Ministerial Council a list of suitable persons from those nominations within 4 weeks after the closing date.
- 4.5 The Ministerial Council may reject any nomination and call for further nominations.
- 4.6 The Ministerial Council is to ensure that as far as practicable membership of the Board represents all the States.

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- 4.7 The term of office of a Trustee is—
- (a) a period not exceeding 3 years from the date of the appointment as specified in the instrument of appointment for a Trustee appointed under clause 4.2 (a), (b), (c) or (d), and
 - (b) a period not exceeding 2 years from the date of the appointment as specified in the instrument of appointment for a Trustee appointed under clause 4.2 (e).
- 4.8 A Trustee is eligible for re-appointment.
- 4.9 A Trustee—
- (a) may resign by notice in writing to the Board, and
 - (b) is taken to have resigned if absent without leave from 3 consecutive meetings of the Board.
- 4.10 The Ministerial Council may remove a Trustee from office if the Trustee—
- (a) becomes bankrupt or makes any arrangement or composition with the Trustee's creditors generally, or
 - (b) becomes of unsound mind or the Trustee's estate is liable to be dealt with in any way under the law relating to mental health that applies in the State where the Trustee resides, or
 - (c) is subject to any penalty in the Act or any Act relating to trustees, or
 - (d) being a participant, is found by the Board not to be eligible to remain a participant, or
 - (e) is an officer of a body corporate participant that is found by the Board not to be eligible to remain a participant, or
 - (f) is convicted, or proven guilty, of a criminal offence punishable on conviction by imprisonment for 2 years or more, or
 - (g) is for any other reason not fit to continue to be a Trustee.

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- 4.11 The Ministerial Council may appoint a person to replace a Trustee if the Trustee resigns or is removed before the Trustee's term of office expires—
- (a) from any nominations previously made in respect of that office, or
 - (b) in any other manner it considers appropriate.
- 4.12 The Ministerial Council may extend the term of office of a Trustee for a period not exceeding one year.
- 4.13 A Trustee appointed under clause 4.2 (e) (iii) and (iv) representing an agency in a State must consult at regular intervals with a representative of the other agency or agencies referred to in the relevant subparagraph of that clause.

4A GENERAL POWERS AND DUTIES OF BOARD

4A.1 The Board has the following duties:

- (a) to pay out of the Fund any claim admitted under clause 16.7,
- (b) to pay out of the Fund any costs, charges and expenses incurred in—
 - (i) managing the Trust, or
 - (ii) exercising any of its powers, or
 - (iii) carrying out the purposes of the Trust, or
 - (iv) terminating the Trust, or
 - (v) paying the legal costs of the Board or a Trustee reasonably incurred in carrying out duties and exercising powers under this Deed,
- (c) to employ a person as a Chief Executive Officer to manage the administration of the Fund,
- (d) to give receipts and discharges for money received by or on behalf of the Board or otherwise relating to any matter provided for in this Deed,
- (e) to pay a Trustee the expenses, fees and allowances to which the Trustee is entitled,
- (f) to pay the expenses or costs, not otherwise provided for in this Deed that the Board determines to be reasonable,

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- (g) to advise the Ministerial Council on any matter arising from its powers and duties that may affect any policy matter relating to the scheme,
 - (h) to publish information concerning the operations of the Trust.

4A.2 The Board has the following powers:

- (a) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments,
- (b) for the purpose of conducting the affairs of the Trust, to raise money and secure over the whole or any part of the Fund the payment of money to any person, firm, association, body or bank in any manner or on any terms the Board thinks fit,
- (c) to insure or re-insure the Board and all past and present Trustees against any claims made upon or against them under this Deed and to settle the terms of the insurance and to pay from the Fund the premiums and charges for that insurance,
- (d) to give a guarantee or indemnity for the payment of money or the performance of a contract, obligation or undertaking by a person, firm or association, and to give any security over the assets of the Fund for the guarantee or indemnity,
- (e) to deal with any real or personal property or any interest in it,
- (f) to execute and release mortgages,
- (g) to open and operate upon any account with any bank or other financial institution,
- (h) to take any action the Board considers necessary—
 - (i) to adequately protect the Fund, or
 - (ii) to recover a debt owing to it, or
 - (iii) to release or compound that debt, or to give time for the payment of that debt,
- (i) to appear in any appeal brought against a decision made by the Board,
- (j) to institute or defend legal proceedings in the name of the Trust,

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- (k) to make arrangements and enter into contracts to underwrite any part of the liabilities of the Trust,
 - (l) to deposit securities included in the Fund with a bank,
 - (m) to appoint actuaries, accountants, solicitors, barristers and other professional advisers to represent, advise and act on behalf of the Board,
 - (n) to employ any persons to assist in the administration of the Fund or anything required or permitted to be done by the Board,
 - (o) to do anything incidental to the performance of its functions.
- 4A.3 The Board, in exercising any power or performing any duty, must take into account any relevant decision of the Ministerial Council.
- 4A.4 The Board may delegate—
- (a) powers and duties relating to the administration of the Fund to the Management Committee, and
 - (b) powers and duties relating to the administration of the Fund to the Chief Executive Officer other than the powers and duties under clauses 4A.1 (c), 4A.2 (b), 4A.2 (d), 4A.4, 9, 15.3, 20, 21, 25, 27, 29 and 30.1.
- 4A.5 A Trustee is not liable to a participant or any other person bound by this Deed for—
- (a) any losses incurred in performing any duty or exercising any power as a Trustee other than those arising from the Trustee's own wilful neglect or default, or
 - (b) the acts or defaults of any other Trustee, or
 - (c) an act done in good faith and in conformity with the decisions of the Board.
- 4A.6 The Board is not liable for the neglect or default of any actuary, accountant, auditor, legal practitioner, banker or other agent employed or appointed in good faith by the Board.

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4A.6 A Trustee—

- (a) is to be indemnified against any liability incurred in execution of the duties of the Trustee, other than if it arises from the Trustee's wilful neglect or default, and
- (b) has a lien on the Fund for that indemnity.

5 THE FUND

5.1 There shall be established a fund called the Travel Compensation Fund which shall be held and applied by the Trustees for the purposes of this Trust.

5.2 The Fund consists of the following:

- (a) any money or property transferred to, acquired, received or held by the Board for the purposes of the Trust,
- (b) any contributions, fees, levies and penalties,
- (c) any investments in the name of the Trust,
- (d) any income earned on money invested by the Board,
- (e) any money paid by an insurer under a contract of insurance or indemnity entered into by the Board,
- (f) any money recovered by the Board under this Deed or by some other action lawfully taken by it,
- (g) any other money lawfully paid into the Fund.

5.3 The Board may cause the books of account of the Fund to show separately money and property received and held for the purposes of meeting claims and administrative expenses of the Fund.

5.4 The Board is not prevented from transferring funds or property between separate accounts if it considers it to be appropriate.

6 CONTRIBUTIONS, FEES, LEVIES AND PENALTIES

6.1 The Board is to determine the amount, method of calculation and manner of collection of all contributions, fees, levies and penalties payable to the Fund by participants and any other persons applying to be participants of the Fund.

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- 6.2 The Board may fix any or all of the following:
- (a) an initial contribution payable upon application,
 - (b) an additional contribution or special levy if it is of the opinion that the Fund is insufficient to meet the existing or potential liabilities of the Trust,
 - (c) an application fee,
 - (d) an administration fee,
 - (e) an annual renewal fee,
 - (f) an additional fee or late filing fee or penalty fee for any participant who fails to meet obligations under this Deed,
 - (g) an additional fee, contribution or special levy for each location at which a participant carries on business as a travel agent in addition to the participant's first location.
- 6.3 The Board may waive or refund in part or whole any contribution, fee, levy or penalty if it considers the circumstances justify it.

7 INVESTMENT OF MONEY

- 7.1 The Board is to pay any money received by it into any account kept by it.
- 7.2 The Board is to invest any of the Fund that is not required for the immediate purposes of the Trust in any one or more of the following:
- (a) bank-accepted bills and interest-bearing deposits with banks,
 - (b) bonds or securities issued or guaranteed by a State Government or the Commonwealth Government,
 - (c) units in cash trusts or other negotiable investment forms that—
 - (i) are guaranteed by, or have full recourse to, a bank, or
 - (ii) consist solely of investments guaranteed by a bank or investments specified in clause 7.2 (a) and (b),
 - (d) any other investments which trustees may lawfully make in the State where the investment is made.

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- 7.3 The Board may realise investments at any time.
 - 7.4 Any document relating to the operation of any account or investment is to be signed in the manner the Board directs.
 - 7.5 The Board may authorise any person to make deposits to any account kept by it.

8 APPLICATION FOR ELIGIBILITY AS PARTICIPANT

- 8.1 A person who intends to operate as a travel agent may apply in writing to the Board for a determination that the person is eligible to be a participant of the Fund.
- 8.2 An application is to be—
 - (a) in a form specified by the Board, and
 - (b) accompanied by the relevant contribution and application and administration fees.
- 8.3 The Board may require a person to supply any further information it reasonably requires to enable it to determine whether the person is eligible to be a participant.
- 8.4 If a person fails to comply with a requirement by the Board to supply further information within 3 months after the requirement is made, the application lapses.
- 8.5 If a person, in making an application or providing information, makes a statement that is false or misleading, the Board may require the person to show just cause why it should not determine that the person is not eligible to be a participant.

9 ELIGIBILITY CRITERIA AS PARTICIPANT

- 9.1 A person is eligible to be a participant if the Board considers that the person has, and is likely to continue to have, sufficient financial resources to enable the person to carry on business as a travel agent and enter into travel arrangements and travel-related arrangements.
- 9.2 In determining whether a person is eligible to be a participant, the Board may take into account whether the person, an employee of that person or, if the person is a body corporate, an officer of that body corporate—
 - (a) has experience in the management of the financial affairs of a business, and

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- (b) has been involved in the management of a failed travel agency, and
 - (c) has been involved in the management of a travel agency in respect of which a claim has been made under this Deed, and
 - (d) is or has been a travel agent in respect of whom a claim has been made under this Deed, and
 - (e) has previously failed to meet a criterion in guidelines issued under clause 9.4, and
 - (f) has been involved in the management of another business, and
 - (g) has previously applied to be a participant.
- 9.3 In determining a matter under clause 9.1 or 9.2, the Board may take into account the financial resources of any legal entity with which a person or an employee of the person is or has been associated.
- 9.4 The Board is to develop and publish from time to time guidelines as to the criteria it may use to determine whether a person is eligible to be a participant.
- 9.5 In developing the guidelines, the Board is to have regard to the risk of potential claims involved in particular types of operations carried out in the business of a travel agent.
- 9.6 If the Board is not satisfied that a person is eligible to be a participant, it may require the person to comply with any one or more of the following conditions in order to be satisfied that the person is eligible as a participant:
- (a) that the person maintain and operate the business as a travel agent in a manner specified by the Board,
 - (b) that the person—
 - (i) maintain a trust account or client account in respect of any money received in the course of that business, or
 - (ii) increase the capital of that business, or
 - (iii) reduce the debt of that business, or
 - (iv) provide in favour of the Board any security it requires in any form it determines, or
 - (v) pay any costs incurred in connection with providing or releasing that security,

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- (c) that the business be guaranteed or insured in a manner, or by a person or class of person, specified by the Board,
 - (d) that the person maintain and operate books of account and other accounting records of the business in a manner specified by the Board,
 - (e) that a report be obtained at the expense of the person from a duly qualified auditor or accountant nominated by the Board—
 - (i) stating that the accounting records of the business give a true and fair view of the financial position of the business, or
 - (ii) providing any other information the Board requires to determine whether the person has sufficient financial resources to carry on the business,
 - (f) that the person provide full disclosure of the identity of any other person involved in the business.

9.7 The Board may—

- (a) determine a reasonable date or period of time for compliance with any condition referred to in clause 9.6, and
- (b) authorise payment of the cost of obtaining any report under clause 9.6 (e) from the Fund if it considers it appropriate to do so.

10 ACCEPTANCE AS PARTICIPANT

10.1 If the Board determines that an applicant is eligible to be a participant, the Board, on payment of the initial contribution and relevant fees, must—

- (a) accept that applicant as a participant, and
- (b) notify the relevant licensing authority that the person is a participant.

10.2 If the Board determines that an applicant is not eligible to be a participant, it must—

- (a) refuse the application, and

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- (b) give notice to the relevant licensing authority and the applicant of—
 - (i) the refusal, and
 - (ii) the matters taken into account in making the determination.

11 DECLARED PARTICIPANT

- 10.1 The Board is to declare that a person is a participant without determining the person's eligibility if the person—
 - (a) is exempt from the requirement to hold a licence under section 3 (2) of the Act in New South Wales or the equivalent provision in an Act of another State, and
 - (b) gives written notice to the Board of the wish to be a participant, and
 - (c) pays any relevant contribution.
- 11.2 The Board must declare that a person is no longer a participant under this clause if the person—
 - (a) ceases to be exempt from the requirement to hold a licence under the Act, or
 - (b) fails to pay a contribution when it is due, or
 - (c) gives notice to the Board that the person wishes to cease to be a participant.
- 11.3 A person who is a participant under this clause is not required to comply with any other provision of this Deed.

12 INFORMATION BY PARTICIPANT

- 12.1 A participant must provide the Board, on or before a date fixed by the Board, with any information the Board reasonably requires about the participant's financial resources.
- 12.2 The Board may vary the date on which a participant is required to provide the information.
- 12.3 If a participant, in providing information, makes a statement that is false or misleading, the Board may require the participant to show cause why it should not determine that the participant is no longer eligible to be a participant.

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- 12.4 A participant must notify the Board of any of the following relevant changes within 14 days after they occur:
- (a) any changes in the structure of the ownership or management of the participant's business,
 - (b) any changes in the statutory officers of the participant's business,
 - (c) any changes in the place of business of the participant's business.
- 12.5 A participant must notify the Board of any of the following events within 14 days after they occur—
- (a) the participant becomes bankrupt or makes any arrangement or composition with creditors,
 - (b) the winding up, receivership or administration of, or deed of administration in respect of, the participant's business.

12A REMAINING ELIGIBLE AS PARTICIPANT

- 12A.1 The Board may at any time determine whether a person remains eligible to be a participant.
- 12A.2 In order to determine whether a person remains eligible to be a participant, the Board may require the person to—
- (a) comply with any one or more of the conditions specified in clause 9.6, and
 - (b) provide any information it reasonably considers necessary for that purpose, and
 - (c) allow an employee or agent of the Board to examine, make or print copies of, or take extracts from, any books, documents or records relating to the person's business, and
 - (d) give any assistance reasonably necessary for that purpose.
- 12A.3 The Board is to certify to the relevant licensing authority that a person remains eligible to be a participant if—
- (a) the Board so determines, and
 - (b) the person pays any relevant contribution, fee, levy and penalty.

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12A.4 If the Board determines that a person is no longer eligible to remain a participant, it is to give notice as soon as practicable to the relevant licensing authority and to the person—

- (a) of the determination, and
- (b) of the matters taken into account in making it.

12B CEASING TO BE PARTICIPANT

12B.1 A participant must pay the annual renewal fee on or before the date fixed by the Board.

12B.2 If a participant fails to pay any contribution, fee, levy or penalty within 2 months of the due date or any further period the Board may allow, the Board may determine that the participant ceases to be a participant.

12B.3 If a participant fails to provide information required under clause 12 within 3 months or any other period the Board allows, the Board may determine that the participant ceases to be a participant.

12B.4 If the Board determines under clause 12A that a person is no longer eligible to remain a participant, the person ceases to be a participant as at the date of that determination.

12B.5 The Board may determine that a participant ceases to be a participant if—

- (a) the participant has not shown cause when required to do so under clause 12.3, or
- (b) it appears to the Board that the participant—
 - (i) has abandoned any premises from which the business of that participant is conducted, or
 - (ii) has ceased to carry on that business, or
- (c) any claims have been or, in the opinion of the Board, are likely to be made in respect of the business conducted by the participant.

12B.6 The Board may take into safe custody any books, records, property, client files, ticket stocks and other material a participant referred to in clause 12B.5 (b) and (c) uses or has used in the business as a travel agent.

12B.7 A participant ceases to be a participant when the participant's licence under the Act is surrendered, revoked or cancelled.

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12C REINSTATEMENT AS PARTICIPANT

- 12C.1 The Board, on the written application of a person who ceased to be a participant, may reinstate that person as a participant.
- 12C.2 Before reinstating a person as a participant, the Board may require the person—
- (a) to pay part or all of the relevant application and administration fees and any relevant fee, levy, contribution or penalty, and
 - (b) to provide the Board with any information that it reasonably requires about the person's financial resources.
- 12C.3 The Board is to notify the relevant licensing authority and the person of the reinstatement of the person as a participant.
- 12C.4 The Board is not to reinstate a person as a participant if the person has ceased to be a participant for a period exceeding 2 months.

13 HEARINGS AND APPEALS

- 13.1 Before the Trustees—
- (a) determine that an applicant is not eligible to be a contributor to the Fund under clause 9.8,
 - (b) determine under clause 11.5 that a participant is no longer eligible to be a contributor to the Fund, or
 - (c) pursuant to clause 12.2, make their determination that an applicant or participant is eligible to be a contributor to the Fund conditional on any conduct—
- they shall allow the applicant or participant a reasonable opportunity to be heard.
- 13.2 Notwithstanding any other provision of this Deed, where the Trustees make any determination or take any action referred to in paragraphs (a) to (c) of clause 13.1, and where an Act creates in or confers on the person a right so to do, a person who was the applicant or participant may—
- (a) if the person was an applicant or participant in New South Wales, appeal to the Administrative Decisions Tribunal,

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- (b) if the person was an applicant or participant in Victoria, apply for a review of the decision to the Victorian Civil and Administrative Tribunal,
 - (c) if the person was an applicant or participant in South Australia, appeal to the Administrative and Disciplinary Division of the District Court of that State,
 - (d) if the person was an applicant or participant in Western Australia, appeal to the District Court of that State,
 - (e) if the person was an applicant or participant in Tasmania, appeal to a magistrate of that State,
 - (f) if the person was an applicant or participant in Queensland, appeal to the District court in that State,
 - (g) if the person was an applicant or participant in the Australian Capital Territory, appeal to the Australian Capital Territory Administrative Appeals Tribunal.
- 13.3 The Trustees shall give effect forthwith to a decision of a court or tribunal referred to in clause 13.2, notwithstanding that an appeal or application to another court or tribunal named in that clause remains to be determined.

14 REGISTER OF PARTICIPANTS

- 14.1 The Board is to keep a register of participants that includes—
- (a) the names and addresses of each participant, and
 - (b) any variation or change in the name or business name of a participant that is approved and notified by the relevant licensing authority, and
 - (c) any other details the Board considers necessary.
- 14.2 A participant must notify the Board within 14 days of any variation or change—
- (a) in the name or business name of that participant, or
 - (b) in the address of the place at which business as a travel agent is carried out.
- 14.3 Any person may inspect the register on payment of a fee determined by the Board.

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15 PAYMENT OF COMPENSATION

- 15.1 The Board must pay compensation out of the Fund to a person who—
- (a) enters into travel arrangements or travel-related arrangements directly or indirectly with a participant, and
 - (b) has suffered or may suffer direct pecuniary loss arising from a failure to account by the participant for money or other valuable consideration paid by the person, and
 - (c) is not protected against the loss by a policy of insurance.
- 15.2 The Board may pay compensation to—
- (a) a person referred to in clause 15.1 in relation to other pecuniary loss arising from a failure to account as referred to in that clause, or
 - (b) a person who has suffered direct pecuniary loss or other pecuniary loss arising from a failure to account for money or other valuable consideration in relation to any travel arrangement or travel-related arrangement by a travel agent who is not a participant.
- 15.3 The Board may develop and publish guidelines that apply to the payment of compensation arising under clause 15.2.
- 15.4 The Board must not pay compensation to a person in respect of loss referred to in this clause that arises before the commencement of the Act in the appropriate State.
- 15.5 Compensation payable under this clause is payable—
- (a) to a person who is a resident of Australia in respect of any travel arrangements or travel-related arrangements, or
 - (b) to a person who is not a resident of Australia in respect of travel arrangements or travel-related arrangements within Australia.

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- 15.6 A travel agent or an operator who carries on or carried on a business comprising or including the provision of travel arrangements or travel-related arrangements may be paid compensation under this clause only if the travel agent or operator is exercising the right of a person to claim or receive compensation out of the Fund that has been assigned to the travel agent or operator.
- 15.7 The Board may pay compensation under this clause to a person in consideration of, or subject to, the assignment to the Board of the person's right and entitlement against another person.
- 15.8 The Board may pay compensation in instalments in any manner it determines.

16 CLAIMS FOR COMPENSATION

- 16.1 A person is not entitled to compensation from the Fund unless the person makes a claim under this clause within 12 months after the failure to account for money or other valuable consideration to which the claim relates.
- 16.2 The Board may accept a claim made later than 12 months if it considers it appropriate to do so.
- 16.3 A claim for compensation is to be made in a form specified by the Board.
- 16.4 The Board, if it is reasonably necessary to do so, may require that a person provide—
- (a) additional information relating to the claim, and
 - (b) copies of any document in the possession or under the control of the person that relate to the claim.
- 16.5 The Board may require that—
- (a) information be provided by statutory declaration or in any other manner, and
 - (b) copies of documents be verified in a particular manner.
- 16.6 The Board is not liable to make any payment for compensation to a person who has not complied with a requirement under clause 16.4 or 16.5.

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16.7 The Board may decide—

- (a) to admit a claim in whole or in part, or
- (b) to reject a claim.

16.8 Within 14 days of making a decision under clause 16.7, the Board is to notify in writing its decision to the person who made the claim of—

- (a) its decision, and
- (b) the right of appeal under clause 19.

17 AMOUNT OF COMPENSATION

17.1 The Board must—

- (a) determine the amount of compensation payable to a person under clause 15.1, and
- (b) determine the amount of compensation payable to a person under clause 15.2.

17.2 The amount of compensation is not to exceed the pecuniary loss suffered.

18 EMERGENCY COMPENSATION

18.1 If a participant fails to meet, or, in the opinion of the Board, is unlikely to meet, an obligation to a person, the Board may pay out of the Fund the amount it determines is necessary to meet in whole or in part the emergency requirements of the person arising from the failure.

18.2 The Board must attempt to ensure that it does not make a payment prohibited by clause 15.

18.3 The Board is not liable for anything done in good faith under this clause.

19 APPEALS

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- 19.1 A person may appeal against a decision of the Board under clause 16.7 that relates to any compensation referred to in clause 15.1—
- (a) if the person resides in Queensland or the matter to which the appeal relates is alleged to have taken place in Queensland, to a judge of the District Court at Brisbane in that State, or
 - (b) if the person resides in South Australia or the matter to which the appeal relates is alleged to have taken place in South Australia, to a judge of the District Court at Adelaide in that State, or
 - (c) if the person resides in Western Australia or the matter to which the appeal relates is alleged to have taken place in Western Australia, to a judge of the District Court at Perth in that State, or
 - (d) if the person resides in New South Wales or the matter to which the appeal relates is alleged to have taken place in New South Wales, to the Fair Trading Tribunal of New South Wales, or
 - (e) if the person resides in any other State or the matter to which the appeal relates is alleged to have taken place in any other State, to the Appeal Committee in either State.
- 19.2 An appeal is to be instituted within 1 month after receiving notice of the decision of the Board.
- 19.3 An appeal by a person referred to in clause 19.1 (a), (b), (c) or (d) is to be heard under the relevant Act as if it were an appeal relating to a refusal of participation in the compensation scheme under that Act.
- 19.4 An appeal by a person referred to in clause 19.1 (e) is to be heard by the relevant Appeal Committee as a new hearing.
- 19.5 In the hearing and the determining of an appeal—
- (a) an Appeal Committee has the powers of the Board specified in clause 16, and
 - (b) an Appeal Committee may determine its own rules and procedures, and

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- (c) the decision of an Appeal Committee may be by majority, and
- (d) all questions of law are to be determined by the chairperson of an Appeal Committee.

20 MANAGEMENT COMMITTEE

- 20.1 The Board may establish a Management Committee to assist it in the administration of the Fund consisting of—
- (a) the chairperson of the Board who is to be the chairperson of the Management Committee, and
 - (b) the Chief Executive Officer, and
 - (c) at least 2 Trustees.
- 20.2 The Board may delegate to the Management Committee any of its powers and duties under this Deed other than those under clauses 4A.1 (c), 4A.2 (b), 4A.2 (d), 4A.4, 20, 21.1, 21.4, 25, 27, 29 and 30.1.
- 20.3 A member of the Management Committee is not liable for any action in respect of performing any duty or exercising any power in good faith as such a member.

21 COMMITTEES

- 21.1 The Board may establish committees to assist it in its powers and duties consisting of at least 3 Trustees each.
- 21.2 The Board may vary the membership of a committee from time to time.
- 21.3 The Board may nominate one or more Trustee to act in the absence of a Trustee appointed to a committee.
- 21.4 The Board, by instrument in writing, may delegate to a committee any of its powers and duties under this Deed other than those under clauses 4A.1 (c), 4A.2 (b), 4A.2 (d), 4A.4, 20, 21.1, 21.4, 25, 27, 29 and 30.1.
- 21.5 A committee must exercise any delegated powers in accordance with any directions and subject to any conditions the Board specifies and a power so exercised is taken to be exercised by the Board.

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- 21.6 A committee is to appoint one of its members who is a Trustee as chairperson of that committee.
- 21.7 A member of a committee is not liable for any action in respect of performing any duty or exercising any power in good faith as such a member.

21A CONDUCT OF MEETINGS

- 21A.1 The Board is to meet at least twice a year.
- 21A.2 A committee or a Management Committee is to meet as often as it considers necessary.
- 21A.3 The Board, a committee or Management Committee, may—
- (a) determine the procedure for the calling of meetings and conduct of business at those meetings, and
 - (b) adjourn any meeting as it considers appropriate.
- 21A.4 Any 3 Trustees, by notice to the other Trustees, may call a meeting of the Board.
- 21A.5 The Board, a committee or a Management Committee may conduct a meeting—
- (a) in person, or
 - (b) by audio or video conference facility, or
 - (c) by facsimile transmission, or
 - (d) by electronic mail, or
 - (e) by any other electronic medium approved by the Board.
- 21A.6 A Trustee or member who is not attending a meeting in person is taken to be present at the meeting if the Trustee or member—
- (a) is able to hear the entire meeting and is able to be heard by all the others attending the meeting, or
 - (b) participates by facsimile transmission, electronic mail or any other electronic medium approved under clause 21A.5 (e).
- 21A.7 A meeting conducted otherwise than in person is taken to be held at a place agreed to by the Trustees or members present at the meeting if at least one of the Trustees or members was present during the whole of the meeting at that place.

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- 21A.8 The quorum at a meeting—
- (a) of the Board, is 6 Trustees, and
 - (b) of the Management Committee, is 2 Trustees, and
 - (c) of a committee, is one-half of the total number of members or, if that is not a whole number, the next highest number.
- 21A.9 If the chairperson is absent from a meeting—
- (a) the Board may elect a Trustee who is present to chair the meeting, or
 - (b) the members present at that meeting may elect one of their number who is a Trustee to chair that meeting.
- 21A.10 Any question arising at a meeting is to be decided by a simple majority of votes of the Trustees or members present and voting.
- 21A.11 In the case of an equality of votes, the person chairing a meeting has a deliberative and a casting vote.
- 21A.12 A written resolution—
- (a) may consist of several identical copies of the same document each signed by one or more of the Trustees or members, and
 - (b) if signed by the majority of the Trustees or members, is valid as if it had been passed at a meeting duly convened and held.
- 21A.13 The Board, a committee and a Management Committee is to keep full and accurate minutes of proceedings at meetings.
- 21A.14 A Trustee is entitled to expenses, fees and allowances for attending meetings and transacting the business of the Board, a committee or a Management Committee as fixed by the Ministerial Council.

22 APPEAL COMMITTEE

- 22.1 An Appeal Committee is appointed by a Minister to hear and determine an appeal made under clause 19.1 (e).
- 22.2 An Appeal Committee consists of 3 members one of whom is a legal practitioner of at least 7 years' standing who is the chairperson of the Appeal Committee.

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22.3 A Trustee is not eligible to be a member of an Appeal Committee.

22.4 A member of an Appeal Committee is entitled to any expenses, fees and allowances the Board determines.

23 SECRECY

23.1 A person who is or has been a Trustee must not, either directly or indirectly, make a record of or communicate any information about another person acquired as a result of being a Trustee unless the information is recorded or communicated—

- (a) in performing a duty or exercising a power under this Deed, or
- (b) for the purposes of the Act or this Deed to a person employed in the administration of the Act, or
- (c) in giving evidence or producing a document to a person or body that is entitled to hear or determine an application or an appeal relating to a licence under the Act, or
- (d) in giving evidence or producing a document to a court or tribunal that is hearing any criminal or civil proceedings, or
- (e) at the request of, and provided to, an agency of the Commonwealth of Australia or a State of the Commonwealth under a law of the Commonwealth or of that State, or
- (f) with the written authority of that other person.

23.2 A contract with a person by which the person is employed in, or concerned with, the administration of the Trust, must provide that the person—

- (a) is bound by provisions of this clause as if the person were a Trustee, and
- (b) if entering into a subcontract with another person, is to provide in that subcontract that the other person is bound by the provisions of this clause.

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24 ACCOUNTS AND AUDIT

24.1 The Board must cause—

- (a) proper books of account to be kept in relation to all of the dealings and operations of the Trust, and
- (b) the accounts of the Trust to be audited and a balance sheet, statement of income and expenditure, funds statement, supporting information and an auditor's certificate to be presented to the Board within 90 days after the end of each year.

24.2 The Board may appoint and determine the remuneration of the auditors of the Trust.

25 ANNUAL REPORT

25.1 The Board must forward a report of the financial and operational activities of the Trust for each year to—

- (a) each Minister within 4 months after the end of that year, and
- (b) each participant within 6 months after the end of that year.

26 NOTICES

26.1 The Board is to publish in the Government Gazette of each State a postal or facsimile address to which notices can be delivered or sent.

26.2 A notice to the Board is duly given if it is—

- (a) delivered or sent by prepaid post to an address published under clause 26.1, or
- (b) sent by facsimile address to an address published under clause 26.1.

26.3 A notice sent by post is taken to have been delivered on the third day following the day on which it was posted.

26.4 In proving delivery of a notice sent by post it is sufficient to prove that the letter containing the notice was properly addressed and posted.

26.5 A notice sent to a facsimile address is taken to have been delivered on the next business day after it was sent.

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27 TERMINATION OF TRUST

- 27.1 The Trust may be terminated by—
- (a) the unanimous resolution of the Board, or
 - (b) the unanimous decision of the Ministerial Council, or
 - (c) an order of the Supreme Court of New South Wales.
- 27.2 Upon termination of the Trust, any money standing to the credit of the Fund is to be applied as follows:
- (a) firstly, in the payment of all the liabilities of the Trust, including any liability arising from a failure to account after the termination of the Trust for money or other valuable consideration entrusted to another person before the termination of the Trust,
 - (b) secondly, in the payment of any balance to the States in proportions equivalent to the total number of participants in each State at the date of termination.

28 TRUST FUNDS NOT PAYABLE TO PARTICIPANTS

- 28.1 The Board must not distribute among, or pay to all or any of, the participants any part of the Fund otherwise than as provided under this Deed.

29 SUBSTITUTION OF DEED

- 29.1 This Deed may be substituted by another trust deed by—
- (a) the Ministerial Council at its own discretion, or
 - (b) the Board by resolution passed by at least 75% of the Trustees and with the approval of the Ministerial Council.
- 29.2 If this Deed is substituted by another trust deed, any reference to this Deed or a provision of this Deed in any document, contract or agreement is to be read as a reference to the substituted trust deed or the equivalent provision of the substituted trust deed.

30 AMENDMENT OF TRUST DEED

- 30.1 Subject to this Part, this Deed may be amended by a resolution (in this Part called “**an amendment resolution**”) passed by not less than seventy five per centum of the Trustees.

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Schedule 1

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- 30.2 Part 13 (except by adding or deleting paragraphs in clause 13.2), clauses 30.1 and 31.3 and this clause may not be amended.
- 30.3 Immediately upon the passing of an amendment resolution the Trustees shall notify each Minister of it.
- 30.4 Where, within four weeks of an amendment resolution being passed, the Ministerial Council resolves that the amendment is rejected by the Ministerial Council, the amendment resolution lapses and is of no effect for any purpose.
- 30.5 An amendment resolution shall specify a date which shall be no earlier than six weeks after the date on which it is passed as the date on which the amendment is to take effect and this Deed shall be amended in accordance with that resolution as from and including that date.
- 30.6 An amendment to this Deed may be made and expressed so as to save from being void or of no effect a matter or thing done prior to the amendment.

31 GOVERNING LAW AND JURISDICTION

- 31.1 The Trust Fund shall be maintained in New South Wales.
- 31.2 The Trust shall be administered in New South Wales.
- 31.3 This Deed shall be governed by and construed in accordance with the laws of New South Wales.
- 31.4 A legal action or proceeding relating to this Deed or arising out of an action taken or omitted to be taken by the Trustees under this Deed may be brought in any State and the Trustees shall not raise any objection in regard to such an action or proceeding on the ground of venue or forum non conveniens or a similar ground.

32 CONSEQUENTIAL PROVISIONS RESULTING FROM AMENDMENTS

- 32.1 A reference in clause 13.1 (a) to a contributor under clause 9.8 is to be read as a reference to a participant under clause 10.2.
- 32.2 A reference in clause 13.1 (b) to clause 11.5 is to be read as a reference to clause 12A.4.

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Schedule 1 Compensation scheme

- 32.3 A reference in clause 13.1 (c) to clause 12.2 is to be read as a reference to clause 12A.2.
- 32.4 The Ministerial Council may terminate or extend the term of office of a person who is a Trustee immediately before the substitution of clause 4 takes effect to ensure that the membership of the Board reflects the matters referred to in clause 4.2.
- 32.5 A person who is a Trustee immediately before the substitution of clause 4 takes effect continues as a Trustee until—
- (a) the Ministerial Council terminates the Trustee's term of office under clause 32.4, or
 - (b) the Trustee's term of office expires.

Valuation of Land Regulation 2001

under the

Valuation of Land Act 1916

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

KIM YEADON, M.P.,
Minister for Information Technology

Explanatory note

The object of this Regulation is to repeal and remake, without any changes in substance, the provisions of the *Valuation of Land Regulation 1996*.

The new Regulation provides for the following:

- (a) the refund of any fee paid in connection with an application for a valuation or certificate of valuation if the application is withdrawn,
- (b) the procedure for lodging an objection to a valuation and for withdrawing any such objection,
- (c) additional classes of Crown lease to which section 58F of the Act applies (section 58F requires the Valuer-General to provide land rating factors when furnishing a valuation),
- (d) other matters of a minor, consequential or ancillary nature.

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

This Regulation is made under the *Valuation of Land Act 1916*, including section 81 (the general regulation-making power) and the sections referred to in the Regulation.

Valuation of Land Regulation 2001

Explanatory note

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

Valuation of Land Regulation 2001

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Clause 1 Valuation of Land Regulation 2001

Part 1 Preliminary

Valuation of Land Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Valuation of Land Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Valuation of Land Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

In this Regulation:

the Act means the *Valuation of Land Act 1916*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Valuation of Land Regulation 2001

Clause 5

Valuations and objections

Part 2

Part 2 Valuations and objections

5 Refunds

If an application for a valuation or a certificate of valuation is lodged and subsequently withdrawn, the Valuer-General may refund the fee lodged with the application, less such expenses as the Valuer-General estimates have been incurred in connection with the application.

6 Lodgment of objections: sections 31 and 35

- (1) For the purposes of section 31 (1) of the Act, the prescribed time is the period of 60 days referred to in section 35 (1) of the Act.
- (2) For the purposes of section 35 (1) of the Act, an objection to a valuation, allowance or apportionment factor may be lodged:
 - (a) at the office of the Valuer-General, or
 - (b) in the case of a valuation, allowance or apportionment factor for which notice under section 29 of the Act has been given by a rating or taxing authority on behalf of the Valuer-General, at the office of that authority.

7 Withdrawal of objections

An objector may withdraw an objection under section 29 or 31 of the Act by written notice served on the Valuer-General.

Clause 8 Valuation of Land Regulation 2001

Part 3 Miscellaneous

Part 3 Miscellaneous

8 Land rating factors—certain classes of lease from the Crown

For the purposes of section 58F (1) (g) of the Act, the prescribed classes or descriptions of leases are leases for agricultural or pastoral purposes but only when the land subject to the leases is owned by or vested in any of the following bodies on behalf of the Crown:

- (a) the New South Wales Land and Housing Corporation,
- (b) the corporation sole with the corporate name of “Minister administering the *Environmental Planning and Assessment Act 1979*”,
- (c) the Albury-Wodonga (New South Wales) Corporation,
- (d) the Ministerial Development Corporation constituted under the *Growth Centres (Development Corporations) Act 1974*,
- (e) the Roads and Traffic Authority,
- (f) the Sydney Water Corporation,
- (g) the Hunter Water Corporation.

9 Affixing of marks to documents

- (1) If under the Act or this Regulation a document is required to be signed by a person who is blind or is unable to read or write, the person must affix the person’s mark to the document in the presence of a witness.
- (2) The witness must certify that:
 - (a) the document was previously read over or explained to the person by the witness, and
 - (b) the person appeared fully to understand the nature and effect of the document.

10 Service of notices

Notices required by the Act or this Regulation may be served personally or by post.

Valuation of Land Regulation 2001

Clause 11

Miscellaneous

Part 3

11 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Valuation of Land Regulation 1996*, had effect under that Regulation continues to have effect under this Regulation.

Valuers Registration Regulation 2001

under the

Valuers Registration Act 1975

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

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to replace, with minor amendments, the *Valuers Registration Regulation 1993* which is repealed on 1 September 2001 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters:

- (a) the fees payable under the *Valuers Registration Act 1975* (clauses 5–7),
- (b) the period of training in valuing land that a person is required to complete before applying to become a real estate valuer (clause 8),
- (c) the requirements in relation to the display of a certificate of registration and the surrender, in certain circumstances, of that certificate by a real estate valuer (clauses 10 and 11),
- (d) the rules of conduct to be observed by a practising real estate valuer (clause 12 and Schedule 1),
- (e) other miscellaneous matters (clauses 1–4, 9 and 13)

This Regulation is made under the *Valuers Registration Act 1975*, including section 30 (the general power to make regulations).

Valuers Registration Regulation 2001

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Valuers Registration Regulation 2001

Clause 1

Preliminary

Part 1

Valuers Registration Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Valuers Registration Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Valuers Registration Regulation 1993* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

Register means the Register of Real Estate Valuers kept by the Director-General under section 12 of the Act.

the Act means the *Valuers Registration Act 1975*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Clause 5 Valuers Registration Regulation 2001

Part 2 Registration

Part 2 Registration

5 Fees for copy of entries in the Register

For the purposes of section 12 of the Act, the prescribed fee for obtaining a copy of entries in the Register is the sum of the following amounts:

- (a) \$24 for dealing with the application,
- (b) \$11 for each of the first 10 pages supplied,
- (c) \$2 for each succeeding page supplied.

6 Applications for registration

For the purposes of section 13 (2) (b) of the Act, the prescribed fee to accompany an application for registration as a valuer is:

- (a) \$136, in the case of an application for registration as a practising real estate valuer, an associate real estate valuer, a valuer of licensed premises or an associate valuer of licensed premises, and
- (b) \$78, in the case of an application for registration as a non-practising real estate valuer.

7 Applications for renewal of registration

An application under section 16 of the Act for renewal of registration as a valuer must be made within 1 month before the registration expires and must be accompanied by a renewal fee of \$84.

8 Period of training

- (1) For the purposes of sections 15 (1) (b) (i) and 15A (b) (i) of the Act, the prescribed period of training in valuing land is:
 - (a) 1 month, in relation to residential land, and
 - (b) 440 working days, in relation to any other land.
- (2) For the purposes of this clause, **residential land** means:
 - (a) residential property within the meaning of Division 8 of Part 4 of the *Conveyancing Act 1919*, or
 - (b) a community development lot within the meaning of the *Community Land Development Act 1989*.

Valuers Registration Regulation 2001

Clause 9

Registration

Part 2

9 Lost or destroyed certificate of registration

If satisfied that a certificate of registration has been lost or destroyed, the Director-General may issue a duplicate certificate on payment of a fee of \$30.

10 Display of certificate of registration

A registered real estate valuer must, unless the valuer has reasonable cause not to do so, display the certificate of registration of the valuer at the principal place of business of the valuer so that it is visible to, and may be read by, a member of the public visiting the place during business hours.

Maximum penalty: 5 penalty units.

11 Surrender of certificate of registration

- (1) The Director-General may, by notice served on a real estate valuer, direct the valuer to surrender the valuer's certificate of registration to the Director-General in the following circumstances:
 - (a) if a limitation imposed by the Director-General on the valuer's right to practise is varied under section 16A of the Act,
 - (b) if the valuer's registration is suspended under section 20 (1) (e) of the Act,
 - (c) if the name of the valuer is removed from the Register under section 20 (1) (f) of the Act.
- (2) Such a notice may be served personally or by post.
- (3) A real estate valuer on whom such a notice is served must comply with the direction contained in the notice within 14 days after service of the notice.

Maximum penalty: 10 penalty units.

Clause 12 Valuers Registration Regulation 2001

Part 3 Miscellaneous

Part 3 Miscellaneous

12 Rules of conduct

A person who is registered as a real estate valuer (other than a non-practising real estate valuer) must, in the course of practice as a real estate valuer, observe the rules of conduct set out in Schedule 1, unless the valuer has a reasonable excuse for not doing so.

Maximum penalty: 10 penalty units

13 Savings and transitional

- (1) Any act, matter or thing that, immediately before the repeal of the *Valuers Registration Regulation 1993*, had effect under that Regulation is taken to have effect under this Regulation.
- (2) The requirement to keep and produce instructions as referred to in Item 4 of Schedule 1 applies only to instructions received after the commencement of this Regulation.

Valuers Registration Regulation 2001

Rules of conduct

Schedule 1

Schedule 1 Rules of conduct

(Clause 12)

- 1 The valuer must at all times act faithfully and conscientiously in the best interests of the client.
- 2 Before accepting instructions from a client to value a property in which the valuer has a direct or indirect interest, the valuer must disclose the interest to the client.
- 3 The valuer must not accept instructions from a client to undertake valuation work unless:
 - (a) those instructions are in writing, or
 - (b) the valuer has confirmed those instructions back to the client in writing in sufficient detail to avoid any misinterpretation.

Any variations or extensions of the client's instructions must similarly be given or confirmed in writing.
- 4 The valuer must confirm in writing to the client:
 - (a) the fee to be charged for undertaking the valuation work, or
 - (b) the basis on which such a fee is to be determined,

and whether the fee includes items such as disbursements and travel expenses.
- 5 The valuer must:
 - (a) keep:
 - (i) instructions to undertake valuation work, and
 - (ii) adequate file notes and documentation that substantiate a valuation by way of inquiry, objective comparison, deduction, calculation and opinions formed by the valuer in the preparation of the valuation,

for a period of not less than 6 years after the preparation of the valuation, and
 - (b) produce the instructions, file notes and documentation for inspection when requested to do so by the Director-General.
- 6 The valuer must not accept instructions to undertake valuation work which is contingent on a predetermined result or finding.

Page 7

Valuers Registration Regulation 2001

Schedule 1 Rules of conduct

- 7 If retained to make a valuation which will, or may, be used to determine or assess monetary compensation, the valuer must not require payment of a fee the amount of which is contingent on, or a percentage of, the amount of the compensation.
- 8 The valuer must not disclose a valuation to another person unless authorised by the client or required by law to do so.
- 9 The valuer must not value a particular class of land if the valuer is not qualified to make a valuation of land of that class and is not experienced to make such a valuation. This rule does not prevent a valuer from valuing land in conjunction with, or under the supervision of, a valuer qualified to make the valuation and who is experienced in making valuations of that kind if, before doing so, the valuer discloses this to the client.
- 10 If the valuer makes a written valuation or report or is responsible for a written valuation or report in conjunction with, or as a supervisor of, another valuer, he or she must:
 - (a) sign the valuation or report, and
 - (b) add any relevant qualification, and
 - (c) state whether or not he or she is registered to value the property.

Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001

under the

Water Management Act 2000

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

Explanatory note

The object of this Regulation is to provide for a number of matters relating to the Benerembah Irrigation District Environment Protection Trust, such as:

- (a) its area of operations, and
- (b) factors for classifying land, and
- (c) bases for levying service charges, and
- (d) payments for service charges.

This Regulation replaces the *Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 1996*, which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*. This Regulation is substantially the same as the repealed Regulation.

This Regulation is made under the *Water Management Act 2000*, including Part 2 of Chapter 6 and section 400 (the general regulation-making power).

Water Management (Benerembah Irrigation District Environment Protection Trust)
Regulation 2001

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Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001	Clause 1
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Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

3 Definitions

In this Regulation:

the Act means the *Water Management Act 2000*.

Trust means Benerembah Irrigation District Environment Protection Trust.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

5 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 deposited in the Parramatta office of the Department of Land and Water Conservation.

6 Function of Trust

Pursuant to section 289 (2) of the Act, the Trust has, and may exercise in its area, only the function of assessing, levying and recovering drainage service charges in connection with the provision of drainage services within the area of operations of the Trust.

Clause 7 Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001

Part 2 Fees, drainage service charges and other charges

Part 2 Fees, drainage service charges and other charges

7 Fees and charges other than drainage service charges

For the purposes of section 310 (2) of the Act, the fees and charges (other than drainage service charges) that the Trust may impose for a thing supplied or provided are to be determined by resolution of the Trust's Board.

8 Classification of land for purpose of levying drainage service charges

For the purposes of section 313 of the Act, the Trust may classify land for the purpose of levying drainage service charges according to one or more of the following factors:

- (a) the nature and extent of the water supply to the land,
- (b) the nature and extent of the drainage from the land,
- (c) the purpose for which the land is actually being used,
- (d) the intensity with which the land is being used for that purpose.

9 Basis of levying service charges

For the purposes of section 314 of the Act, the Trust may levy drainage service charges on land according to either or both of the following bases:

- (a) the assessment by the Trust of the cost of providing the land with the service,
- (b) the Member's Base Allocation in respect of the land, as shown in the Murrumbidgee Irrigation Limited's Member Contract.

10 Determinations by Trust

For the purposes of section 315 (1) of the Act, a determination of the Trust referred to in that subsection is to be made by resolution of the Trust's Board.

Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001

Clause 11

Fees, drainage service charges and other charges

Part 2

11 Payment to Trust

Payment to the Trust of a drainage service charge or other charge:

- (a) is due within the time notified by the Trust when giving notice of the charge, and
- (b) may be made in any manner so notified.

12 Payment by instalments

- (1) The Trust must notify a person liable to pay drainage service charges levied, or other charges imposed, that payment of the charges may be made to the Trust by a stated number of instalments of specified amounts.
- (2) If there is a failure to make a payment in accordance with the notification, the total unpaid balance may be treated by the Trust as an overdue amount of drainage service charges or other charges even if payment by instalments had commenced.

13 General power to defer or waive payment

- (1) The Trust may, if of the opinion that reasonable cause has been shown:
 - (a) defer payment of a drainage service charge, or any other charge or fee, on such conditions as it thinks fit, or
 - (b) waive such a payment or any part of it.
- (2) The Trust may establish an account from which to fund any such deferral or waiver.

Clause 14 Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001

Part 3 Miscellaneous

Part 3 Miscellaneous

14 Cutting off access to drainage works

The Trust may cut off access from land to drainage works:

- (a) if any drainage service charges or other charges relating to the land are overdue (but only if at least 7 days' notice of the intention to cut off access has been given to the person liable for payment of the charges concerned), or
- (b) if the Trust is of the opinion that it is unavoidably necessary to do so,
- (c) if the owner or occupier of the land fails to do anything that, under a provision of the Act or of a regulation made under the Act, is required to be done to prevent pollution or contamination of the water in the drainage works, or
- (d) if the owner or occupier obstructs an officer of the Trust in the exercise of his or her functions.

15 Recording of drainage service charge

- (1) The Trust must keep such records relating to each drainage service charge as required by the Minister and must keep the records in a manner approved by the Minister.
- (2) An amendment of the records kept under this clause may be made by:
 - (a) inserting the name of a person who claims to be, and is, entitled to be recorded as owner or occupier, or
 - (b) inserting the name of a person to whom an account for a drainage service charge should have been rendered or who has, since the levying of a drainage service charge, become liable to pay it, or
 - (c) omitting the name of a person whose name should not have been, or should no longer be, recorded, or
 - (d) increasing or reducing the amount of a drainage service charge as a result of an error in recording or notifying it, or
 - (e) inserting particulars of land that should have been the subject of a drainage service charge, or

Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001	Clause 15
Miscellaneous	Part 3

- (f) making such other amendments as will ensure conformity of the records with the Act.
- (3) A liability to make a payment as a result of an amendment accrues on the making of the amendment, but the payment is not overdue if made within one month after notice of the amendment and of the resulting liability has been given to the person liable.

16 Savings

Any act, matter or thing that, immediately before the repeal of the *Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 1996*, had effect under that Regulation is taken to have effect under this Regulation.

Water Traffic Amendment (Fees) Regulation 2001

under the

Maritime Services Act 1935

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Maritime Services Act 1935*.

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to amend the *Water Traffic Regulations—NSW* to increase certain fees relating to aquatic licences, the registration of vessels and the licensing of drivers of vessels.

These fee increases take account of the annual increase in the Consumer Price Index and, in some cases, double certain fees.

This Regulation is made under the *Maritime Services Act 1935*, including section 38 (the general regulation-making power), in particular section 38 (3) (b) and (c).

Clause 1 Water Traffic Amendment (Fees) Regulation 2001

Water Traffic Amendment (Fees) Regulation 2001

1 Name of Regulation

This Regulation is the *Water Traffic Amendment (Fees) Regulation 2001*.

2 Commencement

This Regulation commences on 1 October 2001.

3 Amendment of Water Traffic Regulations—NSW

The *Water Traffic Regulations—NSW* are amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Water Traffic Amendment (Fees) Regulation 2001

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Regulation 8 Aquatic licences

Omit "\$62" from Regulation 8 (3) (g) (i). Insert instead "\$64".

[2] Regulation 8 (3) (g) (ii)

Omit "\$93". Insert instead "\$96".

[3] Regulation 8 (3) (g) (iii)

Omit "\$246". Insert instead "\$255".

[4] Regulation 8 (3) (g) (iv)

Omit "\$494". Insert instead "\$511".

[5] Regulation 11 Registration of vessels

Omit "\$105" from Regulation 11 (3A) (a). Insert instead "\$217".

[6] Regulation 11 (3A) (b)

Omit "\$53". Insert instead "\$54".

[7] Regulation 11 (3A) (c) (i) and (ii)

Omit "\$36" wherever occurring. Insert instead "\$37".

[8] Regulation 11 (3A) (c) (ii)

Omit "\$6.70" and "\$404.50".
Insert instead "\$6.90" and "\$419.20" respectively.

[9] Regulation 11 (8)

Omit "\$13". Insert instead "\$14".

Water Traffic Amendment (Fees) Regulation 2001

Schedule 1 Amendments

[10] Regulation 15H Requirements for grant of initial licence

Omit "\$35" from Regulation 15H (2) (e) (i). Insert instead "\$36".

[11] Regulation 15L Fees for licences

Omit "\$55" from Regulation 15L (a). Insert instead "\$115".

[12] Regulation 15L (b)

Omit "\$27". Insert instead "\$56".

[13] Regulation 15L (c)

Omit "\$31". Insert instead "\$33".

[14] Regulation 15L (d)

Omit "\$14". Insert instead "\$15".

[15] Regulation 15M Concessional fees for licences

Omit "\$109" from Regulation 15M (2) (a). Insert instead "\$228".

[16] Regulation 15M (2) (b)

Omit "\$77". Insert instead "\$82".

[17] Regulation 15M (3) (a)

Omit "\$13". Insert instead "\$27".

[18] Regulation 15N Special provisions concerning personal watercraft licences

Omit "\$11" from Regulation 15N (1). Insert instead "\$12".

[19] Regulation 15N (3) (a)

Omit "\$32". Insert instead "\$33".

[20] Regulation 15N (3) (b)

Omit "\$10". Insert instead "\$11".

Water Traffic Amendment (Fees) Regulation 2001

Amendments

Schedule 1

[21] Regulation 15Q Duplicate licences

Omit "\$13". Insert instead "\$14".

Witness Protection Regulation 2001

under the

Witness Protection Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Witness Protection Act 1995*.

PAUL WHELAN, M.P.,
Minister for Police

Explanatory note

The object of this Regulation is to prescribe the forms to be used to permit a participant in a witness protection program (established and maintained under the *Witness Protection Act 1995* or under a law of the Commonwealth, another State or a Territory) who has been provided with a new identity not to disclose his or her former identity if the participant would otherwise be required by law to do so.

This Regulation replaces, without substantial variation, the *Witness Protection Regulation 1996*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation is made under the *Witness Protection Act 1995* and, in particular, under sections 24 (Non-disclosure of former identity of participant) and 42 (the general regulation-making power).

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

Witness Protection Regulation 2001

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Witness Protection Regulation 2001

Clause 1

Preliminary

Part 1

Witness Protection Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Witness Protection Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Witness Protection Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

the Act means the *Witness Protection Act 1995*.

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

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Clause 5 Witness Protection Regulation 2001

Part 2 Prescription of forms

Part 2 Prescription of forms

5 Form permitting non-disclosure of former identity (participant under NSW witness protection program)

For the purposes of section 24 (1) of the Act, the prescribed form is Form 1.

6 Form permitting non-disclosure of former identity (participant under complementary witness protection law)

For the purposes of section 24 (5) of the Act, the prescribed form is Form 2.

Witness Protection Regulation 2001

Clause 7

Savings

Part 3

Part 3 Savings

7 Saving

Any act, matter or thing that had effect under the *Witness Protection Regulation 1996* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

Witness Protection Regulation 2001

Schedule 1 Forms

Schedule 1 Forms

Form 1 Permission for non-disclosure of former identity (participant under NSW witness protection program)

(Clause 5)

(Witness Protection Act 1995, section 24 (1))

On (date), (new identity of participant) (“the participant”) was provided with a new identity under the witness protection program operating in New South Wales.

The participant is required by or under (law that requires disclosure, including section number of Act if relevant) to disclose the participant’s former identity for the purpose of (purpose).

Pursuant to the *Witness Protection Act 1995*, I, (name, rank and position), the duly appointed delegate of the Commissioner of Police, give the participant permission not to disclose the participant’s former identity to any person as required by that law for that purpose.

Signed:

Date:

Note. Section 24 of the Act enables permission to be given to a participant who has been provided with a new identity not to disclose his or her former identity if the participant would otherwise be required by law to do so. In such a case, it is lawful for the participant in any proceedings or for any purpose in respect of the law concerned to claim that the participant’s new identity is his or her only identity.

This permission remains valid while the participant retains that new identity even though the participant’s participation in the witness protection program may have been terminated.

This document must be surrendered by the participant in accordance with any notice issued under section 21 (5) of the Act if the participant’s participation in the program is terminated and action is taken by the Commissioner of Police to restore the participant’s former identity.

Witness Protection Regulation 2001

Forms

Schedule 1

**Form 2 Permission for non-disclosure of former identity
(Participant under a complementary witness
protection law)**

(Clause 6)

(Witness Protection Act 1995, Section 24 (5))

On (date), (new identity of participant) (“the participant”) was provided with a new identity under the witness protection program operating under (complementary witness protection law).

The participant is required by or under (law that requires disclosure, including section number of Act if relevant) to disclose the participant’s former identity for the purpose of (purpose).

Pursuant to the *Witness Protection Act 1995*, I, (name, rank and position), the duly appointed delegate of the Commissioner of Police, give the participant permission not to disclose the participant’s former identity to any person as required by that law for that purpose.

Signed:

Date:

Note. This permission remains valid while the participant retains his or her new identity even though the participant’s participation in the witness protection program concerned may have been terminated.

This permission is subject to the complementary witness protection law referred to above.

Rules

LEGAL PROFESSION ACT 1987

Rules 28, 29, 30, 31 and 32 are deleted.

The following rules are inserted:

- 28.1) The Board may register a person as a Student-at-Law.
- 2) The Board may refuse to register a person as a Student-at-Law if it is not satisfied that the person is of good fame and character and otherwise suitable for registration.
- 29.A person is qualified for registration as a Student-at-Law if he or she:
- a) has passed the Special Tertiary Admissions Test (STAT) with a mark of 152 or above;
 - b) holds a degree from a university;
 - c) has completed the NSW Higher School Certificate achieving the levels set out in the table hereunder;

Year	Minimum Level	Minimum English mark calculated as an average of HSC examination and assessment marks	
Before 1986	Aggregate of 253	2 Unit General/2 Unit A 2 Unit	60 53
1986-90	TES of 253	2 Unit General 2 Unit	60 53
1990-99	TER of 50	2 Unit Contemporary 2 Unit Related/General	60 53
1999-2000	UAI of 66	2 Unit Contemporary 2 Unit Related/General	60 53
2001-	UAI of 66	Standard/Advanced ESL	60 70

- d) completed the equivalent of the NSW Higher School Certificate examination in Australia or New Zealand, achieving a level equivalent to one of the levels set out in the table in clause "c" above;
 - e) holds a diploma, advanced diploma or associate diploma from an Australian university or TAFE college;
 - f) has passed the International Baccalaureate examination with a result of 30 points or more and a result in English A of at least 4 points at the Higher Level or 5 points at the Standard level;
 - g) has been admitted to candidature for a degree in an Australian or New Zealand university;
 - h) has qualified in a TAFE college or elsewhere for the award of a Certificate III or Certificate IV as assessed by the Australian Qualifications Framework;
 - i) has gained qualifications outside Australia equivalent to a Diploma, Advanced Diploma, Certificate III or Certificate IV;
 - j) has been employed as a paralegal or a legal secretary undertaking actual legal work under supervision for at least three years; or
 - k) has been either a police officer or a registered nurse who has passed some examinations in either of those professions.
- 30.1) An application for registration as a Student-at-Law shall be in and to the effect of form 1.
- 2) An application in form 1 shall be lodged with all required attachments no less than 14 days before the date of the Board meeting which is to decide it.

Rule 34(1)(a) is amended by deleting the words “as a probationary Student-at-Law or”.

Rule 99 is amended to read as follows:

- 99.
- (1) An applicant for admission who has not previously been admitted as a lawyer in any jurisdiction shall apply in and to the effect of Form 10 and shall provide to the Board two certificates of character in and to the effect of form 3.
 - (2) An applicant for admission who has previously been admitted as a lawyer in a jurisdiction outside Australia and New Zealand shall apply in Form 11 and shall provide to the Board two certificates of character in and to the effect of form 3A.
 - (3) An applicant for admission whose name has been ordered by the Court or by a disciplinary tribunal to be removed from the Roll of Barristers, the Roll of Solicitors or the Roll of Legal Practitioners in New South Wales shall apply for re-admission in Form 12 and shall provide a copy of his or her application to the New South Wales Bar Association and the Law Society of New South Wales.

Forms 1 and 2 in the First Schedule are deleted.

Form 1 in the First Schedule is inserted as hereunder:

**Legal
Practitioners
Admission
Board**

Application for Registration as a Student- at-Law

Form 1

NE. The contents of this application may be disclosed to Law admitting authorities and Law regulatory bodies

1 Applicant full name

surname

given names

title

date of birth

address
(it must be in Australia)

telephone

home

work

mobile

fax

email address

2 Qualifications for Entry

(a) I wish to sit the Special Tertiary Admission Test (STAT) as follows:

Date

Examination location

OR

(b) I have sat the STAT within the last 12 months and attained a result of 152 or greater. I have attached my results advice.

OR

(c) I meet the requirements for Entry Category No. and have attached the required documentation.

3 Exemptions

I have received academic exemptions from the Legal Practitioners Admission Board and have attached a copy of the Board's exemption letter.

Yes /No

FORM 1 CONTINUES OVER PAGE

Form 1 (continued)

4 Declaration

- 4.1 The information I have given in this form is true and complete.
- 4.2 I have never been registered as a Student-at-Law before.
- 4.3 I am residing in Australia and expect to continue residing in Australia during my candidature for the Admission Board's examinations.
- 4.4 I realise that candidature for the Admission Board's examinations does not confer any visa entitlement.
- 4.5 I have not done anything likely to affect adversely my good reputation and character, and am not aware of any circumstance that might affect my fitness to be admitted as a Student-at-Law ***(you must CROSS OUT the following words if you do not have anything to disclose)*** unless the Board considers that my good reputation and character or my fitness may be affected adversely by the circumstances in the attached "Disclosure" signed by me.

Signature of applicant

date

Checklist of documents to be attached

(Original certificates will be returned by registered mail)

- **Fee:** \$120.00. Make cheques and money orders payable to "Legal Practitioners Admission Board"
- **Question 2(b):** Original of your STAT results notice (if applicable).
- **Question 2(c):** Original documentation supporting your nominated entry category (if applicable).
- **Question 3:** Copy of Board's academic exemption letter (if applicable).
- **Question 4:** Original of any "Disclosure" signed by applicant (if applicable).

How to return your application

1. Put the cheque for the fee on top, then the application form, and then any attachments
2. Return form and attachments to:

Legal Practitioners Admission Board

**GPO Box 3980
Sydney NSW 2001**

or **DX 602
Sydney**

By hand only
**Level 4
Elizabeth Street
Sydney**

FORM 1: STUDENT-AT-LAW APPLICATION

Supreme Court Rules (Amendment No 352) 2001

under the

Supreme Court Act 1970

The Supreme Court Rule Committee made the following rules of court under the *Supreme Court Act 1970* on 20 August 2001.

Steven Jupp

Secretary of the Rule Committee

Explanatory note

The object of these Rules is to amend Part 76, rule 29 of the *Supreme Court Rules 1970* to provide that the Protective Commissioner may direct a person who has the custody or control of any testamentary paper of a protected person to deposit that document in the registry.

Rule 1 Supreme Court Rules (Amendment No 352) 2001

Supreme Court Rules (Amendment No 352) 2001

1 Name of Rules

These Rules are the *Supreme Court Rules (Amendment No 352) 2001*.

2 Notes

The explanatory note does not form part of these Rules.

3 Amendment of Supreme Court Rules 1970

The *Supreme Court Rules 1970* are amended by inserting “protected person or” after “testamentary paper of a” in Part 76, rule 29 (2).

Supreme Court Rules (Amendment No 353) 2001

under the

Supreme Court Act 1970

The Supreme Court Rule Committee made the following rules of court under the *Supreme Court Act 1970* on 20 August 2001.

Steven Jupp

Secretary to the Rule Committee

Explanatory note

The object of these Rules is to update references to the name and location of the Exhibits Office in the Supreme Court in a number of subpoena forms set out in the *Supreme Court Rules 1970*.

Rule 1 Supreme Court Rules (Amendment No 353) 2001

Supreme Court Rules (Amendment No 353) 2001

1 Name of Rules

These Rules are the *Supreme Court Rules (Amendment No 353) 2001*.

2 Amendment of Supreme Court Rules 1970

The *Supreme Court Rules 1970* are amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of these Rules.

Supreme Court Rules (Amendment No 353) 2001

Amendments

Schedule 1

Schedule 1 Amendments

(Rule 2)

[1] Schedule F, Form 45A

Omit "Exhibits Office, Level 4" from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5".

[2] Schedule F, Form 45A

Omit "Prothonotary's Office, Level 4," from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5,".

[3] Schedule F, Form 45B

Omit "Exhibits Office, Level 4" from the matter relating to note (2).

Insert instead "Exhibits Office, Level 5".

[4] Schedule F, Form 45B

Omit "Prothonotary's Office, Level 4," from the matter relating to note (2).

Insert instead "Exhibits Office, Level 5,".

[5] Schedule F, Form 45C

Omit "Exhibits Office, Level 4" from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5".

[6] Schedule F, Form 45C

Omit "Prothonotary's Office, Level 4," from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5,".

Supreme Court Rules (Amendment No 353) 2001

Schedule 1 Amendments

[7] Schedule F, Form 45E

Omit "Exhibits Office, Level 4" from the matter relating to note (3) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5".

[8] Schedule F, Form 45E

Omit "Prothonotary's Office, Level 4," from the matter relating to note (3) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5,".

[9] Schedule F, Form 46

Omit "Exhibits Office, Level 4" from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5".

[10] Schedule F, Form 46

Omit "Prothonotary's Office, Level 4," from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5,".

[11] Schedule F, Form 46A

Omit "Exhibits Office, Level 4" from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5".

[12] Schedule F, Form 46A

Omit "Prothonotary's Office, Level 4," from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5,".

[13] Schedule F, Form 46B

Omit "Exhibits Office, Level 4" from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5".

Supreme Court Rules (Amendment No 353) 2001

Amendments

Schedule 1

[14] Schedule F, Form 46B

Omit "Prothonotary's Office, Level 4," from the matter relating to note (2) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5,".

[15] Schedule F, Form 48

Omit "Exhibits Office, Level 4" from the matter relating to note (3) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5,".

[16] Schedule F, Form 48

Omit "Prothonotary's Office, Level 4," from the matter relating to note (3) on the reverse page of the form.

Insert instead "Exhibits Office, Level 5,".

Supreme Court Rules (Amendment No 354) 2001

under the

Supreme Court Act 1970

The Supreme Court Rule Committee made the following rules of court under the *Supreme Court Act 1970* on 20 August 2001.

Steven Jupp

Secretary of the Rule Committee

Explanatory note

The object of these Rules is to change the rate of interest payable on judgments (and in respect of certain other matters) in relation to the period after 1 September 2001 from 11% to 10% per annum.

Rule 1 Supreme Court Rules (Amendment No 354) 2001

Supreme Court Rules (Amendment No 354) 2001

1 Name of Rules

These Rules are the *Supreme Court Rules (Amendment No 354) 2001*.

2 Notes

The explanatory note does not form part of these Rules.

3 Amendment of Supreme Court Rules 1970

The *Supreme Court Rules 1970* are amended by omitting the following matter from Schedule J to those Rules:

after 31 August 2000 11

and by inserting instead:

the beginning of 1 September 2000 to the end
of 31 August 2001 11

after 31 August 2001 10

Orders

Subordinate Legislation Act 1989—Order

MARIE BASHIR, Governor

I, Professor Marie Bashir, AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 11 of the *Subordinate Legislation Act 1989*, do, by this my Order, postpone from 1 September 2001 to 1 September 2002 the date on which the following statutory rules are repealed by section 10 of that Act:

Aboriginal Land Rights Regulation 1996

Adoption Information Regulation 1996

Adoption of Children Regulation 1995

Animal Research Regulation 1995

Apiaries Regulation 1995

Architects (Elections and Appointments) Regulation 1995

Architects (General) Regulation 1995

Children (Care and Protection) Regulation 1996

Children (Care and Protection—Review of Child Deaths) Regulation 1996

Coastal Protection (Non-Local Government Areas) Regulation 1994

Community Services (Complaints, Appeals and Monitoring) Regulation 1996

Confiscation of Proceeds of Crime Regulation 1996

Country Industries (Pay-roll Tax Rebates) Regulation 1994

Day Procedure Centres Regulation 1996

Dentists (Elections) Regulation 1996

Subordinate Legislation Act 1989—Order

Dentists (General) Regulation 1996
Disability Services Regulation 1993
Driving Instructors Regulation 1993
Entertainment Industry Regulation 1995
Exhibited Animals Protection Regulation 1995
Family Day Care and Home Based Child Care Services Regulation 1996
Landlord and Tenant Regulation 1994
Landlord and Tenant (Rental Bonds) Regulation 1993
Legal Profession Regulation 1994
Legal Profession (Solicitor Corporations) Regulation 1996
Liquor Regulation 1996
Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995
Local Government (Manufactured Home Estates and Manufactured Homes) Regulation 1995
Lord Howe Island (General) Regulation 1994
Mines Rescue Regulation 1996
Murray Valley Citrus Marketing (Polls) Regulation 1996
Necropolis Regulation 1996
Noxious Weeds Regulation 1993
Nursing Homes Regulation 1996
Optometrists Regulation 1995
Physiotherapists Registration Regulation 1995
Plant Diseases Regulation 1996
Podiatrists Regulation 1995
Poisons and Therapeutic Goods Regulation 1994
Ports Corporatisation (Staff Director Elections) Regulation 1995
Poultry Meat Industry Regulation 1995
Prevention of Cruelty to Animals (Animal Trades) Regulation 1996
Prevention of Cruelty to Animals (General) Regulation 1996

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Subordinate Legislation Act 1989—Order

Private Hospitals Regulation 1996
Property, Stock and Business Agents (General) Regulation 1993
Protected Estates Regulation 1995
Public Health Regulation 1991
Public Sector Management (General) Regulation 1996
Radiation Control Regulation 1993
Registered Clubs Regulation 1996
Residential Tenancies (Residential Premises) Regulation 1995
Road Transport (Mass, Loading and Access) Regulation 1996
Rural Lands Protection Regulation 1995
Seeds Regulation 1994
Small Businesses' Loans Guarantee Regulation 1994
State Owned Corporations (National Electricity Market) Regulation 1996
Stock (Artificial Breeding) Regulation 1995
Stock (Chemical Residues) Regulation 1995
Stock Medicines Regulation 1995
Veterinary Surgeons Regulation 1995
Water (Part 5—Bore Licences) Regulation 1995
Water (Part 5—Drillers' Licences) Regulation 1995
Water (Part 8—General) Regulation 1995
Water Management (Irrigation Corporations) Regulation 1995
Water Management (Lowbidgee Flood Control and Irrigation Works) Regulation 1996
Water Management (Private Drainage Boards—Elections) Regulation 1995
Water Management (Private Drainage Boards—General) Regulation 1995
Water Management (Private Water Trusts—Elections) Regulation 1995
Water Management (Private Water Trusts—General) Regulation 1995
Water Management (Water Supply Authorities—Finance) Regulation 1996
Workers Compensation (Bush Fire, Emergency and Rescue Services) Regulation 1995

Subordinate Legislation Act 1989—Order

Workers Compensation (General) Regulation 1995

Workers Compensation (Insurance Premiums) Regulation 1995

Workers Compensation (Workplace Injury Management) Regulation 1995

Signed at Sydney, this 30th day of August 2001.

By Her Excellency's Command,

BOB CARR, M.P.,
Premier

Subordinate Legislation Act 1989—Order

MARIE BASHIR, Governor

I, Professor Marie Bashir, AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 11 of the *Subordinate Legislation Act 1989*, do, by this my Order, postpone from 1 September 2001 to 1 September 2002 the date on which the following statutory rules are repealed by section 10 of that Act:

Fisheries Management (Aquaculture) Regulation 1995

Fisheries Management (Aquatic Reserves) Regulation 1995

Fisheries Management (General) Regulation 1995

National Parks and Wildlife (Administration) Regulation 1995

National Parks and Wildlife (Land Management) Regulation 1995

Signed at Sydney, this 30th day of August 2001.

By Her Excellency's Command,

BOB CARR, M.P.,
Premier

By-Law

Crown Lands (General Reserves) By-law 2001

under the

Crown Lands Act 1989

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

RICHARD AMERY, M.P.,
Minister for Agriculture, and Minister for Land and Water Conservation

Explanatory note

This By-law replaces the *Crown Lands (General Reserves) By-law 1995* which is repealed on 1 September 2001 by section 10 (2) of the *Subordinate Legislation Act 1989*. This By-law makes provision for the following matters:

- (a) the administration of the various reserves, including meetings of the trust board for a reserve trust that manages a reserve under the *Crown Lands Act 1989*, the appointment of staff of a reserve trust, the duties of the secretary and the treasurer of a reserve trust, accounting matters and other general administrative matters,
- (b) the regulation of the entry of persons into reserves and the conduct of persons in reserves,
- (c) other minor, consequential and ancillary matters.

This By-law is made under the *Crown Lands Act 1989*, including section 128 (the general power to make by-laws).

Crown Lands (General Reserves) By-law 2001

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Crown Lands (General Reserves) By-law 2001

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Clause 1 Crown Lands (General Reserves) By-law 2001

Part 1 Preliminary

Crown Lands (General Reserves) By-law 2001

Part 1 Preliminary

1 Name of By-law

This By-law is the *Crown Lands (General Reserves) By-law 2001*.

2 Commencement

This By-law commences on 1 September 2001.

Note. This By-law replaces the *Crown Lands (General Reserves) By-law 1995* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Application

This By-law applies to a reserve specified in Schedule 1, except as specifically provided by other clauses of this By-law.

4 Definitions

(1) In this By-law:

authorised person, in relation to a reserve trust, means:

- (a) a member of the trust board of the reserve trust, or
- (b) an administrator of the affairs of the reserve trust, or
- (c) a ranger or other person appointed by the reserve trust, or
- (d) where a council has been appointed to manage the affairs of the reserve trust, any officer, employee of the council or other person appointed as an authorised person by the council.

building includes part of a building.

council has the same meaning as in the *Local Government Act 1993*.

mooring means the anchoring of any vessel or the securing of any vessel to any post, stake, pile, float, pontoon, wall, wharf, jetty or other landing stage.

reserve means a reserve to which this By-law applies, and includes part of a reserve.

Crown Lands (General Reserves) By-law 2001

Clause 4

Preliminary

Part 1

reserve trust, in relation to a reserve, means the reserve trust that is the trustee of the reserve under the Act.

secretary, in relation to a reserve trust, means the secretary of the reserve trust.

the Act means the *Crown Lands Act 1989*.

vehicle includes:

- (a) a motor car, motor carriage, motor cycle or other apparatus propelled on land, snow or ice wholly or partly by volatile spirit, steam, gas, oil or electricity, and
 - (b) a boat or other object that, while floating on water or submerged, whether wholly or partly, under water, is wholly or partly used for the conveyance of persons or things, and
 - (c) an apparatus that, while propelled in the air by human or mechanical power or by the wind, is wholly or partly used for the conveyance of persons or things, and
 - (d) an apparatus propelled on land, snow or ice by human or animal power or by the wind, and
 - (e) a trailer or caravan, whether or not it is in the course of being towed.
- (2) The explanatory note, table of contents and notes in the text of this By-law do not form part of this By-law.

Clause 5 Crown Lands (General Reserves) By-law 2001

Part 2 Administration
Division 1 Trust boards

Part 2 Administration

Division 1 Trust boards

5 Operation of Division

This Division applies to the reserve trust of a reserve to which this By-law applies, where the reserve trust is managed by a trust board.

6 Meetings

- (1) The trust board is to meet at least 4 times a year at the places and times as determined by the board.
- (2) At one such meeting, to be termed the annual general meeting, the trust board is to elect:
 - (a) a chairperson and a deputy chairperson, and
 - (b) a person or persons as secretary and treasurer unless those positions are filled by a person or persons appointed and employed under clause 13.
- (3) A person elected under subclause (2) is to hold office until the next annual general meeting of the trust board.
- (4) A statement of accounts is to be presented to the annual general meeting of the trust board.

7 Special meetings

On receipt by the chairperson of a written request for a meeting of the trust board, the chairperson, if the request is signed by at least 2 members of the board and specifies the purpose of the meeting, is to call a special meeting to be held within 28 days after receipt of the request at the place and time specified by the chairperson.

8 Prior notice of meetings

- (1) Subject to subclause (2), the chairperson, not later than 10 days before the day appointed for a meeting referred to in clause 6 or 7, is to forward to each member of the trust board a notice in writing setting out the place and time of the meeting and the agenda for that meeting.

Crown Lands (General Reserves) By-law 2001	Clause 8
Administration	Part 2
Trust boards	Division 1

- (2) If the chairperson is of the opinion that a special meeting should be held as soon as possible, the chairperson may give such notice of the place and time of, and the agenda for, the meeting as the chairperson considers appropriate.

9 Casual vacancy

If a casual vacancy occurs in the office of the chairperson, deputy chairperson, secretary or treasurer, the trust board, at the first meeting held after the occurrence of the casual vacancy, is to elect or appoint, as the case requires, a person to fill the vacancy and the person so elected or appointed is entitled to hold office for the unexpired part of the term of office of that person's predecessor.

10 Conduct of meetings

- (1) At a meeting of the trust board, the chairperson or, in the absence of the chairperson, the deputy chairperson, is to preside.
- (2) In the absence of the chairperson and the deputy chairperson, the members of the trust board present are to elect a person from among their number to preside at the meeting and the person so elected is to preside.
- (3) The person presiding at a meeting of the trust board is to have a deliberative vote and, in the event of an equality of votes, is to have a second or casting vote.

11 Committees

- (1) The trust board may form one or more committees to carry out such works or perform such duties as the board determines.
- (2) All such committees must consist of members of the trust board.

Division 2 General administrative matters

12 Operation of Division

This Division applies to the reserve trust of a reserve to which this By-law applies.

Clause 13 Crown Lands (General Reserves) By-law 2001

Part 2 Administration

Division 2 General administrative matters

13 Officers and employees

- (1) The reserve trust may appoint and employ a secretary, a treasurer, rangers and such other officers and employees as may be necessary for the efficient operation of the reserve.
- (2) One person may be appointed to the positions of secretary to, and treasurer of, the reserve trust.
- (3) If there is a trust board, a member of the trust board may be appointed and employed under this clause.

14 Duties of secretary and treasurer

- (1) The secretary is:
 - (a) to keep and maintain minutes of each meeting of the reserve trust, and
 - (b) to keep and maintain the book (disclosure of pecuniary interests of members of a trust board) required by clause 1 (3) of Schedule 4 to the Act, and
 - (c) to perform other duties as directed by the reserve trust.
- (2) The treasurer is:
 - (a) to be responsible to the reserve trust for the keeping and maintaining of proper financial records, and
 - (b) to keep and maintain the records required to be kept by the reserve trust under Schedule 4 to the *Crown Lands Regulation 2000*.

15 Financial year

The reserve trust's financial year is the year ending on 30 June.

16 Receipts and disbursements

- (1) All money received by the reserve trust is to be deposited to the credit of an account established with any authorised deposit-taking institution in the name of the reserve trust.
- (2) Each item of expenditure by or on behalf of the reserve trust is to be authorised or confirmed for payment, at a duly convened and constituted meeting of the reserve trust by tabling and approval of a report by the treasurer relating to that item of expenditure.

Crown Lands (General Reserves) By-law 2001	Clause 16
Administration	Part 2
General administrative matters	Division 2

- (3) Cheques drawn on the reserve trust's account are to be signed by one member of the reserve trust and one other person approved by the trust.
- (4) If an administrator of a reserve trust has been appointed under the Act, cheques are to be signed by the administrator and one other person chosen by the administrator.

17 Common seal

- (1) The common seal of the reserve trust is to be kept by the secretary or, if there is no secretary, by such other person as may be appointed by the trust.
- (2) A trust's seal may be affixed to an instrument or document only:
 - (a) following a resolution to do so passed at a meeting of the trust, and
 - (b) in the presence of the secretary or a member of the trust board, and
 - (c) with an attestation by the signature of the secretary or member of the fact of the affixing of the seal.
- (3) If an administrator of a trust has been appointed, the trust's seal may be affixed and attested by the administrator alone.

Clause 18 Crown Lands (General Reserves) By-law 2001

Part 3 Regulation of use of reserves

Division 1 Use of reserves generally

Part 3 Regulation of use of reserves

Division 1 Use of reserves generally

18 Public access to reserve

- (1) Subject to subclause (2), the reserve is to be open to the public during such times as the reserve trust may specify in a public notice displayed at or adjacent to each entrance to the reserve.
- (2) The reserve trust, by a public notice displayed at or adjacent to each entrance to the reserve, may do any of the following:
 - (a) close to the public the reserve, any part of the reserve, or any building, structure or enclosure,
 - (b) restrict or otherwise regulate the purposes for which the reserve, any part of the reserve or any building, structure or enclosure may be used,
 - (c) prohibit the use of the reserve, any part of the reserve or any building, structure or enclosure for any purpose specified in the notice.
- (3) A person must not enter or use the reserve, any part of the reserve or any building, structure or enclosure in the reserve contrary to a public notice displayed under this clause.

Maximum penalty: 5 penalty units.

19 Reserve trust may set aside parts of reserve for certain uses

Subject to and consistent with any plan of management for a reserve, the reserve trust may set aside any part of the reserve, including any building, structure or enclosure, for any purpose for which the reserve may be used.

20 Fees and charges

- (1) The reserve trust may from time to time determine the fees or charges payable in respect of any one or more of the following:
 - (a) use of the whole or any part of the reserve and any building, structure or enclosure in the reserve,
 - (b) parking or use of any vehicle or class of vehicles on the reserve,

Crown Lands (General Reserves) By-law 2001	Clause 20
Regulation of use of reserves	Part 3
Use of reserves generally	Division 1

- (c) use of electricity, gas and water,
 - (d) rubbish disposal and cleaning of the reserve,
 - (e) removal of effluent.
- (2) The reserve trust of a reserve (other than a reserve for a cemetery) may from time to time determine the fees or charges payable in respect of entry to the whole or any part of the reserve and any building, structure or enclosure in the reserve.
 - (3) The reserve trust of a reserve for a cemetery may from time to time determine the fees or charges payable for the services provided in respect of the cemetery.
 - (4) In determining fees and charges, the reserve trust is to have regard to any contractual arrangements entered into by the reserve trust.
 - (5) The fees or charges payable under subclause (1) or (2) must be displayed in a public notice erected at or adjacent to each entrance to the reserve or part of the reserve or building, structure or enclosure to which the fees or charges relate.
 - (6) The fees or charges payable under subclause (3) must be displayed in a public notice outside the office of the reserve trust.
 - (7) The reserve trust may in any particular case waive payment of a fee or charge.
 - (8) The Minister may serve notice on the reserve trust disallowing or varying any fee or charge as set out in the notice and the reserve trust is to give effect to the Minister's notice.

21 Entry

- (1) A person who enters the reserve or a part of the reserve or any building, structure or enclosure in the reserve, whether on payment of an entrance fee or otherwise, enters subject to such conditions as may be determined from time to time by the reserve trust and as are displayed in public notices erected at or adjacent to each entrance to the reserve or part of the building, structure or enclosure.
- (2) The reserve trust may designate entrance and exit points to and from the reserve, any part of the reserve or any building, structure or enclosure in the reserve by public notices displayed at or near those points.

Clause 21 Crown Lands (General Reserves) By-law 2001

Part 3 Regulation of use of reserves

Division 1 Use of reserves generally

- (3) Where the reserve trust has designated any entrances and exits, a person must not enter or leave the reserve or part or the building, structure or enclosure otherwise than through an entrance or exit as designated by public notices displayed at or adjacent to the entrance or exit.

Maximum penalty: 5 penalty units.

- (4) Where the reserve trust has designated an entrance and determined an entrance fee, a person must not enter the reserve or part or the building, structure or enclosure unless:
- (a) the person pays that entrance fee, and
 - (b) the person enters as directed by public notices displayed at or adjacent to an entrance where any entrance fee demanded is payable.

Maximum penalty: 5 penalty units.

22 Vehicles on reserve

- (1) The reserve trust may give such directions as to the bringing of vehicles into, and the use and parking or mooring of vehicles in, the reserve as the reserve trust thinks fit, and any such direction:
- (a) may be limited as to time, place or subject-matter, and
 - (b) may be varied or revoked by the reserve trust.
- (2) A direction given under subclause (1) has effect only where it appears in a public notice displayed on or near the reserve or part to which the direction relates.
- (3) The direction appearing in a public notice that is displayed on or near a reserve or part with the authority of the reserve trust has effect as a direction, for the time being in force, given under subclause (1) in relation to the reserve or part and the notice is, for the purposes of subclause (2), notice of that direction.
- (4) A person must not contravene a direction having effect under this clause.

Maximum penalty: 5 penalty units.

- (5) A person must not interfere with, alter or remove any public notice displayed with the authority of the reserve trust under subclause (2).

Maximum penalty: 5 penalty units.

Crown Lands (General Reserves) By-law 2001	Clause 22
Regulation of use of reserves	Part 3
Use of reserves generally	Division 1

- (6) Nothing in this clause affects any provision of the Act or any other Act or any other provision of this By-law so far as the provision has effect in relation to conduct on a reserve.

23 Regulation of conduct in reserve

- (1) A person must not make use of a reserve or carry on a specified activity in the reserve if that use or specified activity is prohibited by a public notice displayed on the reserve.

Maximum penalty: 5 penalty units.

- (2) For the purposes of subclause (1), the specified activities are as follows:
- (a) entering the reserve at a time when the reserve is not open to the public,
 - (b) entering any building, structure or enclosure or part of the reserve not open to the public,
 - (c) holding a meeting or performance or conducting an entertainment,
 - (d) taking part in any gathering, meeting or assembly (except, in the case of a cemetery, for the purpose of a religious or other ceremony of burial or commemoration),
 - (e) selling, offering or exposing for sale any article or thing,
 - (f) displaying or causing any bill or poster to be displayed,
 - (g) distributing any circular, advertisement, paper or other printed, drawn, written or photographic matter,
 - (h) having or operating television, cinematographic or photographic equipment for commercial purposes,
 - (i) camping or permanently residing,
 - (j) planting any tree, shrub, vine, flower or other plant,
 - (k) damaging, picking or removing any tree, shrub, plant, vine, flower or other vegetation (whether dead or alive), except as permitted by paragraphs (l) and (m),
 - (l) removing any dead timber, log or stump, whether standing or fallen, except for the purpose of cooking food in the reserve,
 - (m) damaging any lawn, playing field or green, except in the course of and as a normal incident of any recreational or sporting activity,

Clause 23 Crown Lands (General Reserves) By-law 2001

Part 3 Regulation of use of reserves

Division 1 Use of reserves generally

- (n) defacing or removing or disturbing any rock, soil, sand, stone or similar substance,
- (o) lighting a fire:
 - (i) at any time when the lighting of fires in the reserve is prohibited under the *Rural Fires Act 1997*, or
 - (ii) at any other time except in a fire-place provided by the reserve trust or in portable cooking equipment,
- (p) climbing any tree, building, fence, seat, table, enclosure or other structure,
- (q) destroying, capturing, injuring, annoying or interfering with, or interfering with the habitat of, any animal, bird or other fauna, whether native or introduced,
- (r) having or keeping any dog or other animal, or allowing any animal under the person's control to depasture,
- (s) carrying, laying or setting any trap, snare or poison bait, or dropping from any aircraft any trap, snare or poison bait,
- (t) placing any beehive,
- (u) carrying or having in a person's possession a firearm within the meaning of the *Firearms Act 1996* or a prohibited weapon within the meaning of the *Weapons Prohibition Act 1998*, unless that person is a police officer acting in connection with the performance of that person's duties as such an officer,
- (v) discharging fireworks,
- (w) having in possession, selling, serving or consuming any intoxicants,
- (x) having or using any axe, saw or similar tool or implement,
- (y) assembling or using a hang-glider or landing a helicopter,
- (z) flying a mechanically propelled model aircraft or similar thing,
- (aa) breaking any glass or throwing or projecting any stone, missile or other object,
- (bb) operating a radio, cassette, record player or electronic sound system at a volume likely to cause a nuisance to any person or animal,
- (cc) conducting or taking part in any sporting activity that forms part of any organised competition or tournament,

Crown Lands (General Reserves) By-law 2001	Clause 23
Regulation of use of reserves	Part 3
Use of reserves generally	Division 1

- (dd) riding on or using a skateboard, roller skates, roller blades, scooter or similar apparatus,
 - (ee) jetskiing or surfboarding,
 - (ff) fishing.
- (3) Nothing in this clause prohibits a person with a disability (within the meaning of the *Disability Discrimination Act 1992* of the Commonwealth) from being accompanied by an assistance animal (that is, an animal referred to in section 9 of that Act).
- (4) A person must not interfere with, alter or remove any public notice displayed with the authority of the reserve trust under subclause (1).
Maximum penalty: 5 penalty units.
- (5) Nothing in this clause affects any provision of the Act or any other Act or any other provision of this By-law so far as the provision has effect in relation to conduct on a reserve.

24 Conduct prohibited in reserve

- (1) A person must not:
- (a) leave any rubbish or litter in the reserve, except in receptacles provided by the reserve trust for the purpose, or
 - (b) damage, deface or interfere with any structure, sign, public notice, descriptive plate, label, machinery or equipment in the reserve, or
 - (c) obstruct any authorised person or employee of, or contractor to, the reserve trust in the performance of the authorised person's duty or the employee's or contractor's work in the reserve, or
 - (d) pollute any fresh water, tank, reservoir, pool or stream in the reserve, or
 - (e) bring onto the reserve any diseased animal or any noxious animal, or
 - (f) walk over, mark, scratch or otherwise mutilate, deface, injure, interfere with, remove or destroy any Aboriginal rock carving, its surrounds or any other Aboriginal relic in the reserve, or
 - (g) deface with graffiti or other form of writing, picture, or symbol, any trees, building, fence, seat, table, public notice, enclosure or other structure in the reserve, or

Clause 24 Crown Lands (General Reserves) By-law 2001

Part 3 Regulation of use of reserves

Division 1 Use of reserves generally

- (h) drive or ride any animal or act contrary to any public notice erected by the reserve trust that regulates the use or movement or confinement of animals in the reserve, or
- (i) remain in the reserve or any part of the reserve or any building, structure or enclosure in the reserve when requested to leave by an authorised person, or
- (j) bring into or leave in the reserve any refuse, scrap metal (including any vehicle or vehicle part), rock, soil, sand, stone or other such substance.

Maximum penalty: 5 penalty units.

- (2) A person must not in a reserve for a cemetery:
 - (a) interfere with any grave or monument, or
 - (b) open any coffin, or
 - (c) disturb or interrupt any service, procession, cortege, gathering, meeting or assembly, or
 - (d) bury any human remains (whether cremated or not).

Maximum penalty: 5 penalty units.

Division 2 Additional provisions in regard to crematoriums and cemeteries

25 Application of this Division

- (1) This Division applies to a crematorium, general cemetery or portion of a general cemetery specified in Part 2 of Schedule 1.
- (2) In the application of this Division to a portion of a cemetery:
 - (a) a reference to a cemetery is taken to include a reference to a portion of a cemetery, and
 - (b) a reference to a reserve trust in relation to a cemetery is taken to be a reference to a reserve trust for a portion of a cemetery.
- (3) This Division does not affect the operation of any regulations under the *Public Health Act 1991* relating to cemeteries.

Crown Lands (General Reserves) By-law 2001	Clause 26
Regulation of use of reserves	Part 3
Additional provisions in regard to crematoriums and cemeteries	Division 2

26 Definitions

In this Division:

burial place means a grave site, vault site, crypt site or other place for the disposition of the remains of the dead.

exclusive right of burial means an exclusive right of burial granted by a reserve trust in respect of a burial place.

holder, in relation to an exclusive right of burial, means the person recorded, in the register kept by the reserve trust, as the person entitled to the exclusive right.

27 Planning, conduct and maintenance

A reserve trust may make such provision as it considers necessary for the following:

- (a) the setting aside of sections for different types and classes of burials,
- (b) the establishment of standards of construction and design for monuments and structures,
- (c) the size, multiple use and location of burial places,
- (d) burials in vaults,
- (e) the erection or installation of structures and the making of inscriptions,
- (f) the carrying out of work by monumental masons,
- (g) the qualifications required by, and the security deposits required to be lodged by, monumental masons,
- (h) the removal, replacement and maintenance of structures,
- (i) the placing of vases, statuettes, jars, bottles or other items of embellishment on or near graves, monuments, crypts or vaults,
- (j) the improvement and maintenance of the cemetery,
- (k) the making of arrangements for the care of burial places on an annual or other basis,
- (l) the supply of goods and services incidental to the conduct of burials and other matters relating to the cemetery,
- (m) the conduct of religious or other ceremonies of burial or commemoration.

Clause 28	Crown Lands (General Reserves) By-law 2001
Part 3	Regulation of use of reserves
Division 2	Additional provisions in regard to crematoriums and cemeteries

28 Grant of exclusive rights of burial

- (1) A reserve trust may grant an exclusive right of burial in respect of a burial place in the cemetery.
- (2) An application for an exclusive right of burial must be in the form approved by the reserve trust and accompanied by the appropriate fee.
- (3) An exclusive right of burial may be granted to one person or to two or more persons as joint holders.
- (4) An exclusive right of burial entitles the person or persons to whom it is granted to the exclusive right of burial in the burial place in respect of which it is granted.

29 Transfer of exclusive rights of burial

- (1) A reserve trust may, on application made by the holder of an exclusive right of burial, transfer an exclusive right of burial from one or more persons to one or more other persons.
- (2) An application for the transfer of an exclusive right of burial must be in the form approved by the reserve trust and accompanied by the appropriate fee.

30 Grant or transfer of exclusive rights of burial may be refused

A reserve trust may refuse to grant or transfer an exclusive right of burial if, in its opinion, the grant or transfer would tend to create a monopoly or encourage dealing in such rights as a business.

31 Exclusive rights of burial may be bequeathed

- (1) The holder of an exclusive right of burial may bequeath the right as if it were the holder's personal estate.
- (2) A person to whom an exclusive right of burial devolves as a result of a bequest does not become the holder of the right until the register is amended to indicate that fact.
- (3) On application made by a person to whom an exclusive right of burial has devolved as a result of a bequest, a reserve trust must amend the register so as to indicate that the person has become the holder of the right.
- (4) An application under this clause must be in the form approved by the reserve trust and accompanied by the appropriate fee.

Crown Lands (General Reserves) By-law 2001	Clause 32
Regulation of use of reserves	Part 3
Additional provisions in regard to crematoriums and cemeteries	Division 2

32 Burials in burial places in respect of which exclusive rights have been granted

- (1) The remains of a deceased person may not be buried in a burial place in respect of which an exclusive right of burial has been granted unless:
 - (a) the person was the holder of the right immediately before he or she died, or
 - (b) the holder of the right gives written consent to the person's remains being buried in the burial place.
- (2) On the death of the spouse or a child of the holder of an exclusive right of burial, the remains of the spouse or child may be buried in the burial place to which the right relates without the written consent of the holder of the right if the reserve trust is satisfied:
 - (a) that the holder is not available to give consent to the burial, and
 - (b) that consent to the burial would be given if the holder were available.
- (3) The only compensation that the reserve trust is liable to pay to the holder of an exclusive right of burial in the event that it permits the holder's spouse or child to be buried in the burial place without the consent of the holder is an amount equivalent to the fee currently charged by the trust for the grant of an exclusive right of burial in respect of a comparable burial place.

33 Register of burial places

- (1) A reserve trust must cause a register of burial places to be kept in respect of all burial places in the cemetery in accordance with the regulations under the *Public Health Act 1991*.
- (2) The register may be kept in electronic or written form.
- (3) A reserve trust may amend its register from time to time so as to remove any inaccuracies contained in it.
- (4) A reserve trust must, on application made by any person, make available to the person a copy of any entry made in the register in relation to a burial place.
- (5) Such an application must be in the form approved by the reserve trust and accompanied by the appropriate fee.

Clause 33	Crown Lands (General Reserves) By-law 2001
Part 3	Regulation of use of reserves
Division 2	Additional provisions in regard to crematoriums and cemeteries

- (6) The register is admissible in any proceedings as evidence of the identity of the holder of an exclusive right of burial that has been granted in respect of any particular burial site.

34 Certificates of exclusive rights of burial

- (1) A reserve trust may issue to the holder of an exclusive right of burial a certificate of exclusive right of burial in relation to the burial place concerned.
- (2) An application for such a certificate must be in the form approved by the reserve trust and accompanied by the appropriate fee.
- (3) A certificate under this clause is to be in such form as the reserve trust may from time to time determine.

35 Order for burial

- (1) A burial must not take place in a cemetery unless the reserve trust has issued an order for burial.
- (2) A reserve trust may set down the procedure to be followed to obtain an order for burial.

36 Hours of burial

Burials are not to take place except at such times as the reserve trust may from time to time determine.

37 Exhumations

- (1) Exhumations are not to take place unless:
- (a) prior written approval has been obtained from the Director-General of the Department of Health in accordance with the regulations under the *Public Health Act 1991*, and
- (b) an order for exhumation has been issued by the reserve trust.
- (2) This clause does not apply if an exhumation order has been issued by a Court.

Crown Lands (General Reserves) By-law 2001

Clause 38

Miscellaneous

Part 4

Part 4 Miscellaneous

38 Destruction or taking of plants or animals

Nothing in this By-law prevents the reserve trust from authorising:

- (a) the destruction in the reserve of any noxious weed or any feral or pest animal, or
- (b) subject to the provisions of the *National Parks and Wildlife Act 1974*, the taking from the reserve of any plant or animal that, in the opinion of the trustees, has assumed pest proportions or is required for scientific purposes.

39 Certain acts and omissions not to be offences

- (1) A person does not commit an offence under this By-law if the act or omission giving rise to the offence was done or omitted:
 - (a) by a member of the reserve trust, an authorised person or an officer or employee of the reserve trust in the exercise of his or her duty as a member, authorised person, officer or employee, or
 - (b) in accordance with the conditions (whether express or implied) of a lease or licence granted by the reserve trust, or
 - (c) under the direction or with the written consent of the reserve trust.
- (2) The consent of the reserve trust referred to in this clause may be given generally or in a particular case.
- (3) Nothing in this clause permits the reserve trust to consent to the doing of any thing in the reserve which is otherwise prohibited by any other law.

40 Authorised person may demand name and address

- (1) An authorised person who suspects that a person who is on a reserve has contravened a provision of this By-law may direct the person to provide his or her full name and residential address to the authorised person.
- (2) A person to whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 5 penalty units.

Clause 40 Crown Lands (General Reserves) By-law 2001

Part 4 Miscellaneous

- (3) A person is not guilty of an offence under this clause unless the person was warned, when the direction was given, that failure to comply with the direction would constitute an offence.

41 Savings

Any act, matter or thing that, immediately before the repeal of the *Crown Lands (General Reserves) By-law 1995* by the operation of section 10 (2) of the *Subordinate Legislation Act 1989*, had effect under that By-law is taken to have effect under this By-law.

Crown Lands (General Reserves) By-law 2001

Reserves to which this by-law applies

Schedule 1

Schedule 1 Reserves to which this By-law applies

(Clauses 3 and 25)

Part 1 Reserves other than reserves for general cemeteries

Location	Reserve name	Number, purpose, date	Corporate name
NE NSW	8 reserves named: Yurammie, Polblue, Bradley, Teagan, Bundjalung, Corymbia, Banyabba and Yuraygir	Lands dedicated for the purpose of public recreation, conservation and mineral and petroleum exploration pursuant to section 9 of the <i>Forestry and National Park Estate Act 1998</i>	National Parks and Wildlife Reserve Trust
SE NSW	19 reserves named: Berlang, Bundundah, Livingstone, Tallaganda, Tumblong, Wereboldera, Woomargama, Berlang, Brindabella, Frogs Hole, Kybeyan, Livingstone, Macanally, Majors Creek, Mullengandra, Tallaganda, Tongarra, Yanunumbeyan and Brindabella	Lands dedicated for the purpose of public recreation, conservation and mineral and petroleum exploration pursuant to section 8 of the <i>National Park Estate (Southern Region Reservations) Act 2000</i>	National Parks and Wildlife Reserve Trust
NE NSW	5 reserves named: Bungawalbin, Gurrang, Wombat Creek, Bayabba and Currys Gap	R.1002887, 1002888, 1002890, 1002891 and 1002896 for public recreation, conservation and mineral and petroleum exploration (notified 17 December 1999) and any additions	National Parks and Wildlife Reserve Trust No 2

Crown Lands (General Reserves) By-law 2001

Schedule 1 Reserves to which this by-law applies

Location	Reserve name	Number, purpose, date	Corporate name
Adaminaby	Adaminaby Racecourse and Showground Reserve	R.84984 for racecourse and showground (notified 21 August 1964) and any additions thereto	Adaminaby Racecourse and Showground Trust
Albury	Albury Showground	22.4471 hectares dedicated for showground at Albury (notified 26 November 1948) and any additions thereto, now assigned the number D620063 in the records of the Department of Land and Water Conservation	Albury Showground Trust
Alumy Creek	Alumy Creek Reserve	R.140020 for public recreation and museum (notified 26 June 1987) and any additions thereto	Alumy Creek Reserve Trust
Armidale	Armidale Showground Reserve	R.110029 for showground (notified 22 December 1989) and any additions thereto	Armidale Showground Reserve Trust
Armidale	Armidale Tennis Courts Reserve	R.89699 for public recreation (notified 24 December 1975) and any additions thereto	Armidale Tennis Courts Reserve Trust
Bathurst	Bathurst Showground	16.4042 hectares dedicated for showground at Bathurst (notified 19 October 1877) and any additions thereto, now assigned the number D590074 in the records of the Department of Land and Water Conservation	Bathurst Showground Trust
Bega	Reserve 97856	R.97856 for public recreation and parking (notified 2 August 1985) and any additions thereto	Zingel Place (R.97856) Reserve Trust
Bellingen	Bellingen Showground	4.86 hectares dedicated for showground at Bellingen (notified 26 July 1911) and any additions thereto, now assigned the number D540022 in the records of the Department of Land and Water Conservation	Bellingen Showground Trust
Bemboka	Bemboka Showground Reserve	R.40788 for showground (notified 22 August 1906) and any additions thereto	Bemboka Showground Trust

Crown Lands (General Reserves) By-law 2001

Reserves to which this by-law applies

Schedule 1

Location	Reserve name	Number, purpose, date	Corporate name
Bigga	Grabine Lakeside State Park	D1001354 for public recreation (notified 1 June 1997) and any additions thereto	Grabine Lakeside State Park Trust
Bonshaw	Bonshaw Racecourse Reserve	R.42857 for racecourse (notified 8 July 1908) and any additions thereto	Bonshaw Racecourse Reserve Trust
Bowling Alley Point	Chaffey Dam Reserve	R.96568 for public recreation (notified 28 January 1983) and any additions thereto	Bowling Alley Point Recreation Reserve Trust
Broadmeadow	District Park Tennis Courts	3.53 hectares dedicated for tennis courts at Broadmeadow (notified 18 October 1935) and any additions thereto, now assigned the number D570095 in the records of the Department of Land and Water Conservation	District Park Tennis Courts Trust
Broken Head	Broken Head Reserve	R.24495 for public recreation (notified 25 July 1896) and any additions thereto	Broken Head Reserve Trust
Broken Hill	Broken Hill Arid Zone Study Area	R.230092 for the public purpose of environmental protection, heritage purposes and public recreation (notified 7 October 1994) and any additions thereto	Broken Hill Arid Zone Study Area Reserve Trust
Brooms Head	Brooms Head Reserve	R.65975 for resting place and public recreation (notified 15 May 1936) and any additions thereto	Brooms Head Recreation Reserve Trust
Brunswick Heads	Brunswick Heads Reserve	R.80457 for public recreation (notified 21 March 1958) and any additions thereto	Brunswick Heads (R.80457) Public Recreation Reserve Trust
Brunswick Heads	Brunswick Heads Reserve	R.97139 for public recreation (notified 20 January 1984) and any additions thereto	Brunswick Heads (R.97139) Public Recreation Reserve Trust
Brunswick Heads	Ferry Reserve	R.74701 for public recreation (notified 18 January 1952) and any additions thereto	Ferry Reserve Trust

Crown Lands (General Reserves) By-law 2001

Schedule 1 Reserves to which this by-law applies

Location	Reserve name	Number, purpose, date	Corporate name
Brunswick Heads	Massey Green Reserve	R.91536 for caravan and camping park (notified 17 August 1979) and any additions thereto	Massey Green Reserve Trust
Brunswick Heads	Terrace Reserve Caravan Park	R.82999 for resting place and public recreation (notified 6 January 1961) and any additions thereto	Terrace Reserve Trust
Bulli Pass	Bulli Pass Scenic Reserve	R.67711 for public recreation (notified 1 July 1938) and any additions thereto	Bulli Pass Scenic Reserve Trust
Bundarra	Bundarra Community Centre	R.110007 for community purposes (notified 27 March 1987) and any additions thereto	Bundarra Community Purposes Reserve Trust
Bundarra	Bundarra Racecourse Reserve	R.42217 for racecourse (notified 27 November 1907) and any additions thereto	Bundarra Racecourse Reserve Trust
Bundarra	Bundarra Showground	7.158 hectares dedicated for showground and public recreation at Bundarra (notified 15 September 1909) and any additions thereto, now assigned the number D510031 in the records of the Department of Land and Water Conservation	Bundarra Showground Trust
Byron Bay	Lighthouse Hill Reserve	R.49122 for public recreation and preservation of native flora (notified 30 July 1913) and any additions thereto	Clarks Beach Reserve Trust
Canowindra	Canowindra Showground and Racecourse Reserve	R.47413 for showground and racecourse (notified 24 January 1912) and any additions thereto	Canowindra Showground and Racecourse Trust
Cobargo	Cobargo Showground	14.5069 hectares dedicated for showground at Cobargo (notified 20 December 1887) and any additions thereto, now assigned the number D580107 in the records of the Department of Land and Water Conservation	Cobargo Showground Trust

Crown Lands (General Reserves) By-law 2001

Reserves to which this by-law applies

Schedule 1

Location	Reserve name	Number, purpose, date	Corporate name
Coffs Harbour	Coffs Harbour Racecourse	50.77 hectares dedicated for racecourse and public recreation at Coffs Harbour (notified 7 December 1956) and any additions thereto, now assigned the number D540023 in the records of the Department of Land and Water Conservation	Coffs Harbour Racecourse and Public Recreation Trust
Coffs Harbour	Coffs Harbour Showground	17.6109 hectares dedicated for showground and public recreation at Coffs Harbour (notified 31 March 1967) and any additions thereto, now assigned the number D540030 in the records of the Department of Land and Water Conservation	Coffs Harbour Showground and Public Recreation Trust
Coffs Harbour	Park Beach Reserve	R.63966 for resting place and public recreation (notified 2 June 1933), R.81703 for resting place and public recreation (notified 19 June 1959), R.140089 for caravan park (notified 26 May 1995) and any additions thereto	Coffs Coast State Park Trust
Coonabarabran	Coonabarabran Showground Reserve	R.85201 for showground and public recreation (notified 22 January 1965) and any additions thereto	Coonabarabran Showground Trust
Cowra	Cowra Racecourse and Showground	39.1513 hectares dedicated for showground and racecourse at Cowra (notified 17 February 1909) and any additions thereto, now assigned the number D590004 in the records of the Department of Land and Water Conservation	Cowra Showground Racecourse and Paceway Trust
Cowra	Wyangala Waters State Park	D1001342 for public recreation (notified 1 June 1997) and any additions thereto	Wyangala Waters State Park Trust
Deepwater	Deepwater Public Hall Reserve	R.110017 for public hall (notified 25 March 1988) and any additions thereto	Deepwater Public Hall Trust

Crown Lands (General Reserves) By-law 2001

Schedule 1 Reserves to which this by-law applies

Location	Reserve name	Number, purpose, date	Corporate name
Delungra	Delungra Recreation Ground Reserve	R.82061 for public recreation (notified 9 October 1959) and any additions thereto	Delungra Recreation Reserve Trust
Dubbo	Dubbo Showground Reserve	R.84662 for showground and public recreation (notified 6 December 1963) and any additions thereto	Dubbo Showground Trust
Dubbo	Dubbo Small Bore Rifle Club Reserve	R.97620 for non-profit making organisations (notified 14 December 1984) and any additions thereto	Dubbo Small Bore Rifle Club Trust
Eureka	Eureka Public Recreation Reserve	R.86949 for public recreation (notified 8 November 1968) and any additions thereto	Eureka Public Recreation Reserve Trust
Evans Head	Dirawong Reserve	R.140012 for public recreation, preservation of native flora, preservation of fauna, conservation of Aboriginal heritage (notified 9 January 1987) and any additions thereto	Dirawong Reserve Trust
Evans Head	Evans Head Public Recreation Reserve	R.82910 for public recreation (notified 18 November 1960) and any additions thereto	Evans Head (R.82910) Public Recreation Reserve Trust
Forbes	Forbes Showground	5.71 hectares dedicated for showground at Forbes (notified 2 December 1899) and any additions thereto, now assigned the numbers D590010 and R.1002245 in the records of the Department of Land and Water Conservation	Forbes Showground Trust
Gilgai	Gilgai Public Hall and Recreation Reserves	R.37860 for public recreation (notified 25 June 1904) R.77683 for public recreation (notified 10 June 1955) R.89717 for public recreation and public hall (notified 30 January 1976) and any additions thereto	Gilgai Public Hall and Recreation Reserves Trust

Crown Lands (General Reserves) By-law 2001

Reserves to which this by-law applies

Schedule 1

Location	Reserve name	Number, purpose, date	Corporate name
Glen Innes	Glen Innes Showground	10.6918 hectares dedicated for showground at Glen Innes (notified 22 May 1877) and any additions thereto, now assigned the number D510036 in the records of the Department of Land and Water Conservation	Glen Innes Showground Trust
Gore Hill	Gore Hill Memorial Cemetery	5.07 hectares dedicated as an historic cemetery at Gore Hill (notified 1 July 1987) and any additions thereto, now assigned the number D500620 in the records of the Department of Land and Water Conservation	Gore Hill Memorial Cemetery Trust
Grafton	Grafton Racecourse and Recreation Reserve	R.84958 for racecourse and public recreation (notified 24 July 1964) and any additions thereto	Grafton Racecourse and Recreation Reserve Trust
Greenwell Point	Greenwell Point Wharf Reserve	R.180017 for wharf facility (notified 24 April 1987) and any additions thereto	Greenwell Point Fishermen's Wharf Trust
Gulgong	Gulgong Racecourse Reserve	94.32 hectares dedicated for racecourse and public recreation at Gulgong (notified 22 January 1960) and any additions thereto, now assigned the number D520071 in the records of the Department of Land and Water Conservation	Gulgong Racecourse Reserve Trust
Gunnedah	Riverside Racecourse Reserve	R.72486 for racecourse (notified 31 October 1947) and any additions thereto	Gunnedah Racecourse Reserve Trust
Hampton	Hampton Park	4.047 hectares dedicated for the purpose of Park (notified 16 July 1904) and any additions thereto, now assigned the number D590012 in the records of the Department of Land and Water Conservation	Hampton Park Reserve Trust
Iluka	Iluka Koala Reserve	R.140072 for environmental protection (notified 13 December 1991) and any additions thereto	Iluka Koala Reserve Trust

Crown Lands (General Reserves) By-law 2001

Schedule 1 Reserves to which this by-law applies

Location	Reserve name	Number, purpose, date	Corporate name
Iluka	Iluka Park Reserve	R.89830 for caravan and camping park (notified 4 June 1976) and any additions thereto	Iluka Caravan Park Reserve Trust
Inverell	Copeton Waters State Park	D1001341 for public recreation (notified 1 June 1997) and any additions thereto	Copeton Waters State Park Trust
Inverell	Goonoowigall Bushland Reserve	R.89639 for public recreation and preservation of native flora (notified 6 February 1976) and any additions thereto	Goonoowigall Bushland Reserve Trust
Inverell	Inverell Pioneer Village Reserve	R.87505 for museum (notified 14 November 1969) and any additions thereto	Inverell Pioneer Village Reserve Trust
Inverell	Inverell Speedway Reserve	R.97964 for public recreation (speedway) (notified 25 October 1985) and any additions thereto	Inverell Speedway Reserve Trust
Katoomba-Jenolan	Six Foot Track Heritage Reserve	R.1001056 for environmental protection, heritage purposes and public recreation (notified 27 February 1998) and any additions thereto	Six Foot Track Heritage Trust
Lawrence	Lawrence Recreation Reserve	R.96692 for public recreation (notified 8 April 1983) and any additions thereto	Lawrence (R.96692) Public Recreation Reserve Trust
Lithgow	Zig Zag Reserve	202.7 hectares dedicated for public recreation at Lithgow (notified 14 March 1881) and any additions thereto, now assigned the number D590044 in the records of the Department of Land and Water Conservation	Zig Zag Reserve Trust
Maclean	Wooloweyah Foreshore Reserve	R.95841 for public recreation and preservation of native flora (notified 5 March 1982) and any additions thereto	Wooloweyah (R.95841) Foreshore Reserve Trust
Manilla	Split Rock Dam Recreation Reserve	R.200020 for public recreation (notified 2 March 1990) and any additions thereto	Split Rock Dam Recreation Reserve Trust
Mendooran	Mendooran Racecourse Reserve	R.43605 for racecourse (notified 10 March 1909) and any additions thereto	Mendooran Racecourse Trust

Crown Lands (General Reserves) By-law 2001

Reserves to which this by-law applies

Schedule 1

Location	Reserve name	Number, purpose, date	Corporate name
Moonee Beach	Moonee Beach	R.64933 for resting place and public recreation (notified 23 November 1934) and any additions thereto	Moonee Beach Public Recreation Reserve Trust Reserve
Mudgee	Mudgee Memorial Combined Sports Ground	R.81127 for showground, race-course and public recreation (notified 3 October 1958) and any additions thereto	Mudgee Combined Sportsground Trust
Mumbil	Burrendong Arboretum	R.120082 for arboretum (notified 22 June 1990) and any additions thereto	Burrendong Arboretum Trust
Mumbil	Lake Burrendong State Park	D1001355 for public recreation (notified 1 June 1997) and any additions thereto	Lake Burrendong State Park Trust
Nambucca Heads	Bellwood Park Reserve	R.77534 for public recreation (notified 15 April 1955) and any additions thereto	Nambucca Heads Bellwood Park Reserve Trust
Nambucca Heads	Headland Reserve	R.63811 for resting place and public recreation (notified 3 March 1933) and any additions thereto	Nambucca Heads (R.63811) Headland Reserve Trust
Nambucca Heads	Reserve 69215	R.69215 for public recreation and access (notified 10 May 1940) and any additions thereto	Nambucca Heads (R.69215) Swimming Creek Reserve Trust
Nambucca Heads	Reserve 85113	R.85113 for public recreation (notified 20 November 1964) and any additions thereto	Nambucca Heads (R.85113) Public Recreation Reserve Trust
Nambucca Heads	Stuarts Island Reserve	R.77566 for public recreation (notified 22 April 1955) and any additions thereto	Nambucca Heads Stuarts Island Reserve Trust
Nambucca Heads	Swimming Creek Reserve	R.81006 for public recreation (notified 22 August 1958) and any additions thereto	Nambucca Heads (R.81006) Swimming Creek Public Recreation Reserve Trust
Nambucca Heads	Valley Valley Recreation Reserve	R.88941 for public recreation and preservation of native flora (notified 29 June 1973) and any additions thereto	Nambucca Heads (R.88941) Public Recreation Reserve Trust

Crown Lands (General Reserves) By-law 2001

Schedule 1 Reserves to which this by-law applies

Location	Reserve name	Number, purpose, date	Corporate name
Newton Boyd	Newton Boyd Reserve	R.90728 for public recreation and public hall (notified 11 March 1977) and any additions thereto	Newton Boyd Hall Reserve Trust
Nymboida	Chambigne Recreation Reserve	R.86968 for public recreation (notified 22 November 1968) and any additions thereto	Chambigne (R.86968) Public Recreation Reserve Trust
Nymboida	Eatonsville Public Recreation Reserve	R.86394 for public recreation (notified 25 August 1967) and any additions thereto	Eatonsville (R.86394) Public Recreation Reserve Trust
Nymboida	Nymboida Recreation Reserve	R.91555 for public recreation (notified 7 September 1979) and any additions thereto	Nymboida (R.91555) Public Recreation Reserve Trust
Nymboida	Towallum Recreation Reserve	R.91347 for public recreation (notified 15 December 1978) and any additions thereto	Towallum (R.91347) Public Recreation Reserve Trust
Oberon	Oberon Showground	4,388 hectares dedicated for showground at Oberon (notified 9 September 1899) and any additions thereto, now assigned the number D590080 in the records of the Department of Land and Water Conservation	Oberon Showground Trust
Orange	Central Tablelands Heritage Lands Reserve	R.81412 for public recreation (notified 20 February 1959) and R.190027 for public recreation (notified 30 January 1987) and any additions thereto	Central Tablelands Heritage Lands Trust
Orange	Ophir Memorial Reserve	R.65909 for public recreation (notified 3 April 1936) and any additions thereto	Ophir (R.65909) Reserve Trust
Orange	Orange Racecourse	117.26 hectares dedicated for racecourse at Orange (notified 1 July 1873) and any additions thereto, now assigned the numbers D590050 and D590136 in the records of the Department of Land and Water Conservation	Orange Racecourse Trust

Crown Lands (General Reserves) By-law 2001

Reserves to which this by-law applies

Schedule 1

Location	Reserve name	Number, purpose, date	Corporate name
Pambula	Pambula Recreation Reserve	R.98164 for showground and public recreation (notified 9 May 1986) and any additions thereto	Pambula Recreation and Showground (R. 98164) Reserve Trust
Parkes	Parkes Racecourse Reserve	R.15223 for racecourse (notified 13 February 1892) and any additions thereto	Parkes Racecourse Trust
Peak Hill	Peak Hill Showground	26.87 hectares dedicated for showground at Peak Hill (notified 19 October 1894) and any additions thereto, now assigned the number D590055 in the records of the Department of Land and Water Conservation	Peak Hill Showground Trust
Peel	Peel Native Flora and Fauna Reserve	R.91214 for promotion of the study and the preservation of native flora and fauna (notified 4 August 1978) and any additions	Peel Native Flora and Fauna Reserve Trust
Quaama	Quaama Sports Ground	2.6589 hectares dedicated for racecourse and public recreation at Quaama (notified 31 October 1947) and any additions thereto, now assigned the number D580101 in the records of the Department of Land and Water Conservation	Quaama Sports Ground Trust
Quirindi	Quirindi Racecourse Reserve	R.72708 for showground, race-course and public recreation (notified 21 May 1948) and any additions thereto	Quirindi Racecourse Reserve Trust
Red Rock	Red Rock Recreation Reserve	R.64746 for public recreation and resting place (notified 14 September 1934) and any additions thereto	Red Rock Public Recreation Reserve Trust
Rushcutters Bay	Sir David Martin Reserve	R.100076 for public recreation and maritime purposes (notified 16 January 1987) and any additions thereto	Rushcutters Bay Maritime Reserve Trust
Rylstone	Ferntree Gully Reserve	R.190113 for environmental protection (notified 19 August 1994) and any additions thereto	Ferntree Gully Reserve Trust

Crown Lands (General Reserves) By-law 2001

Schedule 1 Reserves to which this by-law applies

Location	Reserve name	Number, purpose, date	Corporate name
Sawtell	Boambee Creek Park	R.84835 for public recreation (notified 10 April 1964) and any additions thereto	Boambee Creek Park Reserve Trust
Scone	Lake Glenbawn State Park	D1001337 for public recreation (notified 1 June 1997) and any additions thereto	Lake Glenbawn State Park Trust
Scotts Head	Scotts Head Reserve	R.65963 for resting place and public recreation (notified 8 May 1936) and any additions thereto	Scotts Head Reserve Trust
Shellharbour	Killalea State Park	D1001339 for public recreation (notified 1 June 1997) and any additions thereto	Killalea State Park Trust
Tamworth	Lake Keepit State Park	D1001338 for public recreation (notified 1 June 1997) and any additions thereto	Lake Keepit State Park Trust
Temora	Temora Showground	21.25 hectares dedicated for showground at Temora (notified 10 September 1886) and any additions thereto, now assigned the number D620071 in the records of the Department of Land and Water Conservation	Temora Showground Trust
Tenterfield	Tenterfield Showground	10.75 hectares dedicated for showground at Tenterfield (notified 28 January 1879) and any additions thereto, now assigned the numbers D510045 to D510048 in the records of the Department of Land and Water Conservation	Tenterfield Showground Trust
Tingha	Tingha Caravan Park and Recreation Reserve	R.110016 for public recreation, caravan and camping park (notified 5 February 1988) and any additions thereto	Tingha Caravan Park and Recreation Reserve Trust
Torrington	Torrington Regional Reserve	R.110107 for rural services, public recreation, environmental protection (notified 29 May 1992) and any additions thereto	Torrington Regional Reserve (R.110107) Reserve Trust
Ulladulla	Ulladulla Wildflower Reserve	R.95755 for preservation of native flora (notified 24 December 1981) and any additions thereto	Ulladulla Wildflower Reserve Trust

Crown Lands (General Reserves) By-law 2001

Reserves to which this by-law applies

Schedule 1

Location	Reserve name	Number, purpose, date	Corporate name
Urunga	Urunga Heads Caravan Park	R.82452 for public recreation (notified 1 April 1960) and any additions thereto	Morgo Street Reserve Trust
Valla Beach	Valla Beach Recreation Reserve	R.82967 for public recreation (notified 16 December 1960) and any additions thereto	Valla Beach (R.82967) Public Recreation Reserve Trust
Walcha	Walcha Tennis Courts Reserve	R.82902 for tennis courts (notified 11 November 1960) and any additions thereto	Walcha Tennis Courts Reserve Trust
Wattle Flat	Wattle Flat Recreation Reserve	R.190105 for environmental protection and public recreation (notified 24 December 1992) and any additions thereto	Wattle Flat Heritage Lands Trust
Wee Jasper	Goodradigbee and Goobarragandra Reserves	R.60618 for public recreation (notified 27 July 1928), R.130005 to 130010 for public recreation (notified 12 December 1986), R.130064 for public recreation (notified 14 May 1993), R.87128 for preservation of caves (notified 3 April 1969) and R.220011 for public recreation (notified 20 March 1987) and any additions thereto	Goodradigbee and Goobarragandra Reserves Trust
Wingham	Wingham Showground	10.12 hectares dedicated for showground at Wingham (notified 15 July 1884) and any additions thereto, now assigned the number D610034 in the records of the Department of Land and Water Conservation	Wingham Showground Trust
Woolgoolga	Woolgoolga Beach and Lakes Reserve	R.63076 for resting place and public recreation (notified 27 November 1931) and any additions thereto	Woolgoolga Beach Reserve Trust
Yarrie Lake	Yarrie Lake Flora and Fauna Reserve	R.86842 for public recreation and preservation of native flora and fauna (notified 30 August 1968) and any additions thereto	Yarrie Lake Flora and Fauna Reserve Trust
Yass	Burrinjuck Waters State Park	D1001340 for public recreation (notified 1 June 1997) and any additions thereto	Burrinjuck Waters State Park Trust

Crown Lands (General Reserves) By-law 2001

Schedule 1 Reserves to which this by-law applies

Location	Reserve name	Number, purpose, date	Corporate name
Young	Young Showground	19.4526 hectares dedicated for Showground at Young (notified 6 April 1895) and any additions thereto, now assigned the number D530011 in the records of the Department of Land and Water Conservation	Young Showground Trust

Part 2 Reserves for crematoriums, general cemeteries or portions of general cemeteries

Botany Cemetery

Eastern Suburbs Crematorium

Field of Mars Catholic Cemetery

Field of Mars General Cemetery, Baptist Portion

Field of Mars General Cemetery, Church of England Portion

Field of Mars General Cemetery, Uniting Church Portion

Field of Mars General Cemetery, Presbyterian Portion

Field of Mars Independent (Congregational) Cemetery

Frenchs Forest General Cemetery

Liverpool General Cemetery, Baptist Portion

Liverpool General Cemetery, Catholic Portion

Liverpool General Cemetery, Church of England Portion

Liverpool General Cemetery, Muslim Portion

Liverpool General Cemetery, Presbyterian Portion

Liverpool General Cemetery, Seventh-day Adventist Portion

Liverpool General Cemetery, Uniting Church Portion

Northern Suburbs General Cemetery

Sandgate General Cemetery

Woronora General Cemetery

OFFICIAL NOTICES

Appointments

EDUCATION ACT 1990

NOTIFICATION OF APPOINTMENT OF MEMBERS BOARD OF STUDIES

I, JOHN JOSEPH AQUILINA, Minister for Education and Training, in pursuance of Schedule 1, Clause 8 of the Education Act 1990, appoint the following persons as Members of the Board of Studies, being nominees provided under section 100(3)(k), for a term commencing on and from 15 August 2001 to 14 August 2004.

Ms Susan Gazis
Dr James McMorrow

JOHN JOSEPH AQUILINA, M.P.,
Minister for Education and Training

EDUCATION ACT 1990

NOTIFICATION OF APPOINTMENT BOARD OF STUDIES

I, JOHN JOSEPH AQUILINA, Minister for Education and Training, in pursuance of Schedule 1, Clause 8 of the Education Act 1990, appoint Professor Anthony Blake as a member of the Board of Studies, being a nominee provided under section 100(3)(k), for a term commencing on and from 21 July 2001 to 20 July 2004.

JOHN JOSEPH AQUILINA, M.P.,
Minister for Education and Training

NSW Fisheries

FISHERIES MANAGEMENT ACT 1994

FISHERIES MANAGEMENT (AQUACULTURE) REGULATIONS 1995

Clause 33 (3) — Notice of Granting of Class 1
Aquaculture Lease

THE Minister has granted the following Class 1 Aquaculture Lease:

OL84/194 within the estuary of Wallis Lake having an area of 0.1614 hectares to Mr Peter WARNER of Nabad, NSW, for a term of 15 years expiring on 16 August 2016.

The Hon. EDWARD OBEID, OAM, M.L.C.,
Minister for Mineral Resources
and Minister for Fisheries

FISHERIES MANAGEMENT ACT 1994

Section 163 — Notice of Receipt of Application for
Aquaculture Lease

THE following applications for a Class 1 Aquaculture Lease has been made by:

Mr Christopher James MUNN of Greenwell Point, for an area of 2.0021 hectares, situated in the Crookhaven River Parish of Numbaa, County of St. Vincent.

Specific details of the proposed leases can be obtained by contacting NSW Fisheries at Port Stephens.

Written submissions to the granting of the above leases may be lodged with the Aquaculture Administration Section, NSW Fisheries, Private Bag 1, Nelson Bay, NSW 2315, within thirty (30) days from the date of publication of this notice.

The Hon. EDWARD OBEID, OAM, M.L.C.,
Minister for Mineral Resources
and Minister for Fisheries

FISHERIES MANAGEMENT ACT 1994

FISHERIES MANAGEMENT (AQUACULTURE) REGULATION 1995

Clause 35 (4) — Notice of Aquaculture Lease Renewal

THE Minister has renewed the following Class 1 Aquaculture Leases:

OL85/090 within the estuary of the Bellinger River having an area of 0.2 hectares to Edward Thomas DURIE of Repton, NSW, for a term of 15 years, expiring on 8 May 2016.

OL69/455 within the estuary of the Crookhaven River having an area of 1.9580 hectares to Norman Paul SCHULZ and Gail SCHULZ of Greenwell Point, NSW, for a term of 15 years, expiring on 5 October 2014.

OL86/022 within the estuary of Wallis Lake having an area of 0.3981 hectares to Mr John M. LEITCH and Mrs Marie A. LEITCH of Forster, NSW, for a term of 15 years, expiring on 5 April 2016.

OL86/008 within the estuary of Port Stephens having an area of 0.7470 hectares to Kenneth Brian LILLEY of Swan Bay, NSW, for a term of 15 years, expiring on 5 November 2016.

OL84/194 within the estuary of Wallis Lake having an area of 0.1614 hectares to Mr Peter WARNER of Nabad, NSW, for a term of 15 years, expiring on 16 August 2016.

OL86/227 within the estuary of the Crookhaven River having an area of 3.8780 hectares to Reginald RUNDLE of Greenwell Point, NSW, for a term of 15 years, expiring on 29 June 2016.

OL85/206 within the estuary of Manning River having an area of 0.0536 hectares to Alison COLVILL of Manning Point, NSW, for a term of 15 years, expiring on 23 January 2016.

OL85/184 within the estuary of Wapengo Lake having an area of 4.2218 hectares to Mr Terry BRITTON and Ms Marjorie J. BRITTON of Tathra, NSW, for a term of 15 years, expiring on 7 March 2016.

OL81/226 within the estuary of Port Stephens having an area of 2.6950 hectares to Mr Richard HAMLYN-HARRIS and Ms Pamela HAMLYN-HARRIS of Lemon Tree Passage, NSW, for a term of 15 years, expiring on 8 May 2016.

OL87/083 within the estuary of Pambula River having an area of 2.0962 hectares to Mr James YOUNG and Ms Megan YOUNG of Millingandi, NSW, for a term of 15 years, expiring on 31 December 2016.

OL86/169 within the estuary of Pambula River having an area of 2.0962 hectares to Mr James YOUNG and Ms Megan YOUNG of Millingandi, NSW, for a term of 15 years, expiring on 31 December 2016.

OL70/453 within the estuary of the Macleay River having an area of 0.4950 hectares to Thomas E. LANGE of Arakoon, NSW, for a term of 15 years, expiring on 22 December 2015.

OL85/097 within the estuary of the Macleay River having an area of 0.2429 hectares to Thomas E. LANGE of Arakoon, NSW, for a term of 15 years, expiring on 31 August 2015.

OL72/123 within the estuary of the Clyde River having an area of 0.5792 hectares to Christopher RALSTON of Batemans Bay, NSW, for a term of 15 years, expiring on 21 April 2017.

OL86/118 within the estuary of the Clyde River having an area of 2.1109 hectares to Christopher RALSTON of Batemans Bay, NSW, for a term of 15 years, expiring on 31 December 2016.

OL86/251 within the estuary of the Clyde River having an area of 2.3200 hectares to John Timothy WISE of Batehaven, NSW, for a term of 15 years, expiring on 31 December 2016.

OL70/260 within the estuary of the Manning River having an area of 0.4875 hectares to John Gardiner MacDONALD and Mavis Doreen MacDONALD of Harrington, NSW, for a term of 15 years, expiring on 13 June 2016.

OL84/127 within the estuary of the Clyde River having an area of 0.717 hectares to Isidoris PASCHALIDIS and Maria PASCHALIDIS of Batemans Bay, NSW, for a term of 15 years, expiring on 28 October 2016.

The Hon. EDWARD OBEID, OAM, M.L.C.,
Minister for Mineral Resources
and Minister for Fisheries

FISHERIES MANAGEMENT ACT 1994

PURSUANT of section 178, subsection 1, of the Fisheries Management Act 1994, the Minister has reserved the following area of Public Water Land.

Previously identified as OL95/016 within the estuary of Wagonga Inlet, having an area of 0.3712 hectares.

The Hon. EDWARD OBEID, OAM, M.L.C.,
Minister for Mineral Resources
and Minister for Fisheries

FISHERIES MANAGEMENT ACT 1994

**FISHERIES MANAGEMENT (AQUACULTURE)
REGULATION 1995**

Section 177© — Notice of Aquaculture Lease
Cancellation

THE Minister has cancelled the following aquaculture lease:

OL93/015 within the estuary of the Crookhaven River having an area of 1.2248 hectares formerly leased by Mr Owen MACNAMARA.

The Hon. EDWARD OBEID, OAM, M.L.C.,
Minister for Mineral Resources
and Minister for Fisheries

FISHERIES MANAGEMENT ACT 1994

Section 163 — Notice of Receipt of Application for
Aquaculture Lease

THE following application for a Class 1 Aquaculture Lease has been made by:

SOUTHERN MANAGEMENT CONSULTANTS PTY LTD of Australian Capitol Territory for an area of 6.2004 hectares situated in Tuross Lake, Parish of Bodella, County of Dampier.

Specific details of the proposed lease can be obtained by contacting NSW Fisheries at Port Stephens.

Submissions supporting or objecting to the proposal may be lodged with NSW Fisheries, Private Bag 1, Nelson Bay, NSW 2315, within 30 days from the date of publication of this notice.

The Hon. EDWARD OBEID, OAM, M.L.C.,
Minister for Mineral Resources
and Minister for Fisheries

FISHERIES MANAGEMENT ACT 1994Section 8 Notification — Fishing Closure
Botany Bay

I, EDWARD OBEID, prohibit the taking of fish for sale by the methods of commercial fishing described in Column 1 of Schedule to this Notification, from the waters described in Column 2, during the period specified in Column 3, respectively, of that Schedule. This Notification will be effective from 1 May 2002, for a period of five (5) years. This Notification replaces all other commercial fishing closures currently in force in the waters of Botany Bay prescribed in the schedule below.

SCHEDULE

Botany Bay

<i>Column 1</i> Methods	<i>Column 2</i> Waters	<i>Column 3</i> Period
All methods, with the exception that lobsters and abalone may be taken by in accordance with the relevant share management fishery management plans.	The whole of the waters of Botany Bay, together with all its tributaries, creeks, bays and inlets.	For a period of five years.

The Hon. Edward Obeid, OAM, M.L.C.,
Minister for Mineral Resources
and Minister for Fisheries

FISHERIES MANAGEMENT ACT 1994Section 8 Notification — Fishing Closure
Lake Macquarie

I, EDWARD OBEID, prohibit the taking of fish for sale by the methods of commercial fishing described in Column 1 of Schedule to this Notification, from the waters described in Column 2, during the period specified in Column 3, respectively, of that Schedule. This Notification will be effective from 1 May 2002 for a period of five (5) years. This Notification replaces all other commercial fishing closures currently in force in the waters of Lake Macquarie prescribed in the Schedule below.

SCHEDULE

Lake Macquarie

<i>Column 1</i> Methods	<i>Column 2</i> Waters	<i>Column 3</i> Period
All methods.	The whole of the waters of Lake Macquarie, together with all its tributaries, creeks, bays and inlets.	For a period of five years.

The Hon. EDWARD OBEID, OAM, M.L.C.,
Minister for Mineral Resources
and Minister for Fisheries

Department of Land and Water Conservation

Land Conservation

DUBBO OFFICE

Department of Land and Water Conservation
142 Brisbane Street (PO Box 865), Dubbo, NSW 2830

Phone: (02) 6841 5200 Fax: (02) 6841 5231

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the 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 3 of the Schedule.

RICHARD AMERY, M.P.,
Minister for Agriculture,
Minister for Land and Water Conservation

SCHEDULE 1

COLUMN 1	COLUMN 2	COLUMN 3
James Barry BAKER (reappointment)	Cooyal Park (R120102) Reserve Trust	Reserve No. 120102 Public Purpose: Public Recreation and Community Purposes Notified: 17 November 1995 Locality: Cooyal File Reference: DB81 R 200
Robert John HOLLOW (new member)		
Ross Leslie KURTZ (reappointment)		
Ian Christopher KURTZ (re-appointment)		
Craig Joseph LANG (re-appointment)		
James Michael LYNCH (re-appointment)		
Joyce Mildred PURTLE (re-appointment)		
The person for the time being holding the office of COMMITTEE MEMBER, Cooyal Park Tennis Club (ex-officio member)		

For a term commencing 12 October 2001 and expiring 11 October 2006.

SCHEDULE 2

COLUMN 1	COLUMN 2	COLUMN 3
Lindsay John Sevicke JONES (new member)	Cudgegong River Park Trust	Reserve No. 84236 Public Purpose: Public Recreation Notified: 14 June 1963 Locality: Mudgee File Reference: DB80R65
Desmond Mathew KENNEDY (new member)		
Wayne McCARROLL (new member)		
Walter Jeffrey Thomas MOORE (new member)		
Colin Herbert SHAPLAND (new member)		
William David SUTTOR (re-appointment)		
Colleen Jane WALKER (new member)		
The person for the time being holding the position of Director, Technical Services, Wellington Council (ex-officio member)		
The person for the time being holding the position of Chairman, Burrendong Dam Cudgegong Siteholders Association Inc. (ex-officio member)		

For a term commencing 31 August 2001 and expiring 30 August 2006.

GOULBURN OFFICE
Department of Land and Water Conservation
159 Auburn Street (PO Box 748), Goulburn, NSW 2580
Phone: (02) 4828 6725 Fax: (02) 4828 6730

ROADS ACT 1993**ORDER**

Transfer of Crown Road to a Council

IN pursuance of the provisions of Section 151 of the Act, the Crown Road specified in Schedule 1 is transferred to the roads authority specified in Schedule 2 hereunder as from the date of publication of this notice and as from that date the road specified in Schedule 1 ceases to be a Crown road.

RICHARD AMERY M.P.,
 Minister for Agriculture
 and Minister for Land and Water Conservation

SCHEDULE 1

*Parish: Burra; County: Murray;
 Land District: Queanbeyan; Shire: Yarrawlumla*

Description: Crown road north Lot 15 DP 255493 extending 150 metres from north western corner of that lot.

SCHEDULE 2

Roads Authority: The Council of the Shire of Yarrawlumla
 (Council's Ref: 2001/CA-241)

Reference: GB01H310.JK

**ROADS ACT 1993****ORDER**

Transfer of Crown Road to a Council

IN pursuance of the provisions of Section 151 of the Act, the Crown Road specified in Schedule 1 is transferred to the roads authority specified in Schedule 2 hereunder as from the date of publication of this notice and as from that date the road specified in Schedule 1 ceases to be a Crown road.

RICHARD AMERY M.P.,
 Minister for Agriculture
 and Minister for Land and Water Conservation

SCHEDULE 1

*Parish: Gundaroo; County: Murray;
 Land District: Queanbeyan; Shire: Gunning*

Description: Crown road within Lute Street, Gundaroo and between Lot 80 DP 754883 and 7 metres wide as shown hatch on diagram below.

SCHEDULE 2

Roads Authority: The Council of the Shire of Gunning.

(Council's Ref: 6.2A.P)

Reference: GB 01 H 298.JK



GRAFTON OFFICE
Department of Land and Water Conservation
76 Victoria Street (Locked Bag 10), Grafton, NSW 2460
Phone: (02) 6640 2000 Fax: (02) 6640 2035

ROADS ACT 1993**ORDER**

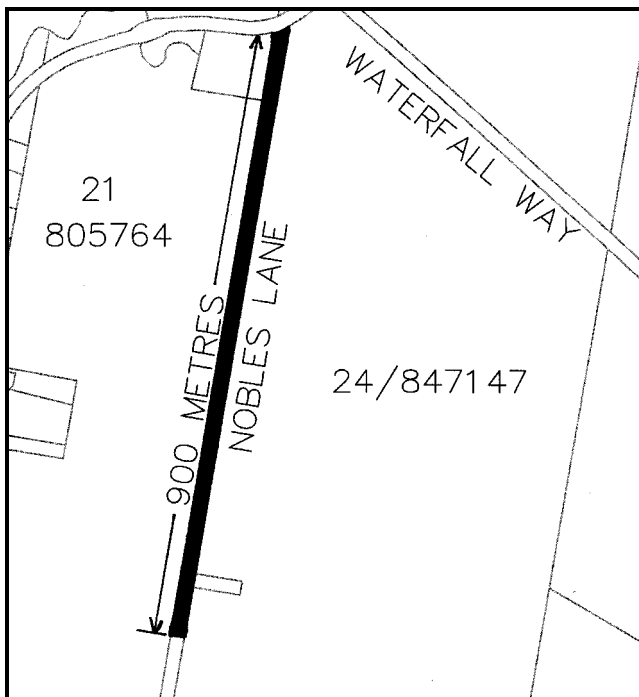
Transfer of a Crown road to a Council

IN pursuance of the provisions of section 151, Roads Act 1993, the Crown road specified in Schedule 1 is transferred to the Roads Authority specified in Schedule 2, hereunder, as from the date of publication of this notice and as from that date the road specified in Schedule 1 ceases to be a Crown road.

RICHARD AMERY, M.P.,
 Minister for Agriculture
 And Minister for Land and Water Conservation

SCHEDULE 1

The Crown public road (Nobles Lane) shown by black colour on the diagram hereunder at Bellingen, Parish South Bellingen, County Raleigh.



Not to scale

Diagrammatic representation only

SCHEDULE 2

Roads Authority: Bellingen Shire Council

Papers: GF01 H70.

Councils Ref: R.1-6 KIW:ROD

DECLARATION OF LAND TO BE CROWN LAND

PURSUANT to section 138 of the Crown Lands Act 1989, the lands described in the Schedules hereunder, are declared to be Crown land within the meaning of that Act. [File No. GF95 R 5]

RICHARD AMERY M.P.,
 Minister for Agriculture
 and Minister for Land and Water Conservation

SCHEDULE 1

Land District: Grafton;
Local Government Area: Maclean Shire Council;
Parish: Yamba; County: Clarence

Locality: Yamba

Lot	Sec.	DP No.
1	*	90838

Area: 404.7 square metres

SCHEDULE 2

Land District: Lismore;
Local Government Area: Richmond Valley Council;
Parish: Riley; County: Richmond

Locality: Evans Head

Lot	Sec.	DP No.
1	*	607302

Area: 400 square metres

SCHEDULE 3

Land District: Lismore;
Local Government Area: Ballina Shire Council;
Parish: Ballina; County: Rous

Locality: East Ballina

Lot	Sec.	DP No.
5	78	758047
6	78	758047

Area: 815.7 square metres

SCHEDULE 4

Land District: Murwillumbah;
Local Government Area: Tweed Shire Council;
Parish: Terranora; County: Rous

Locality: Fingal Head

Lot	Sec.	DP No.
1	*	847751
2	*	847751
3	*	847751

Area: 1.619 hectares

SCHEDULE 5

*Land District: Port Macquarie;
Local Government Area: Hastings;
Parish: Macquarie; County: Macquarie*

Locality: Tacking Point

Lot	Sec.	DP No.
1	*	859841
2	*	859841
3	*	859841

Area: 1.422 hectares

ROADS ACT 1993

ORDER

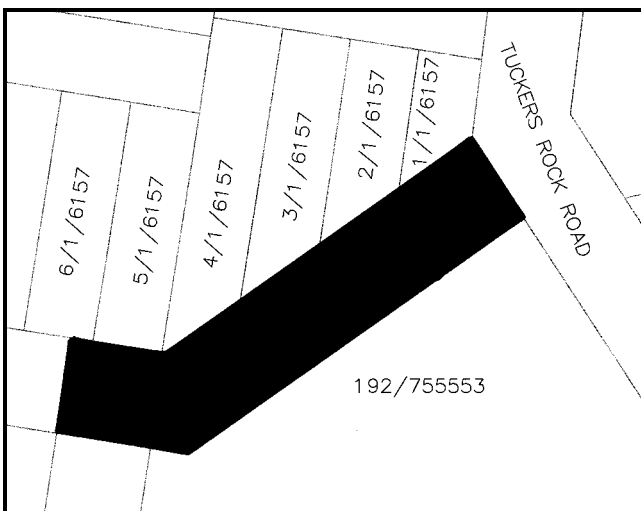
Transfer of a Crown road to a Council

IN pursuance of the provisions of section 151, Roads Act 1993, the Crown road specified in Schedule 1 is transferred to the Roads Authority specified in Schedule 2, hereunder, as from the date of publication of this notice and as from that date the road specified in Schedule 1 ceases to be a Crown road.

RICHARD AMERY, M.P.,
Minister for Agriculture
and Minister for Land and Water Conservation

SCHEDULE 1

The Crown public road (Woodward Street) shown by black colour on the diagram hereunder at Repton, Parish North Bellingen, County Raleigh.



Not to scale

Diagrammatic representation only

SCHEDULE 2

Roads Authority: Bellingen Shire Council

Papers: GF01 H296.

Councils Ref: R.1-6 KIW:ROD

ROADS ACT 1993

ORDER

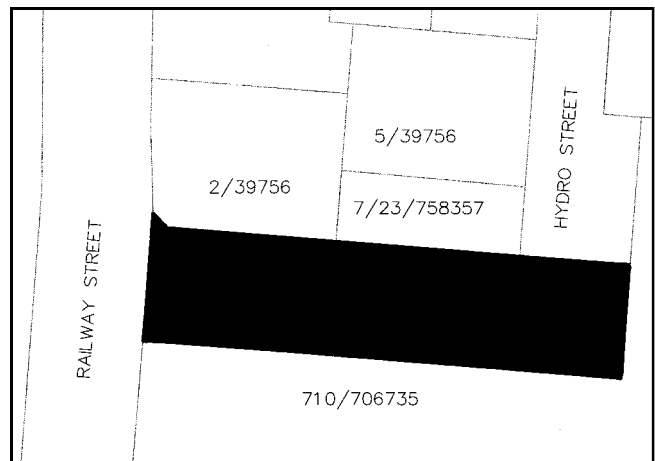
Transfer of a Crown road to a Council

IN pursuance of the provisions of section 151, Roads Act 1993, the Crown road specified in Schedule 1 is transferred to the Roads Authority specified in Schedule 2, hereunder, as from the date of publication of this notice and as from that date the road specified in Schedule 1 ceases to be a Crown road.

RICHARD AMERY, M.P.,
Minister for Agriculture
and Minister for Land and Water Conservation

SCHEDULE 1

The Crown public road shown by black colour on the diagram hereunder at Dorrigo, Parish Bligh, County Raleigh.



Not to scale

Diagrammatic representation only

SCHEDULE 2

Roads Authority: Bellingen Shire Council

Papers: GF01 H253.

SCHEDULE 1

The Crown public road 20.115 metres wide within Lot 224 DP 832402 at Sherwood,

Parish Sherwood, County Rous

SCHEDULE 2

Roads Authority: Kyogle Council

Papers: GF01 H267

Councils Ref: GAK:MF/Roads-General

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.

RICHARD AMERY, M.P.,
Minister for Agriculture and
Minister for Land and Water Conservation

Description

Land District - Lismore; Shire - Ballina

Road Closed: Lot 1 DP 1029668 (not being land under the Real Property Act) at Wollongbar, Parish Tuckombil, County Rous. File Reference: GF00 H314.

Note: On closing, the land within the former road remains land vested in Ballina Shire Council as operational land.

NOWRA OFFICE
Department of Land and Water Conservation
64 North Street (PO Box 309), Nowra, NSW 2541
Phone: (02) 4423 0122 Fax: (02) 4423 3011

**DRAFT ASSESSMENT OF LAND UNDER PART 3
 OF THE CROWN LANDS ACT, 1989, AND THE
 CROWN LANDS REGULATIONS, 2001.**

THE Minister for Land and Water Conservation has prepared a draft land assessment for the Crown land described hereunder.

Inspection of this draft assessment can be made at the Nowra Office of the Department of Land and Water Conservation, 64 North Street, Nowra and at the Shoalhaven City Council Chambers, Bridge Road, Nowra during normal business hours.

Representations are invited on the draft assessment and may be made in writing for a period commencing from 31 August until 15 October, 2001 and should be sent to the Land Assessment Officer, Department of Land and Water Conservation, PO Box 309, Nowra 2541.

RICHARD AMERY, M.P.,
 Minister for Agriculture
 and Minister for Land and Water Conservation

Description

About 175 hectares of Crown land below the mean high water mark of Currumbene Creek to the tidal limit and the adjoining riparian reserve being Reserve 78755 for Public Recreation, parish of Currumbene, county of St Vincent within Shoalhaven City Council local government area.

Reason for assessment: to assist in the consideration of appropriate future land use and management options.

Contact: Mr Rob Micheli (phone: (02) 4429 2909)

Reference: NA99 H174

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.

RICHARD AMERY, M.P.,
 Minister for Agriculture
 and Minister for Land and Water Conservation

SCHEDULE 1

COLUMN 1	COLUMN 2	COLUMN 3
Carmel Jacinta DUFTY (new member)	Narira Park Trust	Reserve No. 83297 Public Purpose: Public Recreation Notified: 28 July 1961 Locality: Cobargo File: NA79R 107

For a term commencing this day and expiring 27 November 2002.

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.

RICHARD AMERY, M.P.,
 Minister for Agriculture
 and Minister for Land and Water Conservation

SCHEDULE 1

COLUMN 1	COLUMN 2	COLUMN 3
Carmel Jacinta DUFTY (new member)	Narira Park Trust	Reserve No. 83297 Public Purpose: Public Recreation Notified: 28 July 1961 Locality: Cobargo File Reference: NA79R107

For a term commencing this day and expiring 27 November 2002.

ORANGE OFFICE
Department of Land and Water Conservation
92 Kite Street (PO Box 2146), Orange, NSW 2800
Phone: (02) 6360 8395 Fax: (02) 6362 3896

**NOTIFICATION OF PROPOSED CLOSING
OF A ROAD**

IN pursuance of the provisions of the Roads Act 1993, I propose to consider the closing of the road hereunder described.

All persons interested are hereby called upon to set forth in writing and forward to the officer specified in the notice for the purpose, within one month from the date of publication of this notice, any objections or submissions which may appear to them to exist to this proposal.

RICHARD AMERY, M.P.,
Minister for Land and Water Conservation

Description

Land District – Orange; Shire - Cabonne

Cabonne Shire Council. Proposed closing of the part of the public road being lot 91 in DP 1018994, Parish of Beneree, County of Bathurst. Objections/submissions should be forwarded to the Manager, Resource Access and Compliance, Department of Land and Water Conservation, PO Box 2146, Orange 2800. File reference: OE01H270.

SYDNEY METROPOLITAN OFFICE
Department of Land and Water Conservation
2-10 Wentworth Street (PO Box 3935), Parramatta, NSW 2124
Phone: (02) 9895 7503 Fax: (02) 9895 6227

NOTIFICATION OF CLOSING OF ROAD

IN pursuance of the provisions of the Roads Act, 1993, the road hereunder specified is closed and the road ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

RICHARD AMERY, M.P.,
Minister for Agriculture
and Minister for Land and Water Conservation

Descriptions

Land District – Metropolitan; L.G.A – Canada Bay

Lot 4, DP 515344 at Abbotsford, Parish Concord (Sheet 2), County Cumberland (being land in CT Vol 3459 Folio 152)

MN01H106

Note: On closing, title for the land in lot 4 remains vested in City of Canada Bay Council as operational land.

ASSIGNMENT OF NAME TO A RESERVE TRUST

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.

RICHARD AMERY, M.P.,
Minister for Agriculture
and Minister for Land and Water Conservation

SCHEDULE

COLUMN 1
The Duffy's Corner
Occasional Child Care
Centre (R100121)
Reserve Trust

COLUMN 2
Reserve No. 100121 at Maroubra
notified for Community purposes
in the *Government Gazette* on
25 September 1987.
File No.: MN86R1

Water Conservation

WATER ACT 1912

AN application under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5 (4) of the Act.

An application for a licence under section 10 of Part 2 of the Water Act 1912, has been received as follows:

Murray River Valley

HOWLONG COUNTRY GOLF CLUB LIMITED, for a pump on an Anabranch of the Murray River on part of Howlong Common, Reserve No. 620089, Parish of Howlong, County of Hume, for recreational purposes (new licence due to the permanent transfer of water right) (Reference: 50SL075437) (GA2:470048).

Any enquiries regarding the above should be directed to the undersigned (telephone [02] 6041 6777).

Written objections to the application specifying the grounds thereof, may be made by any statutory authority or local occupier within the proclaimed area whose interests may be affected, and must be lodged with the Department's Office at Albury by no later than the 26 September 2001.

A. C. Latta,
Resource Access Manager,
Murray Region.

Department of Land and Water Conservation,
PO Box 829, Albury, NSW 2640.

WATER ACT 1912

AN application under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5 (4) of the Act.

An application for a licence under section 10 of Part 2 of the Water Act 1912, has been received as follows:

Murray River Valley

WAKOOL SHIRE COUNCIL for a pump on the Murray River on part Lot 1, DP 859813, Parish of Yellymong, County of Wakool, for water supply for domestic purposes (town water supply), for the township of Murray Downs (new licence) (Reference: 50SL75451) (GA2:504513).

AN application under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5 (4) of the Act.

An application for an authority under section 20 of Part 2 of the Water Act 1912, has been received as follows:

Murray River Valley

Wayne Sydney ROE for a pump on the Edward River, on part Lot 26, DP 756352, Parish of Yalama, County of Townsend, for water supply for stock and domestic purposes and irrigation of 24 hectares (replacement authority due to permanent transfer) (Reference: 50SA6587) (GA2:504514).

Any enquiries regarding the above should be directed to the undersigned (telephone: [03] 5881 2122).

Written objections to the applications specifying the grounds thereof may be made by any statutory authority or a local occupier within the proclaimed area and must be lodged at the Department's Office at Deniliquin within twenty-eight (28) days of the date of this publication.

L. J. HOLDEN,
Acting Senior Natural Resource Officer,
Murray Region.

Department of Land and Water Conservation,
PO Box 205, Deniliquin, NSW 2710.

WATER ACT 1912

APPLICATIONS under Part 8, being within a proclaimed (declared) local area under section 5 (4) of the Water Act 1912.

Applications for an approval of controlled works under section 167, within the proclaimed (declared) local areas described hereunder, have been received from:

Macquarie River Valley

BATHURST CITY COUNCIL for a levee on the Macquarie River, Lot 5, DP 1015387, Lot 4, DP 601543, Lot 1, DP 195013, Lot 3, DP 587686, Havannah Street, Baillie Street, Durham Street, Bryant Street and Railway Land, Parish of Bathurst, County of Bathurst, for the prevention of inundation of land by floodwaters (new approval) (in lieu of advertisement on 11 September 2000) (Reference: 80CW809629).

BATHURST CITY COUNCIL for a levee on the Macquarie River and an unnamed watercourse, Lot 1, DP 126051, William Street, Lot 2, section 90, Lots 1 and 2, section 150, Lot 1, section 152, all DP 758065, Lot 2, DP 257276, Lot 1, DP 863087, Bridge Street and Havannah Street, all Parish of Bathurst, County of Bathurst, for the prevention of inundation of land by floodwaters (new approval) (Reference: 80CW809639).

BATHURST CITY COUNCIL for a levee on the Macquarie River and Queen Charlottes Creek, Lot 3, DP 1006386, Lot 1, DP 603567, Alpha Street, Russell Street, Acheron Street, Upfold Street, Lot A, DP 340792 and Railway Land, all Parish of Bathurst, County of Bathurst, for the prevention of inundation of land by floodwaters (new approval) (Reference: 80CW809640).

Any inquiries regarding the above should be directed to the undersigned (telephone: 6884 2560).

Written objections to the applications specifying grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local (declared) area and must be lodged with the Departments Regional Office at Dubbo, by 28 September 2001, as prescribed by the Act.

FRED HUNDY,
Water Access Manager,
Macquarie.

Department of Land and Water Conservation,
PO Box 717, Dubbo, NSW 2830.

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 for works within a proclaimed (declared) local area as generally described hereunder have been received from:

Macquarie River Valley

BEBOP PTY LTD for two pumps on the Macquarie River, Lots 3, 47 and 53, DP 752600, Parish of Wirrigai, County of Ewenmar, for irrigation of 121.5 hectares (lucerne and improved pasture) (replacement licence) (in lieu of advertisement on 14 May 2001) (Reference: 80SL95847).

Any inquiries regarding the above should be directed to the undersigned (telephone: 6884 2560).

Written objections to the application specifying grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local (declared) area and must be lodged with the Departments Regional Office at Dubbo, within twenty-eight (28) days as prescribed by the Act.

FRED HUNDY,
Water Access Manager,
Macquarie.

Department of Land and Water Conservation,
PO Box 717, Dubbo, NSW 2830.

WATER ACT 1912

THE Department proposes to refuse the following applications for the issue of new licences for irrigation purposes due to limited water resource availability and to ensure resource sustainability.

The applications are being advertised as a necessary procedure to enable refusal, as required by the Water Act 1912.

Ian GODDEN for a dam and a pump on an unnamed watercourse, Lot 4, DP 248558, Parish of Dubbo, County of Gordon, for irrigation of 4 hectares (olives) (new licence) (Reference: 80SL95587).

Gordon Leonard TINK and Helen Margaret TINK for a dam and a pump on an unnamed watercourse and a pump on the Borenore Creek, Lot 22, DP 738010, Parish of Boreenore, County of Wellington and Parish of Boree Nyrang, County of Ashburnham, for conservation of water and water supply for stock and domestic purposes and irrigation of 10 hectares (olives and lucerne) (new licence) (in lieu of advertisement on 24 August 1998) (Reference: 80SL95556) (GA2:311294).

Any inquiries regarding the above should be directed to the undersigned (telephone: 6884 2560).

FRED HUNDY,
Water Access Manager,
Macquarie.

Department of Land and Water Conservation,
PO Box 717, Dubbo, NSW 2830.

WATER ACT 1912

AN application for a licence under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5 (4) of the Act.

An application for a licence under section 10 of Part 2 of the Water Act 1912, has been received as follows:

Lachlan River Valley

John Clifford and Patricia Jeanette LAWSON for a pump on the Lachlan River on Lot 2, DP 1003353, Parish of Cudgelong, County of Forbes, for water supply for stock and domestic purposes (new licence) (Reference: 70SL090744) (GA2:494355).

Written objections specifying grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local area whose interests may be effected must be lodged with the Department within twenty-eight (28) days of the date of this publication as prescribed by the Act.

DAVID THOMAS,
Acting Senior Natural Resource Officer,
Central West Region.

Department of Land and Water Conservation,
PO Box 136, Forbes NSW 2871, telephone: (02) 6852 1222.

WATER ACT 1912

APPLICATIONS under Part 2 within a proclaimed (declared) local area under section 5 (4) of the Water Act 1912.

Applications for licences under section 10 for works within a proclaimed (declared) local area as generally described hereunder has been received from:

Murrumbidgee Valley

Ronald William EVANS for a bywash dam and pump on an unnamed watercourse, Lot 62, DP 754881, Parish of Googong, County of Murray, for the conservation of water for a rural residential water supply (Mt. Campbell Subdivision) (new licence) (Reference: 40SL70700).

John Colin SHIELS and Morna Louise SHIELS for an existing bywash dam on an unnamed watercourse, Lot 8, DP 252579, Parish of Urialla, County of Murray, for the conservation of water for domestic purposes (new licence) (Reference: 40SL70650).

WAGGA WAGGA RURAL LANDS PROTECTION BOARD for a bywash dam on an unnamed watercourse, Travelling Stock Reserve 220053, Parish of North Wagga, County of Clarendon, for the conservation of water for stock watering purposes (new licence) (Reference: 40SL70699).

Guy Alfred MICHEL for a bywash dam on an unnamed watercourse, Lot 1, DP 1017778, Parish of Winifred, County of Beresford, for the conservation of water for domestic and stock watering purposes (new licence) (Reference: 40SL70698).

Any enquiries regarding the above should be directed to the undersigned (telephone: [02] 6953 0700).

Formal objections to the applications specifying the grounds thereof, may be made by any statutory authority or a local occupier within the proclaimed area and must be lodged with the Department at Leeton within the twenty-eight (28) days as fixed by the Act.

S. F. WEBB,
Resource Access Manager,
Murrumbidgee Region.

Department of Land and Water Conservation,
PO Box 156, Leeton, NSW 2705.

WATER ACT 1912

AN application under Part 2 within a proclaimed (declared) local area under section 5 (4) of the Water Act 1912.

An application for a licence under section 10 for works within a proclaimed (declared) local area as generally described hereunder has been received from:

Murrumbidgee Valley

Barry John WILSON and Betty Violet WILSON for a dam and pump on Spring Grove Gully, Lot 124, DP 754112, Parish of Deringullen, County of King, for a water supply for stock and domestic purposes and the irrigation of 10 hectares (viticulture) (new licence) (Reference: 40SL70355).

This application is duly advertised as a necessary procedure to enable refusal, as required by the Water Act 1912.

The application is to be refused following the introduction of a statutory embargo on the issue of new licences for irrigation purposes due to resource sustainability.

Any enquiries regarding the above should be directed to the undersigned (telephone: [02] 6953 0700).

Formal objections to the application specifying the grounds thereof, may be made by any statutory authority or a local occupier within the proclaimed area and must be lodged with the Department at Leeton within the twenty-eight (28) days as fixed by the Act.

S. F. WEBB,
Resource Access Manager,
Murrumbidgee Region.

Department of Land and Water Conservation,
PO Box 156, Leeton, NSW 2705.

WATER ACT 1912

AN application for a licence under Part 5 of the Water Act 1912, as amended, has been received as follows:

Murrumbidgee Valley

Ronald William EVANS for a bore on Lot 62, DP 754881, Parish of Goongong, County of Murray, for a water supply for a rural residential water supply (Mt. Campbell Subdivision) (replacement licence — upgrade of existing licence) (Reference: 40BL188373).

Written submissions of support or objections with grounds stating how your interest may be affected must be lodged before 28 September 2001, as prescribed by the Act.

S. F. WEBB,
Resource Access Manager,
Murrumbidgee Region.

Department of Land and Water Conservation,
PO Box 156, Leeton, NSW 2705.

WATER ACT 1912

APPLICATIONS for licences under the section 10 of Part 2 of the Water Act 1912, as amended, has been received as follows:

John Alexander GOOD for a pump on Sawyers Creek being 103/1001685, Parish of Cambewarra, County of Camden, for the irrigation of 10.0 hectares (pasture) (new additional licence) (Reference: 10SL55918) (GA2:493018).

Ronald C., Marion F. and Mark P. BICE for a pump on Tuross River, being 1/794098, Parish of Bodalla, County of Dampier, for farming purposes (dairy washdown) (new licence) (Reference: 10SL55923) (GA2:509118) (Lodged under the 1998 NSW Water Amnesty).

Written objections specifying grounds thereof must be lodged with the Department within twenty-eight (28) days of the date of this publication as prescribed by the Act.

Natural Resource Project Officer,
Sydney/South Coast Region.

Department of Land and Water Conservation,
PO Box 3935, Parramatta, NSW 2124.

WATER ACT 1912

AN application under Part 2, being within a proclaimed (declared) local area under section 10 of the Water Act 1912, as amended.

An application for a licence within the proclaimed local area as generally described hereunder has been received as follows:

Macintyre-Dumaresq River Valley

RMI PTY LIMITED for ten (10) pumps on the Macintyre River on Lots 10/756021 and 11/756021, Parish of Trinkey and Lot 21/755990, Parish of Carroby, all County of Stapylton, for water supply for stock and irrigation of 31,771 megalitres (cotton) (there will be no alteration to the existing pump stations on "Trinkey" and "Carbucky", the application is a permanent transfer of a further 4,959 megalitres of existing Macintyre/Dumaresq allocation) (L.O. Papers: 90SL100568) (GA2:493669).

Written objections to the application specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed (declared) area, whose interest may be affected and must be lodged with the Department's Manager, Resource Access, Tamworth, within twenty-eight (28) days as specified in the Act

GEOFF CAMERON,
Manager Resource Access.

Department of Land and Water Conservation,
PO Box 550, Tamworth, NSW 2340.

Department of Mineral Resources

COAL MINES REGULATION ACT 1982

REVOCATION OF APPROVAL

Revoked Approval No.: MDA Ex ia 14078.
File No.: C94/0479.
Date: 13 July 2001.

IT is hereby notified that the Chief Inspector of Coal Mines, pursuant to the provisions of Clause 70 of the Coal Mines (General) Regulation 1999, has REVOKED the approval number quoted herein. This means that the apparatus to which that approval number applied can no longer be used in or be supplied to a coal mine in New South Wales.

Description: Solenoid Valve Actuator.
Identification: Tiefenbach, type iE27/1R.

This approval was issued to:

Name: BARTIMPTY LIMITED.
Address: Unit 3 / 59D Darvall Road, West Ryde, NSW 2114.

The approval was notified in the *Government Gazette* No. 11, dated 3 February 1995.

J. F. WAUDBY,
Senior Inspector of Electrical Engineering
for Chief Inspector of Coal Mines.

COAL MINES REGULATION ACT 1982

REVOCATION OF APPROVAL

Revoked Approval No.: MDA Ex d 17000.
File No.: C01/0070.
Date: 14 August 2001.

IT is hereby notified that the Chief Inspector of Coal Mines, pursuant to the provisions of Clause 70 of the Coal Mines (General) Regulation 1999, has REVOKED the approval number quoted herein. This means that the apparatus to which that approval number applied can no longer be used in or be supplied to a coal mine in New South Wales.

Description: 1000V / 60kW Water Cooled Induction Motor.
Identification: Hertz, type HT60WC.

This approval was issued to:

Name: ENGART AUSTRALASIA.
Address: Unit 3b / 88 Munibung Road, Cardiff, NSW 2285.

The approval was notified in the *Government Gazette* No. 54, dated 16 March 2001.

J. F. WAUDBY,
Senior Inspector of Electrical Engineering
for Chief Inspector of Coal Mines.

NOTICE is given that the following applications have been received:

EXPLORATION LICENCE APPLICATION

(T01-0187)

No. 1807, PASMINGO AUSTRALIA LIMITED (ACN 004 074 962), area of 13 units, for Group 1, dated 22 August 2001. (Cobar Mining Division).

MINING LEASE APPLICATIONS

(T01-0186)

No. 184, MACAPIKA PTY LTD (ACN 083 661 401), area of about 8.75 square kilometres, to mine for gypsum, dated 21 August 2001. (Broken Hill Mining Division).

(C01-0442)

No. 185, SAXONVALE COAL PTY LIMITED (ACN 003 526 467) and NIPPON STEEL AUSTRALIA PTY LIMITED (ACN 001 445 049), area of about 5.71 hectares, to mine for coal, dated 22 August 2001. (Singleton Mining Division).

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

NOTICE is given that the following applications have been granted:

EXPLORATION LICENCE APPLICATION

(T00-0151)

No. 1690, now Exploration Licence No. 5884, GOLDFIELDS EXPLORATION PTY LIMITED (ACN 067 813 932), County of Bland, Map Sheet (8329), area of 8 units, for Group 1, dated 16 August 2001, for a term until 15 August 2003.

PETROLEUM APPLICATION

(C00-0010)

No. 54, now Petroleum Exploration Licence No. 438, PANNONIAN INTERNATIONAL LTD (ARBN 096 672 972), APPLGATE EXPLORATION, LLC (ARBN 096 675 937), CHRISTOPHER R. PORTER and PANGEA HYDROCARBON EXPLORATION, LLC (ARBN 096 975 704), area of 98 blocks, for petroleum, dated 21 August 2001, for a term until 20 August 2007. For exact location details refer to the Department's NSW State Map of Petroleum Titles.

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

NOTICE is given that the following applications have been withdrawn:

EXPLORATION LICENCE APPLICATION

(T01-0170)

No. 1805, MOUNT CONQUEROR MINERALS NL (ACN 003 312 721) and CENTRAL WEST GOLD NL (ACN 003 178 591), County of Gough, Map Sheet (9239). Withdrawal took effect on 17 August 2001.

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

NOTICE is given that the following applications for renewal have been received:

(C96-1007)

Exploration Licence No. 5291, COAL AND ALLIED OPERATIONS PTY LIMITED (ACN 000 023 656), area of 3758 hectares. Application for renewal received 22 August 2001.

(T98-1244)

Exploration Licence No. 5629, RICHARD HINE, area of 4 units. Application for renewal received 20 August 2001.

(T00-0710)

Mining Purposes Lease No. 275 (Act 1973), ALEXANDER AMOS ALLEN, area of 2.003 hectares. Application for renewal received 23 August 2001.

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authorities have been renewed:

(T95-0388)

Mining Purposes Lease No. 290 (Act 1973), GARY DOUGLAS STONE, Parish of Wallangulla, County of Finch, Map Sheet (8439-2-S), area of 2.5 hectares, for a further term until 21 June 2006. Renewal effective on and from 21 August 2001.

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

WITHDRAWAL OF APPLICATIONS FOR RENEWAL

NOTICE is given that the applications for renewal in respect of the following authorities have been withdrawn:

(T97-0085)

Mining Lease No. 572 (Act 1973), RUTILE & ZIRCON MINES (NEWCASTLE) LIMITED (ACN 000 393 135), Parish of Stockton, County of Gloucester, Map Sheet (9232-2-N), area of 159.62 hectares. The authority ceased to have effect on 17 August 2001.

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

CANCELLATION OF AUTHORITIES AT REQUEST OF HOLDERS

NOTICE is given that the following authorities have been cancelled:

(T95-0182)

Exploration Licence No. 4894, LFB RESOURCES NL (ACN 073 478 574), County of Flinders, Map Sheet (8233, 8234, 8333, 8334), area of 21 units. Cancellation took effect on 20 August 2001.

(T95-0126)

Exploration Licence No. 4943, LFB RESOURCES NL (ACN 073 478 574), County of Flinders and County of Oxley, Map Sheet (8234, 8334), area of 40 units. Cancellation took effect on 20 August 2001.

(T99-0095)

Exploration Licence No. 5622, STRAITS EXPLORATION (AUSTRALIA) PTY LTD (ACN 061 614 695), Counties of Cunningham and Kennedy, Map Sheet (8332), area of 77 units. Cancellation took effect on 21 August 2001.

(T00-0105)

Exploration Licence No. 5822, JERVOIS MINING NL (ACN 007 626 575), County of Monteagle, Map Sheet (8529, 8629), area of 28 units. Cancellation took effect on 21 August 2001.

(C01-0134)

Petroleum Exploration Licence No. 421 (Act 1991), EASTERN ENERGY AUSTRALIA PTY LIMITED (ACN 009 321 662), area of 136 blocks. Cancellation took effect on 3 August 2001.

(C01-0134)

Petroleum Exploration Licence No. 423 (Act 1991), EASTERN ENERGY AUSTRALIA PTY LIMITED (ACN 009 321 662), area of 86 blocks. Cancellation took effect on 3 August 2001.

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

PART CANCELLATIONS

NOTICE is given that the following authorities have been cancelled in part:

(C01-0134)

Petroleum Exploration Licence No. 422, EASTERN ENERGY AUSTRALIA PTY LIMITED (ACN 009 321 662).

Description of area cancelled:

An area of 49 blocks. For further information contact Titles Branch.

Part cancellation took effect on 3 August 2001.

The authority now embraces an area of 59 blocks.

(C01-0134)

Petroleum Exploration Licence No. 424, EASTERN ENERGY AUSTRALIA PTY LIMITED (ACN 009 321 662).

Description of area cancelled:

An area of 41 blocks. For further information contact Titles Branch.

Part cancellation took effect on 3 August 2001.

The authority now embraces an area of 82 blocks.

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

TRANSFERS

(T01-0328)

Mining Lease No. 1177 (Act 1973), formerly held by MLOP PTY LTD (ACN 000 015 172), has been transferred to GOSFORD QUARRIES (PROPERTIES) PTY LIMITED (ACN 001 226 875). The transfer was registered on 21 August 2001.

(T01-0328)

Mining Lease No. 1224 (Act 1973), formerly held by MLOP PTY LTD (ACN 000 015 172), has been transferred to GOSFORD QUARRIES (PROPERTIES) PTY LIMITED (ACN 001 226 875). The transfer was registered on 21 August 2001.

(T01-0328)

Mining Lease No. 1329 (Act 1992), formerly held by MLOP PTY LTD (ACN 000 015 172), has been transferred to GOSFORD QUARRIES (PROPERTIES) PTY LIMITED (ACN 001 226 875). The transfer was registered on 21 August 2001.

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

ERRATUM

THE notice appearing in *Government Gazette* No. 124, Folio No. 6052, dated 17 August 2001, relating to the grant of Exploration Licence No. 5852, is revoked and it should be noted that Exploration Licence No. 5852 is void.

EDWARD OBEID, M.L.C.,
Minister for Mineral Resources

Department of Urban Affairs and Planning

Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme (Amendment No 5)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following regional environmental plan under the *Environmental Planning and Assessment Act 1979*.
(P99/00109/PC)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme
(Amendment No 5)

Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme (Amendment No 5)

1 Name of plan

This plan is *Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme (Amendment No 5)*.

2 Aims of plan

This plan aims to permit, with the Minister's consent, subdivision and other development of land to which this plan applies, for the purposes of a community facility.

3 Land to which plan applies

This plan applies to the land identified as Lot 2 and Lot 4 DP 579006 Cranebrook Road, Cranebrook, as shown edged heavy black on the map marked "Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme (Amendment No 5)" deposited in the Parramatta office of the Department of Urban Affairs and Planning.

4 Amendment of Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme

Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme is amended:

- (a) by inserting after the definition of *agriculture* in clause 5:

community facility means a building, place or any other facility, whether or not provided by a local government council, provided for use by groups having similar physical, cultural, social, recreational, ethnic or other interests or beliefs, but does not include a club that is registered under the *Registered Clubs Act 1976*.

Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme
(Amendment No 5)

Clause 4

(b) by inserting after clause 11:

11A Development for the purposes of a community facility

- (1) Nothing in this plan prevents a person, with the Minister's consent, from carrying out subdivision and other development, for the purposes of a community facility, on Lots 2 and 4 DP 579006 Cranebrook Road, Cranebrook, as shown edged heavy black on the map marked "Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme (Amendment No 5)".
- (2) When determining an application to carry out subdivision or other development for the purposes of a community facility, the consent authority must take into consideration the implementation of the Penrith Lakes Scheme and the structure plan.

Armidale Local Environmental Plan 1988 (Amendment No 24)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(S01/00225/PC)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Armidale Local Environmental Plan 1988 (Amendment No 24)

Armidale Local Environmental Plan 1988 (Amendment No 24)

1 Name of plan

This plan is *Armidale Local Environmental Plan 1988 (Amendment No 24)*.

2 Aims of plan

This plan aims:

- (a) to introduce a new development zone into *Armidale Local Environmental Plan 1988* to facilitate development for a mixture of commercial, retail and residential purposes, and
- (b) to rezone land at the north east corner of Markham and Dumaresq Streets, Armidale, from residential to the new zone.

3 Land to which plan applies

This plan (to the extent it rezones land) applies to Lot 10 DP 808357 and Lot 1 DP 779786 at the north east corner of Markham and Dumaresq Streets, Armidale, shown coloured light blue with black edging on the map marked “Armidale Local Environmental Plan 1988 (Amendment No 24)” deposited in the offices of Armidale Dumaresq Council.

4 Amendment of Armidale Local Environmental Plan 1988

Armidale Local Environmental Plan 1988 is amended as set out in Schedule 1.

Armidale Local Environmental Plan 1988 (Amendment No 24)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 Definitions

Insert in appropriate order at the end of the definition of *zoning map* in clause 5 (1):

Armidale Local Environmental Plan 1988 (Amendment No 24)

[2] Clause 8 Zones indicated on the map

Insert in appropriate order in the list of zones:

Zone No 3 (a) (Mixed Use)—coloured light blue with black edging and black notation 3 (a).

[3] Clause 9 Zones objectives and development controls

Insert in appropriate order in the Table to clause 9:

Zone No 3 (a) (Mixed use)

1 Zone objectives

The objectives of the zone are:

- (a) to allow a mixture of compatible land uses (being residential, retail and commercial land uses), and
- (b) to locate mutually supportive and compatible uses (such as residential uses, places of employment and retail), in close proximity to each other, and in peripheral Central Business District locations well serviced by community facilities and infrastructure, and
- (c) to ensure that development in the zone does not compromise the viability of the Central Business District as the main focus for commercial and retail activity in Armidale, while allowing commercial activities which cannot be appropriately accommodated in the City centre, such as bulky goods retailing.

Armidale Local Environmental Plan 1988 (Amendment No 24)

Schedule 1 Amendments

2 Without development consent

Development for the purposes of:
 agriculture (other than intensive livestock or intensive plant agriculture)
 bushfire hazard reduction
 maintenance dredging
 utility installations

Exempt development

3 Only with development consent

Development not included in Item 2 or 4.

4 Prohibited

Development for the purposes of:

agriculture	institutions
animal boarding or training establishments	intensive livestock agriculture
aquaculture	intensive plant agriculture
caravan parks	landfills
cemeteries	light industries (with a floor space greater than 500 square metres)
commercial premises (with a floor space greater than 500 square metres)	manufactured home estates
extractive industries	mining
forestry	offensive industries
hazardous industries	offensive storage establishments
hazardous storage establishments	roadside stalls
heliports	road transport terminals
highway service centres	rural industries
industries (with a floor space greater than 500 square metres)	rural workers' dwellings
	sawmills
	stock and saleyards
	warehouse or distribution centres

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**BLACKTOWN LOCAL ENVIRONMENTAL PLAN 1988****(AMENDMENT No. 159)**

I, the Minister for Urban Affairs and Planning, in pursuance of section 70 of the Environmental Planning and Assessment Act 1979, make the local environmental plan set out hereunder.
(P00/00179/S69)

ANDREW REFSHAUGE MP

Minister for Urban Affairs and Planning.

Sydney, **24 August 2001.**

Citation

1. This plan may be cited as Blacktown Local Environmental Plan 1988 (Amendment No.159).

Aims, objectives etc.

2. This plan aims to rezone the land to which this plan applies to the Residential "A" Zone under Blacktown Local Environmental Plan 1988.

Land to which plan applies

3. This plan applies to land, being part of Lot 24, Section 2, DP 6796, Walters Road, Blacktown, as shown edged heavy black on the map marked "Blacktown Local Environmental Plan 1988 (Amendment No. 159)" deposited in the office of the Council of the City of Blacktown.

Relationship to other environmental planning instruments

4. This plan amends Blacktown Local Environmental Plan 1988 in the manner set out in clause 5.

Amendment of Blacktown Local Environmental Plan 1988

5. Blacktown Local Environmental Plan 1988 is amended by inserting, in appropriate order, at the end of the definition of "the map" in clause 6(1) the following words:

Blacktown Local Environmental Plan 1988
(Amendment No. 159).

Blacktown Local Environmental Plan 1988 (Amendment No 161)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(P96/00140/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Blacktown Local Environmental Plan 1988 (Amendment No 161)

Blacktown Local Environmental Plan 1988 (Amendment No 161)

1 Name of plan

This plan is *Blacktown Local Environmental Plan 1988 (Amendment No 161)*.

2 Aims of plan

This plan aims to further regulate bulky goods retail establishments within the City of Blacktown.

3 Land to which plan applies

This plan applies to all land within the City of Blacktown under *Blacktown Local Environmental Plan 1988*.

4 Amendment of Blacktown Local Environmental Plan 1988

Blacktown Local Environmental Plan 1988 is amended as set out in Schedule 1.

Blacktown Local Environmental Plan 1988 (Amendment No 161)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 9 Zone objectives and development control table

Insert “bulky goods retail establishments;” in alphabetical order in the Table to the clause in Item 4 of the matter relating to Zones Nos 1 (a), 3 (c), 4 (a), 4 (b) and 4 (d).

[2] Clause 9, Table

Omit “retailing of bulky goods” from Item 1 (b) of the matter relating to Zone No 3 (b).

Insert instead “the purposes of bulky goods retail establishments”.

[3] Clause 9, Table

Omit “retailing of bulky goods” from Item 1 (a) of the matter relating to Zone No 4 (c).

Insert instead “bulky goods retail establishments”.

[4] Clause 9, Table

Omit “retailing of bulky goods” from Item 1 (d) of the matter relating to Zone No 4 (c).

Insert instead “purposes of bulky goods retail establishments”.

[5] Schedule 1

Insert “Bulky goods retail establishments” in alphabetical order.

Canterbury Local Environmental Plan No 195

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(S01/00122/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Canterbury Local Environmental Plan No 195

Canterbury Local Environmental Plan No 195

1 Name of plan

This plan is *Canterbury Local Environmental Plan No 195*.

2 Aims of plan

(1) This plan aims:

- (a) to reclassify part of the land to which this plan applies from community land to operational land within the meaning of the *Local Government Act 1993*, and
- (b) to zone part of the land reserved for county open space to Open Space (Private Recreation) under *Canterbury Planning Scheme Ordinance*, and
- (c) to rezone part of the land from Open Space (Existing Recreation) to Open Space (Private Recreation) under the Ordinance.

(2) This plan incidentally makes more extensive provisions in *Canterbury Planning Scheme Ordinance* for the classification or reclassification of public land as operational land as a consequence of major changes to the statutory scheme in section 30 (Reclassification of community land as operational) of the *Local Government Act 1993*.

3 Land to which plan applies

- (1) To that extent that this plan reclassifies land, it applies to part of 63 Moxon Road, Punchbowl, being part of Lot 1, DP 521106, as shown coloured dark green and edged black on the map marked "Canterbury Local Environmental Plan No 195" deposited in the office of Canterbury City Council.
- (2) To the extent that this plan zones and rezones land, it applies to 61 and part of 63 Moxon Road, Punchbowl, being Lot 1, DP 223338 and part of Lot 1, DP 521106, respectively, as shown coloured dark green and edged yellow on that map.

4 Amendment of Canterbury Planning Scheme Ordinance

Canterbury Planning Scheme Ordinance is amended as set out in Schedule 1.

Canterbury Local Environmental Plan No 195

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 4 Interpretation

Insert in appropriate order in the definition of "Scheme map" in clause 4 (1):

Canterbury Local Environmental Plan No 195

[2] Clause 76

Omit the clause. Insert instead:

76 Classification and reclassification of public land as operational land

- (1) The public land described in Schedule 10 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*, subject to this clause.
- (2) The amendments made by the *Local Government Amendment (Community Land Management) Act 1998* to section 30 of the *Local Government Act 1993* do not apply to the land described in Part 1 of Schedule 10.
- (3) Land described in Part 2 of Schedule 10:
 - (a) to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as operational land.
- (4) Land described in Columns 1 and 2 of Part 3 of Schedule 10, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land except those (if any) specified opposite the land in Column 3 of Part 3 of Schedule 10.

Page 3

Canterbury Local Environmental Plan No 195

Schedule 1 Amendments

- (5) In this clause, *the relevant amending plan*, in relation to land described in Part 3 of Schedule 10, means the local environmental plan cited at the end of the description of the land.
- (6) Before the relevant amending plan inserted the description of land into Part 3 of Schedule 10, the Governor approved of subclause (4) applying to the land.

[3] Schedule 10 Classification and reclassification of public land as operational land

Insert after the heading to the Schedule:

Part 1 Land classified, or reclassified, under original section 30 of Local Government Act 1993

[4] Schedule 10, Parts 2 and 3

Insert at the end of the Schedule:

Part 2 Land classified, or reclassified, under amended section 30 of Local Government Act 1993—interests not changed

Part 3 Land classified, or reclassified, under amended section 30 of Local Government Act 1993—interests changed

Canterbury Local Environmental Plan No 195

Amendments

Schedule 1

Column 1	Column 2	Column 3
Locality	Description	Trusts etc not discharged
Punchbowl		
Part of 63 Moxon Road	Part of Lot 1, DP 521106, as shown coloured dark green and edged heavy black on the map marked "Canterbury Local Environmental Plan No 195"— <i>Canterbury Local Environmental Plan No 195</i>	The notifications in force in respect of Lot 1, DP 521106, as specified in the Second Schedule to the folio of the Register, being Folio Identifier 1/521106.

Kempsey Local Environmental Plan 1987 (Amendment No 77)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(G00/00184/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Kempsey Local Environmental Plan 1987 (Amendment No 77)

Kempsey Local Environmental Plan 1987 (Amendment No 77)

1 Name of plan

This plan is *Kempsey Local Environmental Plan 1987 (Amendment No 77)*.

2 Aims of plan

This plan aims to amend *Kempsey Local Environmental Plan 1987* so as to permit, with the consent of Kempsey Shire Council, the carrying out of development for the purpose of a hardware store on the land to which this plan applies.

3 Land to which plan applies

This plan applies to Lot 17, DP 90125, Smith Street, Kempsey, as shown edged heavy black on the map marked “Kempsey Local Environmental Plan 1987 (Amendment No 77)” deposited in the office of Kempsey Shire Council.

4 Amendment of Kempsey Local Environmental Plan 1987

Kempsey Local Environmental Plan 1987 is amended by inserting at the end of the Schedule to clause 37 in Columns 1 and 2, respectively, the following matter:

Lot 17, DP 90125, Smith Street, Kempsey.	Hardware store.
---	-----------------

Manly Local Environmental Plan 1988 (Amendment No 33)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(S99/00343/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Manly Local Environmental Plan 1988 (Amendment No 33)

Manly Local Environmental Plan 1988 (Amendment No 33)

1 Name of plan

This plan is *Manly Local Environmental Plan 1988 (Amendment No 33)*.

2 Aims of plan

This plan aims to redefine the boundary of the Tourist Area under *Manly Local Environmental Plan 1988*.

3 Land to which plan applies

This plan applies to land situated in the local government area of Manly, being land within the Tourist Area in Manly, as shown edged heavy black with heavy black dots on the map marked "Manly Local Environmental Plan 1988 (Amendment No 33)" deposited in the office of Manly Council.

4 Amendment of Manly Local Environmental Plan 1988

Manly Local Environmental Plan 1988 is amended by inserting in appropriate order in the definition of *the map* in clause 7 (1) the following words:

Manly Local Environmental Plan 1988 (Amendment No 33)

Marrickville Local Environmental Plan 2001 (Amendment No 1)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(S99/00573/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Marrickville Local Environmental Plan 2001 (Amendment No 1)

Marrickville Local Environmental Plan 2001 (Amendment No 1)

1 Name of plan

This plan is *Marrickville Local Environmental Plan 2001 (Amendment No 1)*.

2 Aims of plan

This plan aims:

- (a) to encourage the orderly and economic use of the land to which this plan applies, and
- (b) to define access to, the bulk, height and scale of, and the maximum number of dwellings within, any development on that land, and
- (c) to provide for the retention and adaptive re-use of identified heritage items and the retention of streetscape and landscape features of significance on the former Eversleigh Hospital site as a reminder of the site's past, and
- (d) to retain the current scale and profile of the open space fronting the main Hospital building, including a direct visual and physical linkage with both Addison Road and Coronation Avenue frontages and the landscaped open space garden forecourt of the Nurses Home and the recapturing of its visual connection with Coronation Avenue.

3 Land to which plan applies

This plan applies to land situated in the area of Marrickville, comprising the properties known as 1–3 Coronation Avenue in Petersham, being:

Lot 1 DP 4012, Lot 2 DP 4012, Lot 3 DP 4012, Part Lot 4 DP 4012, Part Lot 5 DP 4012, Part Lot 6 DP 4012, Part Lot 7 DP 4012, Part Lot 8 DP 4012, Lot 1 DP 927536, Lot 1 DP 927545, Lot B DP 182453, Lot 1 DP 305709, Lot C DP 182453, Lot 1 DP 122209, Lot 1 DP 983521, Part Lot 37/38 Bayswater Estate.

Marrickville Local Environmental Plan 2001 (Amendment No 1)

Clause 4

4 Amendment of Marrickville Local Environmental Plan 2001

Marrickville Local Environmental Plan 2001 is amended as set out in Schedule 1.

Marrickville Local Environmental Plan 2001 (Amendment No 1)

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Schedule 1 Definitions

Insert at the end of the definition of *heritage item*:

, as amended by the maps, or specified sheets of maps, marked as follows:

Sheet 2 of the map marked "Marrickville Local Environmental Plan 2001 (Amendment No 1)"

[2] Schedule 2 Additional development

Insert at the end of Schedule 2 in Columns 1 and 2, respectively:

1-3 Coronation Avenue, Petersham	Development for residential purposes but only if:
Lot 1 DP 4012	(a) the floor space ratio of all
Lot 2 DP 4012	buildings on the land after the
Lot 3 DP 4012	development has been carried out
Part Lot 4 DP 4012	will not exceed 1.15:1, and
Part Lot 5 DP 4012	(b) the total number of dwellings on
Part Lot 6 DP 4012	the land does not exceed 109, and
Part Lot 7 DP 4012	(c) the uppermost habitable space of
Part Lot 8 DP 4012	any building on the land does not
Lot 1 DP 927536	project above an imaginary ceiling
Lot 1 DP 927545	above the land as specified on
Lot B DP 182453	sheet 3 of the map marked
Lot 1 DP 305709	"Marrickville Local Environmental
Lot C DP 182453	Plan (Amendment No 1)", and
Lot 1 DP 122209	(d) vehicle access to the land is from
Lot 1 DP 983521	both Coronation Avenue and
Part Lot 37/38 Bayswater Estate	McRae Street.
(as shown marked Residential 2C on	
sheet 1 of the map marked	
"Marrickville Local Environmental	
Plan 2001 (Amendment No 1)"	

Marrickville Local Environmental Plan 2001 (Amendment No 1)

Amendments

Schedule 1

[3] Schedule 5 Identification of heritage items

Insert in Part 1 under the heading “Hospitals” before the matter relating to West Street, Petersham:

- | | | | |
|---|-----|---|---|
| Coronation Avenue,
Petersham (Former
Eversleigh Hospital) | 1-3 | <ul style="list-style-type: none"> (a) original components of the main hospital building, (b) open space forecourt to main hospital building in the northeast corner of the site bounded by Addison Road and Coronation Avenue, (c) original components of the former Nurses’ Home, (d) open space garden forecourt between the east facade of the former Nurses’ Home and Coronation Avenue, | — |
|---|-----|---|---|
- as shown coloured yellow on sheet 2 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 1)”.

Port Stephens Local Environmental Plan 2000 (Amendment No 2)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(N01/00083/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Port Stephens Local Environmental Plan 2000 (Amendment No 2)

Port Stephens Local Environmental Plan 2000 (Amendment No 2)

1 Name of plan

This plan is *Port Stephens Local Environmental Plan 2000 (Amendment No 2)*.

2 Aims of plan

This plan aims to prohibit the carrying out of development for the purpose of bulky goods salesrooms or showrooms on land within the Rural Agricultural “A” Zone under *Port Stephens Local Environmental Plan 2000*.

3 Land to which plan applies

This plan applies to all land within the Rural Agricultural “A” Zone under *Port Stephens Local Environmental Plan 2000*.

4 Amendment of Port Stephens Local Environmental Plan 2000

Port Stephens Local Environmental Plan 2000 is amended by inserting in alphabetical order in Item 5 of the matter relating to Zone No 1 (a) in the development control table to clause 11 the following matter:

- bulky goods salesrooms or showrooms,

Singleton Local Environmental Plan 1996 (Amendment No 17)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(N99/00194/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Singleton Local Environmental Plan 1996 (Amendment No 17)

Singleton Local Environmental Plan 1996 (Amendment No 17)

1 Name of plan

This plan is *Singleton Local Environmental Plan 1996 (Amendment No 17)*.

2 Aim of plan

The aim of this plan is to identify a farm cottage at Broke, known as Albert Hall, as a heritage item of local significance under *Singleton Local Environmental Plan 1996*.

3 Land to which plan applies

This plan applies to Part Lot 59, DP 755270, Parish of Wollombi, Broke Road, Broke.

4 Amendment of Singleton Local Environmental Plan 1996

Singleton Local Environmental Plan 1996 is amended by inserting in alphabetical order in Part 3 of Schedule 3 under the heading "BROKE":

Broke Road
Albert Hall

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**SINGLETON LOCAL ENVIRONMENTAL PLAN 1996 (AMENDMENT No. 21)**

I, the Minister for Urban Affairs and Planning, in pursuance of Section 70 of the Environmental Planning and Assessment Act 1979, make the local environmental plan set out hereunder. (N00/00228/S69).

ANDREW REFSHAUGE MP
Minister for Urban Affairs and Planning.

Sydney, 23 August 2001.

Citation

1. This plan may be cited as Singleton Local Environmental Plan 1996 (Amendment No. 21).

Aims, objectives etc.

2. This plan aims to amend Singleton Local Environmental Plan 1996, to permit development for the purposes of a tile shop and motor showrooms on certain land within Zone 2 (the Residential Zone), subject to development consent, notwithstanding the provisions of the zone. The plan also aims to correct the reference to the clause number in Schedule 4 to Singleton Local Environmental Plan 1996.

Land to which plan applies

3. This plan applies to Lot 421 DP 618632, being No. 152 George Street, Singleton.

Relationship to other environmental planning instruments

4. This plan amends Singleton Local Environmental Plan 1996 in the manner set out in clause 5.

Amendment of Singleton Local Environmental Plan 1996

5. Singleton Local Environmental Plan 1996 is amended:
 - a) by omitting from Schedule 4 the matter "(Clause 36)" and by inserting instead the matter "(Clause 35)";
 - b) by inserting at the end of Schedule 4 the following matter:

Land being Lot 421, DP 618632, Parish of Whittingham, 152 George Street
Singleton – tile shop and motor showrooms.

Singleton Local Environmental Plan 1996 (Amendment No 25)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(N01/00078/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Singleton Local Environmental Plan 1996 (Amendment No 25)

Singleton Local Environmental Plan 1996 (Amendment No 25)

1 Name of plan

This plan is *Singleton Local Environmental Plan 1996 (Amendment No 25)*.

2 Aims of plan

This plan aims to rezone the land to which this plan applies to the Business Zone under *Singleton Local Environmental Plan 1996*.

3 Land to which plan applies

This plan applies to land situated within the local government area of Singleton, being Lots 2 and 3, DP 783092 and Lot B, DP 758906, Parish of Whittingham and County of Northumberland, and fronting Argyle and Harriett Streets, Singleton, as shown edged heavy black and lettered "3" on the map marked "Singleton Local Environmental Plan 1996 (Amendment No 25)" deposited in the office of Singleton Shire Council.

4 Amendment of Singleton Local Environmental Plan 1996

Singleton Local Environmental Plan 1996 is amended by inserting in appropriate order in the definition of *the map* in clause 9 (1) the following words:

Singleton Local Environmental Plan 1996 (Amendment No 25)

Warringah Local Environmental Plan 2000 (Land Reclassifications)— (Amendment No 2)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(S99/01446/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Warringah Local Environmental Plan 2000 (Land Reclassifications)—
(Amendment No 2)

Warringah Local Environmental Plan 2000 (Land Reclassifications)—(Amendment No 2)

1 Name of plan

This plan is *Warringah Local Environmental Plan 2000 (Land Reclassifications)—(Amendment No 2)*.

2 Aims of plan

This plan aims to reclassify public land from community land to operational land within the meaning of the *Local Government Act 1993*.

3 Land to which plan applies

This plan applies to land as listed in Schedule 1.

4 Amendment of Warringah Local Environmental Plan 2000 (Land Reclassifications)

Warringah Local Environmental Plan 2000 (Land Reclassifications) is amended as set out in Schedule 1.

Warringah Local Environmental Plan 2000 (Land Reclassifications)—
(Amendment No 2)

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 4)

Schedule 1 Reclassification of public land as operational land

Insert in alphabetical order of suburb:

Cromer Fisher Road North	So much of Lot 61, DP 869675 as is shown edged heavy black on Sheet 6 of the map marked “Warringah Local Environmental Plan 2000 (Land Reclassifications)”— <i>Warringah Local Environmental Plan 2000 (Land Reclassifications)—(Amendment No 2).</i>	Nil
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Wentworth Local Environmental Plan 1993 (Amendment No 10)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(S98/01472/PC)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Wentworth Local Environmental Plan 1993 (Amendment No 10)

Wentworth Local Environmental Plan 1993 (Amendment No 10)

1 Name of plan

This plan is *Wentworth Local Environmental Plan 1993 (Amendment No 10)*.

2 Aims of plan

This plan aims:

- (a) to allow development that is permissible in the Village or Urban Zone to be carried out with the consent of Wentworth Shire Council on certain lands within Buronga and Gol Gol within two years of this plan being made, and
- (b) to rezone certain land within Buronga and Gol Gol from the General Rural Zone and the Future Urban Zone to the Village or Urban Zone.

3 Land to which plan applies

This plan applies to land shown edged heavy black and diagonally hatched on the maps marked “Wentworth Local Environmental Plan 1993 (Amendment No 10)” deposited at the office of Wentworth Shire Council.

4 Amendment of Wentworth Local Environmental Plan 1993

The *Wentworth Local Environmental Plan 1993* is amended as set out in Schedule 1.

Wentworth Local Environmental Plan 1993 (Amendment No 10)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 Definitions

Insert at the end of the definition of *the map* in clause 5 (1):

Wentworth Local Environmental Plan 1993 (Amendment No 10)—Sheet 2 of 2.

[2] Clause 17E

Insert after clause 17D:

17E Development of certain land within Zone No 1 (d)—Buronga and Gol Gol

- (1) This clause applies to land, being Lot 6, DP 822090, Lot 3, DP 878007, Lot 198, DP 756946, Lot 1, DP 874274, Lots 1 and 2, DP 1005470, Lot 1, DP 848480 and Lot 1 DP 846062, Parish of Gol Gol, County of Wentworth, as shown edged heavy black and diagonally hatched on the map marked “Wentworth Local Environmental Plan 1993 (Amendment No 10)—Sheet 1 of 2”.
- (2) Notwithstanding clause 16, development that may be carried out on land within Zone No 2 (v) (with or without the consent of the Council) may be carried out with the consent of the Council on land to which this clause applies.
- (3) The Council is not to grant consent to such development on Lot 1, DP 846062 unless it is satisfied that the proposed development and the density of the proposed development are appropriate after giving consideration to the flood prone nature of the land.
- (4) This clause does not apply so as to allow any development that has not substantially commenced within 2 years after the commencement of this clause.

Wollondilly Local Environmental Plan 1991 (Amendment No 47)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(P01/00093/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Wollondilly Local Environmental Plan 1991 (Amendment No 47)

Wollondilly Local Environmental Plan 1991 (Amendment No 47)

1 Name of plan

This plan is *Wollondilly Local Environmental Plan 1991 (Amendment No 47)*.

2 Aims of plan

This plan aims to permit plant and hire equipment with the consent of Wollondilly Shire Council on land within Zone No 3 (a) (the Business Zone) or Zone No 4 (a) (the Industrial Zone) under *Wollondilly Local Environmental Plan 1991*.

3 Land to which plan applies

This plan applies to all land within the local government area of Wollondilly under *Wollondilly Local Environmental Plan 1991*.

4 Amendment of Wollondilly Local Environmental Plan 1991

Wollondilly Local Environmental Plan 1991 is amended:

- (a) by inserting in alphabetical order in clause 6 (1) the following definition:

plant and equipment hire means a building or place used to hire out tools, plant and equipment used by builders and do-it-yourselfers and for the service and maintenance of the tools, plant and equipment. It includes a building or place used for the hire of party/function equipment which requires a large area for handling and storage and easy and direct vehicular access for collection of party/function hire equipment by customers.

- (b) by inserting in alphabetical order in Item 4 of the matter relating to Zones Nos 1 (a), 1 (a1), 1 (a2), 1 (a3), 1 (b), 1 (c1) (i), 1 (c1) (ii), 1 (c1) (iii), 1 (c2), 2 (a), 2 (d), 4 (c), 7 (c) and 7 (d) in the Table to clause 10 the words "plant and equipment hire;".

Wyong Local Environmental Plan 1991 (Amendment No 133)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(N01/00014/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Wyong Local Environmental Plan 1991 (Amendment No 133)

Wyong Local Environmental Plan 1991 (Amendment No 133)

1 Name of plan

This plan is *Wyong Local Environmental Plan 1991 (Amendment No 133)*.

2 Aims of plan

This plan aims to enable legitimate boundary adjustments in rural areas to be approved where certain criteria are met.

3 Land to which plan applies

This plan applies to land within Wyong local government area.

4 Amendment of Wyong Local Environmental Plan 1991

Wyong Local Environmental Plan 1991 is amended as set out in Schedule 1.

Wyong Local Environmental Plan 1991 (Amendment No 133)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 13 Subdivision of land—generally

Insert after clause 13 (2):

- (3) Notwithstanding any other provisions of this plan, including the provisions of clause 14, the Council may consent to a subdivision of land for the purposes of a minor adjustment of the boundary between two lots provided that:
 - (a) the configuration of the allotments remains substantially the same, and
 - (b) the area of each allotment proposed is varied by no more than 10 per cent, and
 - (c) the Council is satisfied that the boundary adjustment is necessary in the circumstances of the case.
- (4) A subdivision under subclause (3) may include land which is partly within one zone and partly within another zone.

[2] Clause 15

Omit the clause.

Young Local Environmental Plan 1991—Urban Lands (Amendment No 20)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(Q00/00028/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Young Local Environmental Plan 1991—Urban Lands (Amendment No 20)

Young Local Environmental Plan 1991—Urban Lands (Amendment No 20)

1 Name of plan

This plan is *Young Local Environmental Plan 1991—Urban Lands (Amendment No 20)*.

2 Aims of plan

This plan aims to provide for additional development standards for exempt and complying development on land in the local government area of Young to which *Young Local Environmental Plan 1991—Urban Lands* applies.

3 Land to which plan applies

This plan applies to all land within the local government area of Young to which *Young Local Environmental Plan 1991—Urban Lands* applies.

4 Amendment of Young Local Environmental Plan 1991—Urban Lands

Young Local Environmental Plan 1991—Urban Lands is amended by omitting from clause 9A the matter “22 September 1999” wherever occurring and by inserting instead the matter “15 August 2001”.

Young Local Environmental Rural Plan 1993 (Amendment No 12)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(Q00/00027/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Clause 1 Young Local Environmental Rural Plan 1993 (Amendment No 12)

Young Local Environmental Rural Plan 1993 (Amendment No 12)

1 Name of plan

This plan is *Young Local Environmental Rural Plan 1993 (Amendment No 12)*.

2 Aims of plan

This plan aims to provide for additional development standards for exempt and complying development on land in the local government area of Young to which *Young Local Environmental Rural Plan 1993* applies.

3 Land to which plan applies

This plan applies to all land within the local government area of Young to which *Young Local Environmental Rural Plan 1993* applies.

4 Amendment of Young Local Environmental Rural Plan 1993

Young Local Environmental Rural Plan 1993 is amended by omitting from clause 9A the matter “22 September 1999” wherever occurring and by inserting instead the matter “15 August 2001”.

Roads and Traffic Authority

Roads Act 1993

Notice under Clause 17 of the Road Transport (Mass, Loading and Access) Regulation, 1996

Murrurundi Shire Council, in pursuance of Division 2 of Part 3 of the *Road Transport (Mass, Loading and Access) Regulation 1996*, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

Mr J.J. Griffiths
General Manager
Murrurundi Shire Council
 (by delegation from the Minister for Roads)

Schedule

1. **Citation**

This Notice may be cited as the Murrurundi Shire Council B-Doubles Notice No 1 2001

2. **Commencement**

This Notice takes effect on the date of gazettal.

3. **Effect**

This Notice remains in force until 5 years unless it is amended or repealed earlier.

4. **Application**

4.1 This Notice applies to B-Doubles which comply with Schedule 1 to the Road Transport (Mass, Loading and Access) regulation 1996 and Schedule 4 to the Road Transport (Vehicle Registration) Regulation 1998.

5. **Routes**

B-Double routes within the Murrurundi Shire (name) Council

Type	Road No	Road Name	Starting point	Finishing point	Conditions
25	29	Kamilaroi Highway	New England Highway (SH9), Willow Tree	Oxley Highway (SH11), Gunnedah	
25	9	New England Highway	Pacific Highway (SH10), Hexam	N.S.W/QLD border at Wallangarra	

25	358	Willow Tree to Merriwa Road	New England Highway at Willow Tree	Millers Creek Property access	
25	000	Blackville Road, West of Willow Tree	MR358 – Willow Tree to Merriwa Road	Boundary with Qurindi Shire	
25	000	Little Jacks Creek Road, West of Willow Tree	MR358 – Willow Tree to Merriwa Road	End of Carriageway	
25	000	Warrah Creek Road, West of Willow Tree	MR358 – Willow Tree to Merriwa Road	Parraweena Highlands Property access	
25	000	Warrah Ridge Road, West of Willow Tree	MR358 – Willow Tree to Merriwa Road	Boundary with Qurindi Shire	
25	000	McDonalds Creek Road, West of Willow Tree	Blackville Road	Glasston Road	
25	000	Cattle Creek Road, West of Willow Tree	Blackville Road	Phillips Creek Road	

Roads Act 1993

Notice under Clause 17 of the Road Transport (Mass, Loading and Access) Regulation, 1996

Grafton City Council, in pursuance of Division 2 of Part 3 of the *Road Transport (Mass, Loading and Access) Regulation 1996*, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

Ray Smith
General Manager
Grafton City Council
 (by delegation from the Minister for Roads)

Schedule

1. Citation

This Notice may be cited as the Grafton City Council B-Doubles Notice No 2001/3.

2. Commencement

This Notice takes effect from date of gazettal.

3. Effect

This Notice remains in force until August 2005 unless it is amended or repealed earlier.

4. Application

4.1 This Notice applies to B-Doubles which comply with Schedule 1 to the Road Transport (Mass, Loading and Access) regulation 1996 and Schedule 4 to the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

B-Double routes within the Grafton City Council (Local road System)

Type	Road No	Road Name	Starting point	Finishing point	Conditions
25m	Local	Armidale Road, Grafton	Grafton Abattoirs	Lilypool Road	NIL
25m	Local	Lilypool Road, Grafton	Armidale Road	Swallow Road	NIL
25m	Local	Swallow Road, Grafton	Tyson Street	Lilypool Road	NIL
25m	Local	Tyson Street, Grafton	Pacific Highway	Swallow Road	NIL

ROADS ACT 1993

Order - Section 67

Wingecarribee Shire Council area

Removal of a specified point of access to or from the South
Western Freeway at Chalkerville Road
at Aylmerton.

I, the Minister for Roads, hereby amend the Order notified in
Government Gazette No 43 of 29 April 1977 on page 1614
by removing the specified point of access shown in Schedule
2 of the said Order between points N and A shown on Sheet
1 of Deposited Plan 245418, those point also being shown on
RTA Plan 6005 495 AC 0380.

CARL SCULLY, MP.,
Minister for Roads

(RTA Papers F5/495.1113)

Sydney Water

SEWER MAINS

SYDNEY WATER

Sewer Mains

NOTICE is hereby given that sewer mains as described below and shown on plans which may be inspected at the Office shown below and at the Head Office of Sydney Water Corporation, have been laid and are available for connection.

Notice is also given that, in the opinion of Sydney Water, for the identified properties on the plans, it is reasonably practical for sewerage to be discharged.

CITY OF BLACKTOWN, at ROOTY HILL: Contract No. 969238S4. Project No. 3001641. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving LISTER PLACE and SPENCER STREET.

CITY OF BLACKTOWN, at EASTERN CREEK: Contract No. 967681SB. Project No. 3002139. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving GREAT WESTERN HIGHWAY and BRABHAM DRIVE.

CITY OF BLUE MOUNTAINS, at BLACKHEATH: Contract No. 412024F1. Project No. 362043. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving CONNAUGHT ROAD, HILLIER AVENUE and GOVETTS LEAP ROAD.

CITY OF PENRITH, at PENRITH: Contract No. 969051S3. Project No. 3001477. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving NEPEAN AVENUE and OLD FERRY ROAD.

CITY OF PENRITH, at PENRITH: Contract No. 974597S1. Project No. 3002387. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving VICTORY STREET and JAMISON ROAD.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being identified properties on the plans will be liable for payment of sewerage service charges on and from the date of publication of this notice.

ROBERT ROACH,
Developer Activity Officer,
Blacktown Commercial Centre.

Dated: 31 August 2001.

SYDNEY WATER

Sewer Mains

NOTICE is hereby given that sewer mains as described below and shown on plans which may be inspected at the Office shown below and at the Head Office of Sydney Water Corporation, have been laid and are available for connections.

Notice is also given that, in the opinion of Sydney Water, for the identified properties on the plans, it is reasonably practicable for sewage to be discharged.

CITY/MUNICIPALITY OF HORNSBY, at EPPING: Contract No. 972748SA. Project No. 3002027. Line 1 and Property Connection Line 1 inclusive and their appurtenant junctions, sidelines and inlets serving MALTON ROAD.

CITY/MUNICIPALITY OF PITTWATER, at WARRIEWOOD: Contract No. 972568S8. Project No. 3001691. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving PROSPERITY PARADE.

CITY/MUNICIPALITY OF RYDE, at MARSFIELD: Contract No. 972342S0. Project No. 3001441. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving MAWARRA CRESCENT.

CITY/MUNICIPALITY OF PARRAMATTA, at WENTWORTHVILLE: Contract No. 974192S8. Project No. 3002283. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving FULTON AVENUE.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being the identified properties on the plans will be liable for payment of sewage charges on and from the date of this publication of this notice.

MARTHA AMADOR,
Developer Activity Officer,
Chatswood.

Dated: Sydney, 31 August 2001.

SYDNEY WATER

Sewer Mains

NOTICE is hereby given that sewer mains as described below and shown on plans which may be inspected at the Office shown below and at the head Office of Sydney Water Corporation, have been laid and are available for connection.

Notice is also given that, in the opinion of Sydney Water, for the identified properties on the plans, it is reasonably practical for sewerage to be discharged.

CITY OF WOLLONGONG, at CORRIMAL: Contract No. 958785S1. Project No. 390460. Sideline 1 inclusive and its appurtenant junctions, sidelines and inlets serving LAKE PARADE.

CITY OF SHELLHARBOUR, at ALBION PARK (Woodbridge Estate Stage 3A): Contract No. 970586S6. Project No. 3002302. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving DRYSDALE ROAD.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being identified properties on the plans will be liable for payment of sewerage service charges on and from the date of connection to these mains.

MARGARET McTAINSH,
Developer Activity Officer,
Illawarra Region.

Dated: 31 August 2001.

SYDNEY WATER

Sewer Mains

NOTICE is hereby given that sewer mains as described below and shown on plans which may be inspected at the Office shown below and at the head Office of Sydney Water Corporation have been laid and are available for connection.

Notice is also given that, in the opinion of Sydney Water, for the identified properties on the plans, it is reasonably practical for sewerage to be discharged.

THE COUNCIL OF CAMDEN, at SMEATON GRANGE: Contract No. 970958S2. Project No. 3001705. Line 1-5 inclusive and their appurtenant junctions, sidelines and inlets serving ANZAC AVENUE and ANDERSON ROAD.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being identified properties on the plans will be liable for payment of sewerage service charges on and from the date of publication of this notice.

MITCHELL HOFFMANN,
Developer Activity Officer,
Urban Development,
Liverpool Regional Office.

Dated: 31 August 2001.

SYDNEY WATER

Sewer Mains

NOTICE is hereby given that sewer mains as described below and shown on plans which may be inspected at the Office shown below and at the head Office of Sydney Water Corporation, have been laid and are available for connection.

Notice is also given that, in the opinion of Sydney Water, for the identified properties on the plans, it is reasonably practical for sewerage to be discharged.

CITY OF LIVERPOOL, at LURNEA: Contract No. 9719346S2. Project No. 3002348. Property Connection Sewer Line 1 inclusive and its appurtenant junctions serving WHEELER AVENUE.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being identified properties on the plans will be liable for payment of sewerage service charges on and from the date of publication of this notice.

VALDIS VIKSNE,
Developer Activity Officer,
Liverpool Commercial Centre.

Dated: 31 August 2001.

SYDNEY WATER

Sewer Mains

NOTICE is hereby given that sewer mains as described below and shown on plans which may be inspected at the Office shown below and at the head Office of Sydney Water Corporation have been laid and are available for connection.

Notice is also given that, in the opinion of Sydney Water, for the identified properties on the plans, it is reasonably practical for sewerage to be discharged.

CITY OF CAMPBELLTOWN, at INGLEBURN: Contract No. 971114S6. Project No. 3002254. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving WOLSELEY PLACE.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being identified properties on the plans will be liable for payment of sewerage service charges on and from the date of publication of this notice.

MITKO BALALOVSKI,
Developer Activity Officer,
Urban Development,
Liverpool Regional Office.

Dated: 31 August 2001.

SYDNEY WATER

Sewer Mains

NOTICE is hereby given that sewer mains as described below and shown on plans which may be inspected at the Office shown below and at the head Office of Sydney Water Corporation, have been laid and are available for connection.

Notice is also given that, in the opinion of Sydney Water, for the identified properties on the plans, it is reasonably practical for sewerage to be discharged.

CITY OF LIVERPOOL, at HORNINGSEA PARK: Contract No. 971930S6. Project No. 3002368. Line 1 inclusive and its appurtenant junctions, sidelines and inlets serving TABLETOP CIRCUIT.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being identified properties on the plans will be liable for payment of sewerage service charges on and from the date of publication of this notice.

KEVIN HASTIE,
Developer Activity Officer,
Liverpool Commercial Centre.

Dated: 30 August 2001.

WATER MAINS**SYDNEY WATER**

Water Mains

NOTICE is hereby given that water mains as described below and shown on plans which may be inspected at the Office shown below and at the Head Office of Sydney Water Corporation, have been laid and are available for connection.

Notice is also given, that in the opinion of Sydney Water, for the identified properties on plans, it is reasonably practical for water to be supplied.

CITY OF BLACKTOWN, at ROOTY HILL: Contract No. 969238W8. Project No. 1000717. Water mains are now laid and capable of serving identified properties in LISTER PLACE and SPENCER STREET.

Subject to the provisions of the Water Board Act 1994, the owners of all lands being identified properties on plans will become liable for payment of water charges on and from the date of publication of this notice.

ROBERT ROACH,
Developer Activity Officer,
Blacktown Commercial Centre.

Dated: 31 August 2001.

SYDNEY WATER

Water Mains

ERRATUM

THE following appeared in *Government Gazette* for the 31 August 2001:

CITY/MUNICIPALITY OF PITTWATER, at WARRIEWOOD: Contract No. 972331W0. Project No. 1000736. Water mains are now laid and capable of serving identified properties in PROSPERITY PARADE.

This should have read:

CITY/MUNICIPALITY OF PITTWATER, at WARRIEWOOD: Contract No. 972330W0. Project No. 1000736. Water mains are now laid and capable of serving identified properties in PROSPERITY PARADE.

MARTHA AMADOR,
Developer Activity Officer,
Chatswood.

Dated: Sydney, 31 August 2000.

SYDNEY WATER

Water Mains

NOTICE is hereby given that water mains as described below and shown on plans which may be inspected at the Regional Office shown below and at the Head Office of Sydney Water Corporation, have been laid and are available for connections.

Notice is also given that, in the opinion of Sydney Water, for the identified properties on the plans, it is reasonably practicable for water to be supplied.

CITY/MUNICIPALITY OF PITTWATER, at WARRIEWOOD: Contract No. 972331W0. Project No. 1000736. Water mains are now laid and capable of serving identified properties in PROSPERITY PARADE.

CITY/MUNICIPALITY OF WILLOUGHBY, at ST LEONARDS: Contract No. 969907WA. Project No. 1000625. Water mains are now laid and capable of serving identified properties in PACIFIC HIGHWAY.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being the identified properties on the plans will become liable for payment of water charges on and from the date of publication of this notice.

MARTHA AMADOR,
Developer Activity Officer,
Chatswood.

Dated: Sydney, 31 August 2000.

SYDNEY WATER

Water Mains

NOTICE is hereby given that water mains as described below and shown on plans which may be inspected at the Office shown below and at the head Office of Sydney Water Corporation have been laid and are available for connection.

Notice is also given, that in the opinion of Sydney Water, for the identified properties on plans, it is reasonably practical for water to be supplied.

THE COUNCIL OF CAMDEN, at SMEATON GRANGE: Contract No. 970958W6. Project No. 1000742. Water mains are now laid and capable of serving identified properties in ANZAC AVENUE and ANDERSON ROAD.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being identified properties on plans will become liable for payment of water charges on and from the date of publication of this notice.

MITCHELL HOFFMANN,
Developer Activity Officer,
Urban Development,
Liverpool Regional Office.

Dated: 31 August 2001.

SYDNEY WATER

Water Mains

NOTICE is hereby given that water mains as described below and shown on plans which may be inspected at the Office shown below and at the head Office of Sydney Water Corporation have been laid and are available for connection.

Notice is also given, that in the opinion of Sydney Water, for the identified properties on plans, it is reasonably practical for water to be supplied.

CITY OF CAMPBELLTOWN, at INGLEBURN: Contract No. 971114 WA. Project No. 1001003. Water mains are now laid and capable of serving identified properties in WOLSELEY PLACE.

Subject to the provisions of the Sydney Water Act 1994, the owners of all lands being identified properties on plans will become liable for payment of water charges on and from the date of publication of this notice.

MITKO BALALOVSKI,
Developer Activity Officer,
Urban Development,
Liverpool Regional Office.

Dated: 31 August 2001.

Other Notices

CHARITABLE TRUSTS ACT 1993

NOTICE UNDER SECTION 15

PROPOSED CY-PRES SCHEME RELATING TO THE ESTATE OF THE LATE CONSTANCE JANET WILCOX

THE deceased, Constance Janet Wilcox, died on 12 October 1989. In her will dated 8 June 1982, for which probate was granted on 29 January 1990, the testatrix made the following bequest of the balance of her residuary estate on trust:

'...to pay and transfer the same equally between the Multiple Sclerosis Society of New South Wales for the purposes of that Society and the Australian Arthritis and Rheumatism Foundation for research into arthritic and rheumatic diseases'.

This gift is the basis of an application for a cy-pres scheme. There has never been an organisation named 'the Australian Arthritis and Rheumatism Foundation'. There is currently in existence a body known as 'The Arthritis Foundation of New South Wales' which, in 1982 when the will was made, was known as 'The Arthritis and Rheumatism Council'. In 1985 that organisation's name was changed to 'The Arthritis Foundation of Australia (NSW)' and changed again to its present name in 1991. The Arthritis Foundation of New South Wales is the only charity actively working in New South Wales to assist people with arthritis.

The Solicitor General, under delegation from the Attorney General in and for the State of New South Wales, has formed the view that the gift to the Australian Arthritis and Rheumatism Foundation in the testatrix's will is a gift for charitable purposes, and has approved a recommendation that the Attorney General establish a cy-pres scheme pursuant to section 12(1)(a) of the *Charitable Trusts Act 1993*.

The scheme is to be applied to give effect to the gift cy-pres to be held on trust and applied to the benefit of the Arthritis Foundation of New South Wales.

Take note that within one month after the publication of this notice any person may make representations or suggestions to the Attorney General in respect of the proposed scheme.

A copy of the proposed scheme may be inspected, by appointment, during business hours at Level 9, Goodsell Building, 8-12 Chifley Square, Sydney. Please telephone 9228-7883 for an appointment.

W. GRANT,
Deputy Director General
Attorney General's Department

CHILD PROTECTION (OFFENDERS REGISTRATION) REGULATION 2001

REGULATORY IMPACT STATEMENT

THE New South Wales Government intends to make the above Regulation.

The object of the Regulation is to support the effective operation of the *Child Protection (Offenders Registration) Act 2000*, as amended by the *Child Protection (Offenders Registration) Amendment Act 2001*, principally by:

- specifying which public authorities are responsible for notifying relevant offenders of their obligations under the Act;
- specifying some of the content of notices given under the Act, and the manner in which those notices may be given;
- providing additional support to relevant offenders who are children or forensic patients, or who have a disability or other special needs; and
- requiring relevant offenders, and persons giving information to police on their behalf, to satisfy police as to their identity.

Public comment is sought on the terms of the proposed Regulation. Copies of the Acts, the proposed Regulation and the accompanying Regulatory Impact Statement can be obtained from the Ministry for Police on (02) 9339 0600 from 9 a.m. to 5 p.m., Monday to Friday.

Comments should be provided in writing and posted to the following address by 24 September 2001:

*The Director General
Ministry for Police
Box 45, GPO
SYDNEY NSW 2001*

DISTRICT COURT OF NEW SOUTH WALES

DIRECTION

PURSUANT to section 173 of the District Court Act 1973, I direct that the District Court shall sit in its criminal jurisdiction at the place and time shown as follows:

Taree, 10.00 a.m., 29 January 2002 (6 weeks)

in lieu of 18 February (3 weeks)

Dated this 28th day of August 2001.

R. O. BLANCH,
Chief Judge

ERRATUM

THE following Erratum Notice which appeared in the *Government Gazette* No. 129 on the 24 August 2001 pages 6527 to 6529, was published in a incorrect sequence. The Erratum Notice is now republished in full to correct this error.

**ELECTRICITY SUPPLY ACT 1995
LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

TRANSGRID

IT is hereby notified as follows:

1. On 8th August 2001, Her Excellency the Governor signed Executive Council Minute No. 31 dated 7th August 2001, and thereby approved the declaration by TransGrid of the acquisition by it of the interests (hereinafter called "certain interests") described in the form of notice attached to the Minute, by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Electricity Supply Act 1995.
2. On 15th August 2001, with the approval of the Governor, TransGrid, by Notice of Compulsory Acquisition of Easement signed by me as TransGrid's delegate, declared that certain interests were acquired by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Electricity Supply Act 1995.
3. The notice signed on 15th August 2001 by me as TransGrid's delegate was published on page 6102 of the *Government Gazette* of 17th August 2001.
4. On 22nd August 2001, the Governor, by signing Executive Council Minute No. 33 of 22nd August 2001 :
first, revoked the approval which she had given on 8th August 2001 (by her signing of Executive Council Minute No. 31 dated 7th August 2001) for TransGrid's acquisition by compulsory process of certain interests; and
second, approved the declaration by TransGrid of the acquisition by it of the interests described in the Minute (hereinafter called "the amended interests") by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Electricity Supply Act 1995.
5. On 23rd August 2001, with the approval of the Governor, TransGrid, by Notice of Compulsory Acquisition of Easement signed by me as TransGrid's delegate, declared that the amended interests were acquired by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Electricity Supply Act 1995.
6. The notice signed on 23rd August 2001 by me as TransGrid's delegate is published below in this edition of the *Government Gazette*.

Dated at Sydney, this 23rd day of August 2001.

JOSEPH PETER ZAHRA,
Manager/Corporate,
TransGrid.

**ELECTRICITY SUPPLY ACT 1995
LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

TRANSGRID

Notice of Compulsory Acquisition of Easements

TRANSGRID, by its delegate Joseph Peter ZAHRA, declares, with the approval of Her Excellency the Governor, that the interest/interests described in Schedule 1 to this notice in the land described in Schedule 2 to this notice is/are acquired by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Electricity Supply Act 1995.

Dated at Sydney, this 23rd day of August, 2001.

J. P. ZAHRA,
Manager/Corporate.

SCHEDULE 1

Easement rights as described under the heading "3 Easement for access" in Memorandum No.7753746 filed in the Land Titles Office pursuant to Section 80A of the Real Property Act, 1900.

SCHEDULE 2

All that piece or parcel of land situate in the Local Government Area of Nambucca, Parish of Valley Valley and County of Raleigh being that part of Lot 4, Deposited Plan 864043 (F.I. 4/864043), comprised within the site of the proposed easement for access 10 metres wide and that part of Lot 4, Deposited Plan 864043 (F.I. 4/864043), comprised within the site of the proposed easement for access over track in use as shown in Deposited Plan 1018279 and said to be in the possession of A R & L L Waddell. (P.50207)

**ELECTRICITY SUPPLY ACT 1995
LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

TRANSGRID

Notice of Compulsory Acquisition of Easement

TRANSGRID, by its delegate Joseph Peter ZAHRA, declares, with the approval of Her Excellency the Governor, that the interest/interests described in Schedule 1 to this notice in the land described in Schedule 2 to this notice is/are acquired by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Electricity Supply Act 1995.

Dated at Sydney, this 23rd day of August, 2001.

J. P. ZAHRA,
Manager/Corporate.

SCHEDULE 1

Easement rights as described under the heading "1 Easement for overhead electricity transmission line" in Memorandum No.7314519D filed in the Land Titles Office pursuant to Section 80A of the Real Property Act, 1900.

SCHEDULE 2

All that piece or parcel of Crown land situate in the Local Government Area of Nambucca, Parish of Valley Valley and County of Raleigh being that part of the reserved road 20.115 metres wide separating Lot 1, Deposited Plan 835277 from Lot 19, Deposited Plan 755560, that part of Lot 3, Deposited Plan 704275 (closed road) and that part of the bed of Deep Creek separating Lot 4, Deposited Plan 723048 from Lot 59, Deposited Plan 755560, comprised within the site of the proposed easement for transmission line 45 metres wide as shown in Deposited Plan 1008558. (P. 50180)

Also, all that piece or parcel of Crown land situate in the Local Government Area of Bellingen, Parish of Newry and County of Raleigh being that part of Travelling Stock Reserve 17481 and that part of the bed of Dalhousie Creek, comprised within the site of the proposed easement for transmission line 45 metres wide and variable width as shown in Deposited Plan 1009105. (P. 50181)

Also, all that piece or parcel of Crown land situate in the Local Government Area of Bellingen, Parish of Newry and County of Raleigh being that part of the road 20.115 metres wide separating Lot 236, Deposited Plan 755552 and a northern side of the Pacific Highway from Lot 29, Deposited Plan 755552 and that part of the bed of the Kalang River separating Lot 26, Deposited Plan 755552 from Lot 70 of that plan, comprised within the site of the proposed easement for transmission line 45 metres wide and variable width as shown in Deposited Plan 1014476. (P.50189)

And also, all that piece or parcel of Crown land situate in the Local Government Area of Bellingen, Parish of South Bellingen and County of Raleigh being that part of the bed of the Kalang River separating Lots 24 and 25, Deposited Plan 749731 from Lots 23 and 24, Deposited Plan 847318, comprised within the site of the proposed easement for transmission line 30 metres wide and variable width as shown in Deposited Plan 1005430. (P.50155/1 & 2) (File PS/1085).

ELECTRICITY SUPPLY ACT 1995**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991****TRANSGRID**

Notice of Compulsory Acquisition of Easement

TRANSGRID, by its delegate Joseph Peter ZAHRA, declares, with the approval of Her Excellency the Governor, that the interest/interests described in Schedule 1 to this notice in the land described in Schedule 2 to this notice is/are acquired by compulsory process under the Land Acquisition (Just Terms Compensation) Act, 1991 for the purposes of the Electricity Supply Act, 1995.

Dated at Sydney, this 23rd day of August, 2001 .

J. P. ZAHRA,
Manager/Corporate.

SCHEDULE 1

Easement rights as described under the heading "1 Easement for overhead electricity transmission line" in Memorandum No.7314519D filed in the Land Titles Office pursuant to Section 80A of the Real Property Act, 1900.

SCHEDULE 2

All that piece or parcel of land situate in the Local Government Area of Nambucca, Parish of Valley Valley and County of Raleigh being that part of Lot 11, Deposited Plan 1017930 (F.I.11/1017930), comprised within the site of the proposed easement for transmission line 45 metres wide as shown in Deposited Plan 1019158 and said to be in the possession of G. K and M. Silvia. (P.50206)

Also, all that piece or parcel of land situate in the Local Government Area of Nambucca, Parish of Valley Valley and County of Raleigh being that part of Lot 1, Deposited Plan 835277, now known as Lot 11, Deposited Plan 1017930 (F.I.11/1017930), that part of Lot 19, Deposited Plan 755560 (F.I. 19/755560), that part of Lot 832, Deposited Plan 736673 (F.I. 832/736673), that part of Lot 21, Deposited Plan 585768 (F.I. 21/585768), that part of Lot 101, Deposited Plan 825215 (F.I. 101/825215), that part of Lot 26, Deposited Plan 755560 (F.I. 26/755560), that part of Lot 4, Deposited Plan 723048 (F.I. 4/723048), that part of Lot 59, Deposited Plan 755560 (F.I. 59/755560), that part of Lot 2, Deposited Plan 872699 (F.I. 2/872699) and that part of Lot 105, Deposited Plan 614977 (F.I. 105 / 614977), comprised within the site of the proposed easement for transmission line 45 metres wide and variable width as shown in Deposited Plan 1008558 and said to be in the possession of the Estate of R.A. Welsh, D.J. and M.A. Donoghue and others. (P. 50180)

Also, all that piece or parcel of land situate in the Local Government Area of Nambucca, Parishes of Valley Valley and Newry and County of Raleigh being that part of Lot 4, Deposited Plan 864043 (F.I. 4/864043), that part of Lot 2, Deposited Plan 572926 (F.I. 2/572926), that part of Lots 6 and 7, Deposited Plan 872834 (F.I.'s 6 & 7/872834), that part of Lot 4, Deposited Plan 856438 (F.I. 4/856438) and that part of Lot 178, Deposited Plan 755552 (F.I. 178/755552), comprised within the site of the proposed easement for transmission line 45 metres wide as shown in Deposited Plan 1005401 and said to be in the possession of A.R. & L.L. Waddell., T.J. & J.A. Nelson and others. (P.50154)

FORESTRY ACT 1916

PROCLAMATION

(L.S.) MARIE BASHIR, Governor

I, Professor MARIE BASHIR AC, Governor of the State of New South Wales in pursuance of the provisions of the Forestry Act 1916, and with the advice of the Executive Council, do, by this my Proclamation, declare that the land described in the Schedule hereto is dedicated as a State Forest.

Signed and sealed at Sydney, this 22nd day of August, 2001.

By Her Excellency's Command,

KIM YEADON, M.P.,
Minister for Forestry

GOD SAVE THE QUEEN!

SCHEDULE
EASTERN DIVISION

Land District Of Casino; Kyogle Council Area;
North East Forestry Region

Eden Creek State Forest No. 1013, No. 8 Extension. An area of about 596 hectares in the Parish of Dyraaba County of Rous, being the land within Portions 32, 33 and 34 delineated on plan catalogued 1200 – 1759 in the Department of Information Technology and Management, Sydney, TOGETHER WITH the land within Lot 15 in Deposited Plan 112824, Lot 113 in Deposited Plan 135068, Lot 4 in Deposited Plan 878572 and Lots 13 and 15 in Deposited Plan 883421. (52819)

FORESTRY ACT 1916
PROCLAMATION

(L.S.) MARIE BASHIR, Governor

I, Professor MARIE BASHIR AC, Governor of the State of New South Wales in pursuance of the provisions of the Forestry Act 1916, and with the advice of the Executive Council, do, by this my Proclamation, declare that the land described in the Schedule hereto is dedicated as a State Forest.

Signed and sealed at Sydney, this 22nd day of August, 2001.

By Her Excellency's Command,

KIM YEADON, M.P.,
Minister for Forestry

GOD SAVE THE QUEEN!

SCHEDULE
EASTERN DIVISION

Land District Of Lithgow; Oberon Council Area;
Macquarie Forestry Region

Vulcan State Forest No. 621, No. 43 Extension. An area of about 401.5 hectares in the Parish of Garrnyian, County of Georgiana, being the land within Lot 1 in Deposited Plan 860427 and Portion 74 delineated on plan catalogued 6693-1506 in the Department of Information, Technology and Management, Sydney. (37814)

GEOGRAPHICAL NAMES ACT 1966

Notice Of Proposal To Amend A Locality Boundary
Within Nambucca Shire

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to amend the boundary between Talarm and South Arm, increasing the extent of Talarm as shown on map GNB3791/A. The map may be viewed at Nambucca Shire Council Chambers, Macksville Library and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

Any person objecting to this proposal may within one (1) month of the date of this notice, give to the Secretary of the Board notice in writing of the objection, setting out the grounds of the objection.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143, BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice Of Proposal To Amend A Suburb Boundary
Within Coffs Harbour City

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to amend the boundary between Sawtell and Toormina, increasing the extent of Sawtell, as shown on map GNB3749/A. The map may be viewed at Coffs Harbour City Council Administration Building, Toormina Library, Sawtell Post Office, Toormina Post Office and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

Any person objecting to this proposal may within one (1) month of the date of this notice, give to the Secretary of the Board notice in writing of the objection, setting out the grounds of the objection.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143, BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice Of Proposal To Create Two New Localities And
Amend Eight Locality Boundaries
Within Tweed Shire

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to create two new localities, *Casuarina* and *Kings Forest*, decreasing the extent of Kingscliff, Cudgen and Duranbah; further to amend the boundaries between Bogangar, Cabarita Beach, Pottsville, Hastings Point and Round Mountain, decreasing the extent of Hastings Point and Round Mountain and increasing the extent of Bogangar, Cabarita Beach and Pottsville, as shown on map GNB3810/A. The map may be viewed at Tweed Shire Council Civic and Cultural Centre, Murwillumbah, Tweed Shire Council offices in Tweed Heads, Murwillumbah Library and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

Any person objecting to this proposal may within one (1) month of the date of this notice, give to the Secretary of the Board notice in writing of the objection, setting out the grounds of the objection.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143, BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966Notice Of Proposal To Amend A Suburb Boundary
Within Port Stephens Council Area

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to amend the boundary between Fern Bay and Fullerton Cove, increasing the extent of Fern Bay as shown on map GNB3712/B. The map may be viewed at Port Stephens Council Chambers, Raymond Terrace Library, Council's Mobile Library and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

Any person objecting to this proposal may within one (1) month of the date of this notice, give to the Secretary of the Board notice in writing of the objection, setting out the grounds of the objection.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143, BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board has this day assigned the geographical names listed hereunder.

Assigned Name: Kelehear Point
Designation: Point
L.G.A.: Singleton Council
Parish: Gotha
County: Durham
Latitude: 32° 20' 11"
Longitude: 151° 17' 30"
L.P.I. Map: Carrowbrook
100,000 Map: Camberwell 9133
Reference: GNB 4819

Assigned Name: Walker Bay
Designation: Water Feature
L.G.A.: Singleton Council
Parish: Liebeg
County: Durham
Latitude: 32° 19' 08"
Longitude: 151° 16' 59"
L.P.I. Map: Carrowbrook
100,000 Map: Camberwell 9133
Reference: GNB 4819

WARWICK WATKINS,
Chairperson

Geographical Names Board
PO Box 143, BATHURST NSW 2795

ERRATUM

IN the notices referring to the assignment of names and boundaries for localities in Tumut Council area, Folio 2319, 17 July 1996 and Folio 9164, 27 November 1998. The notices were in error and should be replaced by the following notice:

Notice of Assignment of Geographical Names for Localities in Tumut Council Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board has this day assigned the geographical names listed below as Localities to be used as an address to the areas indicated on map GNB3809.

The names are;

Adelong, Argalong, Bogong Peaks Wilderness, Bangadang, Batlow, Black Creek, Blowering, Bombowlee Creek, Bombowlee, Brungle, Brungle Creek, Cabramurra, Califat, Couragago, Darlow, Ellerslie, Gadara, Gilmore, Gocup, Goobarragandra, Grahamstown, Jones Bridge, Killimicat, Kunama, Lacmalac, Little River, Long Plain, Lower Bago, Minjary, Mount Horeb, Mundongo, Pinbeyan, Red Hill, Sandy gully, Sharps Creek, Talbingo, Tumorrana, Tumut, Tumut Plains, Wereboldera, Wermatong, Westwood, Windowie, Wondalga, Wyangle, Yarrangobilly, Yaven Creek.

Subsequent to the determination of names and boundaries of localities in Tumut Council area, the following geographical names are also assigned and designated as follows:

<i>Geographical Name</i>	<i>Designation</i>	<i>Geographical Name</i>	<i>Designation</i>
Adelong	Town	Batlow	Town
Talbingo	Town	Tumut	Town
Brungle	Village	Cabramurra	Village
Bogong Peaks Wilderness Area	Historic Area	Long Plain	Historic Area
Argalong	Rural Place	Califat	Rural Place
Couragago	Rural Place	Darlow	Rural Place
Ellersie	Rural Place	Gilmore	Rural Place
Gocup	Rural Place	Goobarragandra	Rural Place
Grahamstown	Rural Place	Gadara	Rural Place
Killimicat	Rural Place	Kunama	Rural Place
Lacmalac	Rural Place	Lower Bago	Rural Place
Mount Horeb	Rural Place	Tumorrana	Rural Place
Tumut Plains	Rural Place	Wereboldera	Rural Place
Windowie	Rural Place	Wondalga	Rural Place
Yarrangobilly	Rural Place	Yaven Creek	Rural Place
Minjary	Rural Place	Black Creek	Rural Place
Blowering	Rural Place	Bombowlee	Rural Place
Bombowlee Creek	Rural Place	Brungle Creek	Rural Place
Jones Bridge	Rural Place	Little River	Rural Place
Pinbeyan	Rural Place	Red Hill	Rural Place
Sharps Creek	Rural Place	Wermatong	Rural Place
Westwood	Rural Place	Wyangle	Rural Place

<i>Geographical Name</i>	<i>Designation</i>	<i>Geographical Name</i>	<i>Designation</i>
Bangadang	Rural Place	Mundongo	Rural Place
Sandy Gully	Rural Place	Mount Adrah	Rural Place
Cooleys Creek	Rural Place	Laurel Hill	Rural Place
Arrossan	Historical Area	Bondo	Historical Area
Broken Cart	Historical Area	Buddong Falls	Historical Area
Diamond Hill Hut	Historical Area	Dubbo Flat	Historical Area
Ellerslie Dip	Historical Area	Halls Block	Historical Area
Happy Go Lucky Flat	Historical Area	Kings Cross	Historical Area
Lampes	Historical Area	Long Flat	Historical Area
Long Flat Hut Corner	Historical Area	Long Plain Hut	Historical Area
Midway	Historical Area	Milk Shanty	Historical Area
Pethers Hut	Historical Area	Ravine	Historical Area
Rockey Flat	Historical Area	Rules Point	Historical Area
Shaking Bog	Historical Area	Shepardstown	Historical Area
Simpsons Diggings	Historical Area	Starvation Point	Historical Area
The Flat	Historical Area	The Hole	Historical Area

This notice is to supersede the notice in Folio 2319, 17 July 1996 and Folio 9164, 27 November 1998.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143, BATHURST NSW 2795

INDUSTRIAL AND COMMERCIAL TRAINING ACT 1989

NOTICE OF MAKING OF A VOCATIONAL TRAINING ORDER

NOTICE is given that the Director-General, Department of Education and Training, in pursuance of section 22 of the Industrial and Commercial Training Act 1989, has made the following Vocational Training Order in relation to the declared calling of Aeroskills.

CITATION

The order is cited as the Aeroskills Order.

ORDER

A summary of the Order is given below.

(a) Term of Training

(i) Full-time

Training shall be given for a nominal period of 12 months for Certificate II and 48 months for Certificate IV in Aeroskills or until achievement of the relevant competencies to this Vocational Training Order is demonstrated.

(ii) Part-time

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.

School based traineeships

In the case of school-based part-time traineeships, where the nominal full-time term is twelve (12) months, training shall be for nominal terms up to 30 months within which period(s) trainees shall be required to demonstrate competencies relevant to the Vocational Training Order. Training may extend to 36 months where the Higher School Certificate is being delivered over a three (3) year period.

Students may work full-time during school vacations. They are not required to attend on-the-job or off-the-job training for more than 7.6 hours per week during examination periods or exam preparation periods.

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				
17	14	28	42				
18	14	27	41				
19	13	26	39				
20	13	25	38				
21	12	24	36	48			
22	12	23	35	46			
23	11	22	33	44	55		
24	11	21	32	42	53		
25	10	20	30	40	50	60	
26	10	19	29	38	48	57	
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 Aeroskills Training Package MEA97 and the new Certificate II in Aeroskills (MEA20401)

(c) Courses of Study to be undertaken

Trainees will undertake the following courses of study:

Certificate II in Aeroskills MEA20401

Certificate IV in Aeroskills (Aircraft Maintenance Engineering-Avionics) MEA40197

Certificate IV in Aeroskills (Aircraft Mechanics – Avionics) MEA40297

Certificate IV in Aeroskills (Aircraft Maintenance Engineering – Mechanical) MEA40397

Certificate IV in Aeroskills (Aircraft Mechanics – Mechanical) MEA40497

Certificate IV in Aeroskill (Aircraft Maintenance Engineering – Structures Maintenance) MEA40597

AVAILABILITY TO PURCHASE/INSPECT

A copy of the Vocational Training Order may be obtained from any Industry Training Services Centre of the Department of Education and Training.

MOTOR VEHICLE REPAIRS ACT 1980

Section 8(3)

ORDER

Whereas NRMA Limited, being the body referred to in section 8(1)(b) of the Motor Vehicle Repairs Act 1980, has changed its name to National Roads and Motorists' Association Limited, I John Watkins MP, Minister for Fair Trading, pursuant to section 8(3) of the Act, by this order certify that I am satisfied that the change of name is not accompanied by any change in the nature of the body.

Signed this 18th day of August 2001.

JOHN WATKINS, M.P.,
Minister for Fair Trading

NATIONAL PARKS AND WILDLIFE ACT 1974

PROCLAMATION

I, Professor MARIE BASHIR AC, Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of the powers vested in me under section 49 (2) of the National Parks and Wildlife Act 1974, do, on the recommendation of the Director-General of National Parks and Wildlife, by this my Proclamation dedicate the lands described hereunder as part of Tuckean Nature Reserve for the purposes of section 49 (3) of that Act.

Signed and sealed at Sydney this 15th day of August 2001.

MARIE BASHIR
Governor,

By Her Excellency's Command

ANDREW REFSHAUGE, M.P.,
Minister for the Environment

GODSAVE THE QUEEN

Description

L.G.A. – Lismore; Land District – Lismore

County Rous, Parish Broadwater, about 2.5 hectares, being the Crown public roads separating Lots 130, 131 and 135, DP 755691 from Lots 67 and 114, DP 755691. NPWS A/6341.

NSW SCIENTIFIC COMMITTEE

Notice of Preliminary Determinations

THE Scientific Committee, established by the Threatened Species Conservation Act, has made Preliminary Determinations to support proposals to list the following in the relevant Schedules of the Act.

Endangered Species (Part 1 of Schedule 1)

Belvisia mucronata (Fée) Copel, a fern

The Committee is of the opinion that this species is likely to become extinct in nature in NSW unless the circumstances and factors threatening its survival or evolutionary development cease to operate.

Endangered Ecological Community (Part 3 of Schedule 1)

Brigalow within the Brigalow Belt South and Darling Riverine Plains Bioregions
Sun Valley Cabbage Gum Forest in the Sydney Basin Bioregion

The Committee is of the opinion that these Ecological Communities are likely to become extinct in nature in NSW unless the circumstances and factors threatening their survival or evolutionary development cease to operate.

Vulnerable Species (Schedule 2)

Eucalyptus corticosa L.A.S. Johnson, a tree

The Committee is of the opinion that this species is likely to become endangered unless the circumstances and factors threatening its survival or evolutionary development cease to operate.

Any person may make a written submission regarding these Preliminary Determinations, which should be forwarded to:

*Director General
National Parks & Wildlife Service
PO Box 1967
Hurstville NSW 2220
Attention: Suzanne Chate, Executive Officer,
Scientific Committee*

Submissions must be received by 5 October, 2001.

Copies of these Determinations may be inspected at the National Parks Centre 102 George St, The Rocks, Sydney and at all NPWS Area Offices/Visitors Centres during business hours.

Dr CHRIS DICKMAN,
Chairperson

**NEW SOUTH WALES SERVICE MEDAL
PRESENTATION**

FRIDAY 10 AUGUST 2001

MR GEORGE E. AUNGLE
MR EDWARD M. BATTY
MR TONY BEALE
MR JOHN F. BECKE
MR FRANK BIDDLE
MR KENNETH M. BROWN
MR TERRANCE R. BURKE
MR PETER R. CAMERON
MS CARMEL A. CRAWFORD
MR GEORGE W. CURR
MR TERENCE G. DOOLEY
MR RICHARD D. EVANS
MS PATRICIA FEENEY
MR KENNETH FISHPOOL
MR RONALD J. FLOOD
MS JOYCE R. FORD
MR MICHAEL GALLAGHER
MR GEOFFERY J. GIBBESON
MR COLIN HARDMAN
MR COLIN HARRISON
MR KEVIN W. HARTLEY
MR EUGENE HAVILAH
MR NORMAN T. HEFFERNAN
MR DAVID P. JOHNS
MR ANDY KAJONS
MR PETER KASTROPIL
MR STEPHEN S. KINSELA
MR ROBERT H. KITCHENER
MR TERENCE E. LAUNDERS
MR DAVID R. LEECE
MR PATRICK J. LEWIS
MR DENNIS MAYBURY
MR JOHN A. MCGLYNN
MR JAMES W. MELVILLE
MS JENNIFER A. MODEREGGER
MR PETER T. MYERS
MR HOWARD G. PICKERING
MR ALEXANDER W. RAMSLAND
MR WILLIAM REGAN
MS HELEN ROBIN
MS SUSAN C RUDENKO
MR BARRE SCHEITZWER
MR ALLAN J. SIMPSON
MS CARLIE J. SPENCER
MR BARRY SWANN
MS HELEN WAGHORN
MR RICHARD J. WALKER
MR BOYD E.J. WALLACE
MR BRUCE H. WARE
MR DOUGLAS WATT
MR JOSEPH M C. WONG

PESTICIDES ACT 1999

Notice under Section 48 (4)

NOTICE is hereby given, pursuant to section 48(4) of the Pesticides Act 1999, that I have granted an Aircraft (Pesticide Applicator) Licence, particulars of which are stated in the Schedule.

ALAN RITCHIE,
Manager Dangerous Goods
Environment Protection Authority
by delegation

SCHEDULE

Pilot (Pesticide Rating) Licence

Name and address of Licensee	Date of Granting of Licence
RURAL AIR WORK PTY LTD LOT 35 KOOROOGAMMA RD MOREE NSW 2400	29 August 2001

PESTICIDES ACT 1999

Notice under Section 48 (4)

Notice is hereby given, pursuant to section 48 (4) of the Pesticides Act 1999, that I have granted Pilot (Pesticide Rating) Licences, particulars of which are stated in the Schedule.

ALAN RITCHIE,
Manager Dangerous Goods
Environment Protection Authority
by delegation

SCHEDULE

Pilot (Pesticide Rating) Licences

Name and address of Licensee	Date of Granting of Licence
Mr JASON GUY NEUTZE FARM 510 HUTCHINGS RD COLEAMBALLY NSW 2707	24 August 2001
Ms LEA JEROMSON 19 WORTHY ST LEONGATHA VIC 3953	28 August 2001

**POISONS AND THERAPEUTIC GOODS ACT
1966**

ORDER UNDER CLAUSE 151(1),

**POISONS AND THERAPEUTIC GOODS
REGULATION 1994.**

WITHDRAWAL OF DRUG AUTHORITY

IN accordance with the provisions of clause 151(1) of the Poisons and Therapeutic Goods Regulation 1994 an order has been made on Jennifer Maree Stenhouse of 5/46 Birrell Street, Bondi Junction 2022, prohibiting her, until further notice, as a nurse from having possession of and supplying drugs of addiction as authorised by clauses 103 and 105 of

the Regulation. This order is to take effect on and from Wednesday 29 August 2001.

MICHAEL REID,
Director-General

Department of Health, New South Wales.
Sydney, Friday 24 August 2001.

PUBLIC WORKS ACT 1912
LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991

COMPULSORY ACQUISITION

Hastings District Water Supply Augmentation

THE Minister for Land and Water Conservation, with the approval of His Excellency the Governor, declares that the interest in land described in the Schedule hereto, is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for a public work.

On publication of this notice in the *Government Gazette*, the interest in land, is vested in the Minister for Land and Water Conservation as Constructing Authority under section 4 of the Public Works Act 1912.

RICHARD AMERY, M. P.
Minister for Agriculture and
Minister for Land and Water Conservation

SCHEDULE

INTEREST IN LAND

Easement rights as described under the heading Water Pipeline in Memorandum E931212 filed in the Land Titles Office over the sites shown in:

Deposited Plan 1021725 (SB55109) as:

‘(A) PROPOSED EASEMENT FOR WATER PIPELINE 10 WIDE’

‘(B) PROPOSED EASEMENT FOR WATER PIPELINE 8 WIDE’

DPWS Reference 116

RACING ADMINISTRATION ACT 1998

ORDER

BOOKMAKER SPORTS BETTING-GENERAL
CONDITIONS ON AUTHORITIES

I, JACK RICHARD FACE, Minister for Gaming and Racing, in pursuance of section 20(1)(b) of the Racing Administration Act 1998, hereby impose the General Conditions on bookmaker sports betting authorities as set out hereunder.

These conditions replace the General Sports Betting Conditions gazetted on 9 April 1999.

Dated at Sydney this 22nd day of August 2001.

J. RICHARD FACE, M.P.,
Minister for Gaming and Racing

(31 August 2001)

New South Wales Bookmaker Sports Betting

General Conditions

RACING ADMINISTRATION ACT 1998

1 PRELIMINARY

1.1 These general conditions are imposed by the Minister under section 20(1)(b) of the Racing Administration Act 1998 on all bookmaker sports betting authorities.

2 DEFINITIONS

In these general conditions:

Act means the Racing Administration Act 1998.

Authorised person means a person authorised by the Minister under section 21 of the Act to perform functions such as the conduct of inspections.

Bet back means a bet placed by a sports bookmaker to reduce his or her liability on a specific outcome. The amount of the claimed bet back is not to exceed the total of bets held on the same outcome.

Casual sports bookmaker means an authorised sports bookmaker who is limited in terms of clauses 3.7(b) and 3.8 herein.

Sports Bet means any bets or wagers made with a sports bookmaker on a sports betting event.

Bookmaker Sports Betting Rules means the rules made and approved from time to time under section 23 of the Act.

3 GENERAL

3.1 Sports bets may only be accepted by a bookmaker holding a current written sports betting authority from the Minister under section 19(1) of the Act. Bookmakers applying to the Minister for an authority to conduct sports betting must:

- (a) be licensed by one or more of the NSW controlling bodies for racing;
- (b) hold a current NSW tax receipt; and
- (c) hold a financial guarantee from the NSW Bookmakers' Co-Operative Limited for sports betting.

A bookmaker sports betting authority is no longer valid if any of the above three prerequisites lapse.

3.2 Subject to clause 3.3 herein, an authorised sports bookmaker may conduct sports betting:

- (a) at any time on any day in an authorised betting auditorium under section 24 of the Act; or
- (b) at any time on any day in accordance with a sports betting authority issued by the Minister to a race club.

3.3 Sports betting is not permitted on Christmas Day.

3.4 A race club which is authorised to conduct a betting auditorium or sports betting on a racecourse may charge a sports betting bookmaker a fee not exceeding 0.25% of turnover on sports betting.

3.5 Sports bets may only be accepted on sports betting events declared by the Minister under section 18 of the Act from time to time and which are included as a schedule to the Bookmaker Sports Betting Rules.

3.6 Sports bets shall be in accordance with the approved forms of betting imposed by the Minister under section 20(1) of the Act from time to time and which are included as a schedule of the Bookmakers Sports Betting Rules.

3.7 Sports bookmakers are authorised to accept bets relating to sports betting events scheduled for determination:

- (a) up to thirteen months from the date the bet is placed (in the case of bookmakers who hold a sports betting guarantee with the NSW Bookmakers' Co-operative Limited for a minimum of \$100,000); or
- (b) up to twenty-eight days from the date the bet is placed (in the case of a casual sports bookmaker, ie one who holds only a race betting guarantee with the NSW Bookmakers' Co-operative Limited).

3.8 A casual sports bookmaker is limited to sports betting turnover not exceeding \$250,000 in any twelve month period.

3.9 Authorised sports bookmakers (other than casual sports bookmakers) shall maintain a sports betting holding account with an approved financial institution for the holding of stakes in relation to bets on sports betting events where the scheduled date of determination is more than 28 days from the date of the bet. Sports Betting Holding Accounts are to be structured so as debits (including fees, taxes and charges) and credits (including interest) do not appear on periodic account statements.

4 MAINTENANCE AND RETENTION OF RECORDS

4.1 Sports betting conducted other than by face-to-face transactions in an authorised betting auditorium or during the running of a race meeting shall be by means of a telephone or approved electronic device which the sports bookmaker has been authorised to use by the Minister under section 16 of the Act.

4.2 In accordance with section 17(1), (2) and (3) of the Betting Tax Act 2001, sports bookmakers shall keep a record of each sports bet accepted.

4.3 In addition to any form of record approved by the Chief Commissioner of State Revenue, sports bookmakers shall maintain the following records:

- (a) specific location where bet accepted (racecourse, office, auditorium);
- (b) whether transacted by case, credit, telephone or electronic;
- (c) customer name (credit, telephone or electronic);
- (d) time and date of bet;
- (e) ticket number or serial number of transaction;
- (f) details of sports betting event, including scheduled date of determination;
- (g) approved form of bet (eg head-to-head, handicap);
- (h) details of competitor(s) backed;
- (i) amount and liability of bet;
- (j) amount of any allowable bet back and details of recipient;
- (k) details of any cancellation, where applicable;

- (l) daily total of bets accepted on each sport;
- (m) calculation of tax due (including rebate for bets back)

4.4 While it is preferred that the records detailed in clause 4.3 herein be maintained in an approved computerised form, alternatively the manual form of official bookmaker ledger may be adapted. In the event of computer malfunction, an adapted manual form shall be used.

4.5 Sports bookmakers must maintain detailed records of all transactions involving the sports betting holding account and make them available for inspection to an authorised person as required. Each turnover tax return must be accompanied by a report (on form SB97H) of moneys held in the account and transactions through the account during the relevant week.

4.6 In accordance with section 17(4) of the Betting Tax Act 2001, records of all sports bets shall be retained by a sports bookmaker for a minimum of 5 years from the date of determination of the relevant sports betting event.

4.7 Sports bookmakers shall make available for inspection by an authorised person all records, accounts and documents relating to sports bets.

4.8 Sports bookmakers shall provide copies of sports betting records to the relevant race club or racing controlling body as required.

5 TAXATION OF SPORTS BETS

5.1 Turnover tax is payable on all sports bets in accordance with section 7(2) of the Betting Tax Act 2001. Sports bookmakers shall remit tax in accordance with section 7(4) of the Betting Tax Act 2001.

5.2 Each remittance of tax shall be accompanied by:

- (a) a completed turnover tax declaration form (as approved by OSR);
- (b) (i) original computer printouts;
- (ii) approved electronic transmission of bet records; or
- (iii) original betting ledger sheets;

(c) telephone betting summary (SB97TB);

(d) bets back summary (SB97B); and

(e) summary of Sports Betting Holding Account transactions (where relevant) (SB97H)

5.3 A rebate of turnover tax will apply where:

(a) a sports betting event is cancelled and bets are refunded; or

(b) a bet back is made on account with a licensed NSW sports betting operator to reduce the liability on a single outcome – under section 11(2) of the Betting Tax Act 2001.

6 DURATION AND CANCELLATION OF SPORTS BETTING AUTHORISATION

6.1 Under section 22 of the Act a bookmaker sports betting authority remains in force until it is cancelled by the Minister.

7 DISPUTES

7.1 In the event of a dispute with a customer a sports bookmaker shall endeavour to resolve the matter promptly.

7.2 Under part 7 of the Rules a sports bookmaker or customer may refer a dispute to the Sports Betting Disputes Panel. Upon request from the Panel, sports bookmakers shall tender all relevant records and documents. Sports bookmakers shall provide the Panel with all reasonable assistance and co operation to facilitate resolution and determination of disputes.

7.3 Sports bookmakers shall abide by a decision of the Sports Betting Disputes Panel. Failure to do so may result in reference of the circumstances to the Bookmakers Revision Committee.

ROADS ACT 1993**PROCLAMATION**

Marie Bashir, Governor.

I, Professor MARIE BASHIR AC, Governor of the State of New South Wales, with the advice of the Executive Council, on the recommendation of the Deputy Premier, Minister for Urban Affairs and Planning, Minister for Aboriginal Affairs and Minister for Housing and in pursuance of section 13 of the Roads Act 1993, do, by this my Proclamation, dedicate as public road the parcels of land referred to in the Schedule to this Proclamation.

Signed and sealed at Sydney this 8th day of August 2001

By Her Excellency's Command,

ANDREW REFSHAUGE, M.P.,
Deputy Premier
Minister for Urban Affairs and Planning
Minister for Aboriginal Affairs
Minister for Housing

GODSAVETHEQUEEN!

SCHEDULE

New roadways (inclusive of splay corners) shown on the plan of land at Seven Hills, in the City of Blacktown, Parish of Prospect, County of Cumberland. Registered at the Land Titles Office as Deposited Plan No. 746909 (Landcom Project 12901).

New roadways (inclusive of road widening, pathway and splay corners) shown on the plan of land at Blacktown, in the City of Blacktown, Parish of Prospect, County of Cumberland. Registered at the Land Titles Office as Deposited Plan No. 815687 (Landcom Project 12402).

New roadways (being pathway shown as "England Walk") shown on the plan of land at Lalor Park, in the City of Blacktown, Parish of Prospect, County of Cumberland. Registered at the Land Titles Office as Deposited Plan No. 32027 (Landcom Project 2364).

New roadways (inclusive of splay corners and subject to right of carriageway) shown on the plan of land at Minchinbury, in the City of Blacktown, Parish of Melville,

County of Cumberland. Registered at the Land Titles Office as Deposited Plan No. 793433 (Landcom Project 12191).

New roadways being pathways and lot 7110 (inclusive of splay corners and subject to right of carriageway) shown on the plan of land at Minchinbury, in the City of Blacktown, Parish of Melville, County of Cumberland. Registered at the Land Titles Office as Deposited Plan No. 801118 (Landcom Project 12191).

New roadways shown as pathways and Jellie Place (inclusive of splay corners) shown on the plan of land at Plumpton, in the City of Blacktown, Parish of Rooty Hill, County of Cumberland. Registered at the Land Titles Office as Deposited Plan No. 774527 (Landcom Project 12058).

New roadways shown as Parrella Grove (inclusive of splay corners) shown on the plan of land at Glendenning, in the City of Blacktown, Parish of Rooty Hill, County of Cumberland. Registered at the Land Titles Office as Deposited Plan No. 802878 (Landcom Project 12230).

SPORTING INJURIES INSURANCE ACT 1978**Order of Declaration under Section 5**

In pursuance of section 5 of the Sporting Injuries Insurance Act, 1978, I declare be this order the

KEMPSEY RECREATION CLUB

to be a sporting organisation, for the purposes of the provisions of the Act, in respect of the activities of **Indoor Netball**.

JOHN GARBUTT,
Acting Chairperson

Sporting Injuries Committee
Sydney, 22 August 2001

MEDICAL ASSESSMENT GUIDELINES

EXPLANATORY NOTE

These guidelines are made pursuant to section 44(1)(d) of the Motor Accident Compensation Act 1999 (“the Act”). They apply in respect of a motor vehicle accident occurring on or after 5 October 1999.

These guidelines replace the Medical Assessment Guidelines gazetted on 17 December 1999 and will apply to applications for assessment received after 1 October 2001 and all current matters after that date.

The guidelines explain the operation of those sections of the Act relating to the Medical Assessment Service (“MAS”). MAS has been established by the Motor Accidents Authority (“the MAA”) to resolve medical disputes as they arise during the course of a claim and before Claims Assessment Resolution Service (“CARS”) or Court proceedings are commenced. It is intended this will assist in the reduction of costs for the Motor Accidents Compensation Scheme and will therefore help maintain the affordability of premiums. It is intended that the MAs process will speed up the settlement of claims to the benefit of all parties.

These Guidelines set out the procedures for the referral of medical disputes for assessment or review of assessments and the procedure for assessment under Part 3.4 of the Act.

These Guidelines are primarily intended to a guide the officers of the MAA, the members of the legal profession and the insurance industry. Easy to understand information directed towards claimants who wish to represent themselves will be available from the MAA.

Questions about MAS and these Guidelines should be directed to the Proper Officer at the Authority.

David Bowen
General Manager
Motor Accidents Authority
Dated:

CHAPTER 1 INTERPRETATION

- 1.1 The following abbreviations are used in these guidelines:-
- | | |
|---------------|--|
| CARS | Claims Assessment Resolution Service |
| CAS | Claims Advisory Service |
| CTP | Compulsory Third Party |
| DX Box | Exchange box in the Australian Document Exchange Pty Limited |
| HIC | Health Insurance Commission |
| The Act | Motor Accidents Compensation Act 1999 |
| The Authority | The Motor Accidents Authority |
- 1.2 A reference in these guidelines to MAS is a reference to the Medical Assessment Service, which is a unit of the Authority established to manage the resolution of medical disputes.
- 1.3 A reference in these guidelines to the applicant is a reference to the party (either claimant or insurer) lodging the application.
- 1.4 A reference in these guidelines to the respondent is a reference to the party (either claimant or insurer) replying or responding to the application.
- 1.5 A reference in these guidelines to a number of days is a reference to a number of working days.
- 1.6 A reference in these guidelines to an assessor means a reference to a medical assessor.
- 1.7 A reference in these guidelines to a medical assessment is, unless stated otherwise a reference to multiple assessments.
- 1.8 A reference in these guidelines to an officer of MAS is a reference to an employee of the Authority working in the MAS unit.
- 1.9 A reference in these guidelines to a service copy of material is a reference to a separate set of the documents that are attached to and lodged with an application or reply form.

CHAPTER 2 JURISDICTION

- 2.1 An application may be made to MAS in relation to a dispute, disagreement or issue between a claimant and an insurer about any of the following matters:-
- 2.1.1 Whether the treatment provided or to be provided to the injured person was or is reasonable and necessary in the circumstances (a “reasonable and necessary treatment dispute”)
- 2.1.2 Whether any such treatment relates to the injury caused by the motor accident (a “causation of treatment dispute”)
- 2.1.3 Whether an injury has stabilised (a “stabilisation dispute”)
- 2.1.4 The degree of impairment of the injured person as a result of the injury caused by the motor accident (a “permanent impairment dispute”)
- 2.1.5 The degree of impairment of the earning capacity of the injured person as a result of the injury caused by the motor accident (an “impairment of earning capacity dispute”).
- 2.2 An officer of MAS may reject an application as not duly made if the application:-
- 2.2.1 Does not disclose that it relates to one of the above 5 types of disputes or
- 2.2.2 Relates to a dispute that is not one of the above 5 types of disputes.

CHAPTER 3 REGISTRY

- 3.1 MAS shall establish and maintain a registry.
- 3.1.1 For the purposes of delivery of documents the address of the registry is:-
- The Proper Officer
Medical Assessment Service
Motor Accidents Authority of NSW
Level 21
580 George Street
Sydney NSW 2000
- 3.1.2 For the purposes of sending of documents the address of the registry is:-
- The Proper Officer
Medical Assessment Service
Motor Accidents Authority of NSW
Level 22
580 George Street
Sydney NSW 2000
or
DX 1517 Sydney
- 3.2 Except on Saturdays, Sundays and other holidays, the registry shall be open to the public for lodgement of documents between 9.30 in the morning and 4.30 in the afternoon.
- 3.3 The registry shall, notwithstanding clause 3.2 above, be kept open to the public for business or closed for business, at such times and on such days as the Proper Officer shall direct.
- 3.4 It is sufficient notification or service for any document or correspondence directed to the Proper Officer, an assessor or MAS to be left in the DX box of the Authority **DX 1517 Sydney**, or at another DX box for transmission to that exchange box.
- 3.5 The Proper Officer shall arrange for all applications made under these guidelines to be allocated a file number and registered. All correspondence concerning the application is to quote the file number.
- 3.6 All correspondence to and communication with an assessor must, unless the assessor directs otherwise, be directed to the assessor care of the registry.
- 3.7 If a legal practitioner or agent represents the claimant;
- 3.7.1 It is sufficient notification for the Proper Officer, an officer of MAS or an insurer to send any document required to be sent to the claimant, to the legal practitioner or agent.
- 3.7.2 The Proper Officer or an officer of MAS may contact the claimant direct in relation to the medical assessment.
- 3.8 If a legal practitioner or agent represents the insurer, it is sufficient notification for the Proper Officer, an officer of MAS or a claimant to send any document required to be sent to the insurer, to the legal practitioner or agent.
- 3.9 If a party, represented by a legal practitioner or agent, requests MAS to do so, the Proper Officer or an officer of MAS is to send any document required to be sent to that party, to the party in addition to the party's legal representative or agent.
- 3.10 The Authority will provide and maintain a Claims Advisory Service to assist un-represented claimants, solicitors and insurers in respect of their rights and obligations under the Act and these guidelines.

CHAPTER 3A GENERAL PROCEDURAL MATTERS

- 3A.1 An officer of MAS may reject any application or reply form that does not substantially comply with these guidelines
- 3A.2 An officer of MAS shall issue a rejection notice setting out brief reasons for the rejection
- 3A.3 If documents in support of any application are not listed in accordance with the requirements of the form, an officer of MAS may reject the application
- 3A.4 If documents in support of any reply form are not listed in accordance with the requirements of the form, an officer of MAS may reject the reply
- 3A.5 If documents are listed in accordance with the requirements of the form but are not provided, an officer of MAS may:
- 3A.5.1 Reject the application or reply form in accordance with clause 3A.1 or
 - 3A.5.2 Notify the parties that the documents were not attached and deal with the matter in the absence of the documents

CHAPTER 4 APPLICATION FOR ASSESSMENT

- 4.1 An application for assessment form cannot raise disputes relating to more than one injured person.

Application

- 4.2 An application by either party for assessment of a reasonable and necessary treatment dispute **must**;
- 4.2.1 Be in the form approved by the Authority, and
 - 4.2.2 Set out or be accompanied by such particulars and information as may be required by that form.
- 4.3 An application by either party for assessment of a causation of treatment dispute **must**;
- 4.3.1 Be in the form approved by the Authority, and
 - 4.3.2 Set out or be accompanied by such particulars and information as may be required by that form.
- 4.4 An application by either party for assessment of a stabilisation dispute **must**;
- 4.4.1 Be in the form approved by the Authority, and
 - 4.4.2 Set out or be accompanied by such particulars and information as may be required by that form.
- 4.5 An application by either party for assessment of a permanent impairment dispute **must**;
- 4.5.1 Be in the form approved by the Authority, and
 - 4.5.2 Set out or be accompanied by such particulars and information as may be required by that form.
- 4.6 An application by either party for assessment of an impairment of earning capacity dispute **must**;
- 4.6.1 Be in the form approved by the Authority, and
 - 4.6.2 Set out or be accompanied by such particulars and information as may be required by that form.

- 4.7 An officer of MAS is to send a copy of the application together with the service copy of material in support of the application provided by the applicant, to the respondent within 10 days of receipt of the application in the registry.

Reply

- 4.8 The respondent must reply to the Proper Officer within 15 days of the date of sending by MAS of a copy of the application. The Proper Officer may deal with the matter in the absence of a reply.
- 4.9 The reply by either party to any application **must**;
- 4.9.1 Be in the form approved by the Authority, and
- 4.9.2 Set out or be accompanied by such particulars and information as may be required by that form.
- 4.10 An officer of MAS is to send a copy of the reply together with the service copy of material in support of the reply provided by the respondent, to the applicant within 10 days of receipt of the reply in the registry.

See assessment process chapter 7 and following

CHAPTER 5 REFERRAL FOR MEDICAL ASSESSMENT BY CARS OR COURT

- 5.1 In the case of a matter referred by CARS for an initial or further assessment, an officer of MAS;
- 5.1.1 Shall arrange for a preliminary assessment of the matter within 10 days of receipt of the referral;
- 5.1.2 Advise the parties to the CARS assessment of the date of the preliminary assessment forthwith.
- 5.2 In the case of a matter referred by the Court, for an initial assessment, an application for medical assessment;
- 5.2.1 Must be made on the form or forms appropriate to the nature of the medical dispute or disputes and in accordance with Chapter 4 above; and
- 5.2.2 Will be dealt with by MAS in accordance with the procedures set out in Chapter 4 above.
- 5.3 In the case of a matter referred by the Court for a further assessment, an application;
- 5.3.1 Must be made on the appropriate form and in accordance with Chapter 6 below; and
- 5.3.2 Will be dealt with by MAS in accordance with the procedures set out in Chapter 6 below.

See assessment process chapter 7 and following

CHAPTER 6 FURTHER MEDICAL ASSESSMENT

- 6.1. A party may, under section 62(1) apply for further medical assessment or be referred by CARS or the Court for further medical assessment.
- 6.2. In the case of a further application for medical assessment by a party the application **must**;
- 6.2.1 Be in the form approved by the Authority, and
- 6.2.2 Set out or be accompanied by such particulars and information as may be required by that form.

- 6.3 In either case, an officer of MAS is to send a copy of the application together with the service copy of material in support of the application provided by the applicant, to the respondent within 10 days of receipt of the application in the registry.
- 6.4 The respondent must reply to the Proper Officer within 15 days of the date of sending by MAS of a copy of the application. The Proper Officer may deal with the matter in the absence of a reply.
- 6.5 The reply by either party to an application for further assessment **must**;
- 6.5.1 Be in the form approved by the Authority, and
- 6.5.2 Set out or be accompanied by such particulars and information as may be required by that form.
- 6.6 An officer of MAS is to send a copy of the reply together with the service copy of material in support of the reply provided by the respondent, to the applicant within 10 days of receipt of the reply in the registry.
- 6.7 In determining whether to refer a matter for further assessment under section 62(1)(a), the Proper Officer shall have regard to:-
- 6.7.1 The matters set out in section 62(1)(a) and
- 6.7.2 The objects of the Act.
- 6.8 The Proper Officer may allocate a matter referred for further assessment to the original assessor if available, or to a different assessor.
- 6.9 An officer of MAS will provide the assessor with copies of:-
- 6.9.1 The original application for assessment and supporting documents;
- 6.9.2 The original reply and supporting documents;
- 6.9.3 The original assessment certificate and report;
- 6.9.4 All documentation and material submitted in respect of the further assessment.

See assessment process chapter 7 and following

CHAPTER 7 PRELIMINARY ASSESSMENT

File Review

- 7.1 Within 15 days of the date due for receipt in the registry of any reply to an application, the Proper Officer is to arrange for the preliminary assessment of the matter to:-
- 7.1.1 Determine the eligibility of the dispute for assessment
- 7.1.2 Determine whether further information or documentation is required
- 7.1.3 Determine whether a matter is ready for assessment or whether the assessment should be declined or deferred
- 7.1.4 Determine the way in which an assessment is to proceed

Eligibility of the dispute

- 7.2 If the application or reply discloses that:
- 7.2.1 The issues in dispute do not fall within the class of matters listed in section 58, the Proper Officer is to reject the dispute and advise the parties forthwith
- 7.2.2 One or more but not all of the issues in dispute do not fall within the class of matters listed in section 58, the Proper Officer is to reject that part of the dispute and advise the parties forthwith

Further information required

- 7.3 If any further information or documentation is required, an officer of MAS may request it and notify the other party forthwith and allow a period of up to 15 days from the date of sending the request for the furnishing of that information or documentation.
- 7.4 An officer of MAS may proceed in the absence of the requested further information.
- 7.5 An officer of MAS may, with the permission of all parties, communicate with any of the injured person's treatment or service providers to clarify the matter or matters in dispute.

Defer Assessment

- 7.6 The Proper Officer may defer the allocation for assessment in the following circumstances:-
- 7.6.1 The Proper Officer is of the opinion that there are other issues in dispute or likely to be in dispute which would more conveniently be determined at the same time
- 7.6.2 The Proper Officer is of the opinion that there has not been a genuine attempt to settle the matter and that the matter is capable of early resolution
- 7.6.3 The application or reply discloses other reasons why it is not appropriate for the matter to be allocated
- 7.7 If, in the opinion of the Proper Officer, there are other issues in dispute or likely to be in dispute which would be more conveniently determined at the same time, the Proper Officer may adjourn the allocation of such a matter for assessment for a period not exceeding 6 months. The Proper Officer is to advise the parties forthwith.
- 7.8 If in the opinion of the Proper Officer, it appears there has not been a genuine attempt to settle a dispute that may be capable of early resolution, the Proper Officer may adjourn the allocation of such a matter for assessment for a period not exceeding 2 months to allow the parties an opportunity to settle the matter. The Proper Officer is to advise the parties forthwith. Either party can apply to the Proper Officer to proceed with the assessment at any time if settlement negotiations fail.
- 7.9 If, in the opinion of the Proper Officer it appears the application or reply discloses there are other reasons why it is appropriate that the matter is not allocated, the Proper Officer may adjourn the allocation of such a matter for assessment for a period not exceeding 12 months. The Proper Officer is to advise the parties forthwith.

Way in which the assessment is to proceed

- 7.10 In respect of a matter which is found to be suitable for assessment an officer of MAS shall determine the way in which an assessment is to proceed and may:-
- 7.10.1 Request a claimant attend a medical or other examination or examinations
- 7.10.2 Request a medical assessor, assess the disagreement on the material provided
- 7.10.3 Request one or both of the parties attend an interview with an officer of MAS to clarify the issues in dispute
- 7.10.4 Enquire as to whether the parties would consent to attend an informal conference to explore settlement of the dispute
- 7.11 In the case of clause 7.10.1 and 7.10.2 above, the Proper Officer shall refer the disagreement to one or more medical assessors from the Authority's list of medical assessors having regard to the nature of the injury and any continuing disabilities, the nature of the dispute and the specialty of the assessor.
- 7.12 In the case of clause 7.10.1 above, an officer of the MAS is, on the day of the preliminary assessment or as soon as is practicable, to arrange a medical or other examination or examinations and is to notify the parties of the time, date and location of the examination or examinations within 5 days of the making of the examination or examinations.
- 7.13 In allocating a matter the officer of MAS is to have regard to the location, most convenient to the parties and MAS, for the assessment to take place.

- 7.14 In the case of 7.10.2 above, an officer of MAS may arrange an assessment without a medical examination if satisfied that the information provided by the parties is sufficient to enable the assessor to make a determination of the issues the subject of the assessment. In exercising the discretion not to hold a medical examination, the officer of MAS must have regard to:-
- 7.14.1 The nature and complexity of the issue
 - 7.14.2 The likely impact of issue on the quantum of the claim
 - 7.14.3 The extent and detail of the information provided
 - 7.14.4 The urgency of the matter
 - 7.14.5 Whether the credit of the claimant is in issue
 - 7.14.6 Any submission by the parties as to why a medical examination is required.
- 7.15 In the case of 7.10.2 above if the assessor is of the view that an assessment without a medical examination cannot be done then the assessor is to advise the officer of MAS who is to arrange forthwith a medical examination with that or any other assessor.
- 7.16 Where the credit of the claimant is in issue and in the case of a permanent impairment dispute a medical examination or examinations should take place.
- 7.17 An assessor to whom a matter has been allocated must not consider the matter if there is a conflict of interest. If the assessor believes that there may be a conflict of interest the matter is to be returned to the proper officer for reallocation forthwith.
- 7.18 A party may, within 10 days of receipt of notification of the name and contact details of the assessor apply to the Proper Officer to have the matter reallocated on the grounds that the assessor to whom the matter has been allocated has a conflict of interest or may not be impartial. Such an application must be made in writing and be accompanied by detailed reasons. The Proper Officer shall make a decision on such an application within 10 days and must re-allocate the matter if of the opinion that there are reasonable grounds for believing that the assessor may have a conflict of interest or may not be impartial.

CHAPTER 8 ASSESSMENT PROCEDURE

- 8.1 The Proper Officer, an officer of MAS or an assessor including members of any review panel are not bound by the rules of evidence and may conduct any preliminary assessment or assessment in such manner as they think fit, subject to the rules of procedural fairness. In particular the Proper Officer and the assessor should abide by the following principles:-
- 8.1.1 Evidence should be logical and probative
 - 8.1.2 Evidence should be relevant to the facts in issue and the issues in dispute
 - 8.1.3 Evidence based on speculation or assumptions that are not substantiated must not be accepted
 - 8.1.4 Unqualified medical opinions should not normally be accepted.
- 8.2 The Proper Officer, an officer of MAS and an assessor are to take such measures as are reasonably practicable:-
- 8.2.1 To ensure that the parties to the application understand the nature of the application
 - 8.2.2 To explain to the parties any aspect of the procedure of the assessment, or any decision or ruling made by the Proper Officer or Assessor, that relates to the application; and
 - 8.2.3 To ensure that the parties have the fullest opportunity practicable to have their submissions considered and
 - 8.2.4 To ensure that the parties have had the opportunity to explore the settlement of the dispute.
- 8.3 The Proper Officer, an officer of MAS and an assessor are to act as quickly as is practicable in any preliminary assessment or assessment of a matter.

- 8.4 The Proper Officer, an officer of MAS and an assessor are to ensure that all relevant material is available so as to enable all of the relevant facts in issue to be determined.

CHAPTER 9 DOCUMENTATION AND OTHER SUPPORTING MATERIAL

- 9.1 In the case of all documents and other material including video-tapes, film or photographs a party seeks to attach to or lodge with, or in support of either an application or a reply document, the party lodging the material must lodge one additional copy of the material for each respondent to the application.
- 9.2 In the case of video surveillance film, any investigator's or loss adjuster's report concerning that video surveillance film must be lodged with the film.
- 9.3 Where the claimant does not have legal representation, only one copy of the material attached to the application or reply document needs to be lodged.
- 9.4 In the case of X-rays, Computerised Tomography (CT or CAT scans), Magnetic Resonance Imaging or other radiological investigations:-
- 9.4.1 Original film or scans are not to be submitted to the MAS Registry;
- 9.4.2 Original films or scans can be taken by the claimant or sent by the insurer, to any medical examination with a MAS assessor.
- 9.5 An officer of MAS may request from the parties to the assessment, the production of documents or the furnishing of information in addition to what is attached to the application or reply form for the purpose of the assessment.
- 9.5.1 An officer of MAS is, at the same time, to advise any other parties to the assessment of the nature of the request made
- 9.5.2 Any documents or information requested are to be provided to the an officer of MAS, within 15 days of the date of sending the request
- 9.5.3 If documents or information cannot be supplied within that time, the party must as soon as is practicable, apply to the Proper Officer for an extension of time, in which case the proper officer may set a further date
- 9.5.4 Only copies of documents are to be provided to MAS.
- 9.6 An officer of MAS is to send a copy of any documents or information provided to the parties to the assessment.
- 9.7 An officer of MAS, the Proper Officer or any assessor is not to take into consideration, in the course of the assessment, any documentation or information that is not shared between the parties.
- 9.8 The following documents or information are exempted from the operation of clause 9.6 above:-
- 9.8.1 Material irrelevant to the case of the claimant (and having no adverse effect) to either party;
- 9.8.2 Confidential material where there is a threat to life or the author of the report advises the report should not be made available to the claimant
- 9.9 The submission of any document or provision of information by the claimant or an insurer or their legal representatives or agents to MAS, the Proper Officer or an assessor does not in any way waive the claimant's or the insurer's right to claim any privilege, including legal professional privilege in relation to the document or information.

CHAPTER 10 CERTIFICATE AND REASONS FOR DECISION

- 10.1 Upon completion of the assessment the assessor is to prepare a clear, accurate and complete report concerning the dispute or disputes between the claimant and the insurer.
- 10.2 The report must be in the form approved by the Authority and must include in all cases a list of all the documents reviewed and considered by the medical assessor.
- 10.3 In the case of a reasonable and necessary treatment dispute the report is to include:-
- 10.3.1.1. A brief history of the accident
 - 10.3.1.2. A summary of all the treatment provided to the claimant
 - 10.3.1.3. A summary of any progress made by the claimant
 - 10.3.1.4. A summary of the nature of the past or proposed treatment in dispute
 - 10.3.1.5. Details of any clinical evaluation and diagnoses
 - 10.3.1.6. Details of current functional status
 - 10.3.1.7. The assessor's decision as to whether or not the treatment is reasonable supported by a brief statement of reasons.
- 10.4 In the case of a causation of treatment dispute
- 10.4.1. A brief history of the accident
 - 10.4.2. Brief details of any previous relevant conditions accidents or injuries
 - 10.4.3. A summary of all the treatment provided to the claimant before and after the accident
 - 10.4.4. A summary of the nature of the past or proposed treatment in dispute
 - 10.4.5. Details of any clinical evaluation and diagnoses
 - 10.4.6. Details of current functional status
 - 10.4.7. The assessor's decision as to whether or not the motor vehicle accident caused the injury to which the past or proposed treatment relates and if relevant any apportionment between the motor vehicle accident and any other cause.
- 10.5 In the case of a stabilisation dispute the report is to include:-
- 10.5.1. A brief history of the accident
 - 10.5.2. Brief details of any previous relevant conditions accidents or injuries
 - 10.5.3. A summary of the treatment provided
 - 10.5.4. A summary of any progress made
 - 10.5.5. Details of any clinical evaluation and diagnoses
 - 10.5.6. Details of current functional status
 - 10.5.7. The assessor's decision as to whether the injury caused by the accident is stabilised and not likely to improve with surgical intervention or active medical treatment, and if not what is the prognosis for future stabilisation.
- 10.6 In the case of a permanent impairment dispute the report is to include:-
- 10.6.1. A brief history of the accident
 - 10.6.2. Brief details of any previous relevant conditions accidents or injuries
 - 10.6.3. A summary of the treatment provided
 - 10.6.4. A summary of any progress made
 - 10.6.5. Details of any clinical evaluation and diagnoses
 - 10.6.6. Current functional status
 - 10.6.7. Prognosis for future recovery or deterioration
 - 10.6.8. The assessor's evaluation of impairment according to the MAA Guides to the evaluation of permanent impairment.
- 10.7 In the case of an impairment of earning capacity dispute the report is to include:-
- 10.7.1. A brief history of the accident
 - 10.7.2. Details of the claimant's employment history including hours worked and duties fulfilled
 - 10.7.3. Brief details of any previous relevant conditions accidents or injuries
 - 10.7.4. A summary of the treatment provided
 - 10.7.5. A summary of any progress made
 - 10.7.6. Details of any clinical evaluation and diagnoses
 - 10.7.7. Details of current functional status

- 10.7.8. An indication of whether the claimant has any impairment to earning capacity and if so what is the degree of that impairment
- 10.7.9. If, in the view of the assessor, the claimant has any impairment to earning capacity:
 - 10.7.9.1. Whether or not such impairment is permanent and the likely duration of that impairment
 - 10.7.9.2. The nature of the impairment
- 10.8. The assessor is to give a certificate as to the matters referred for assessment. The certificate shall certify;
 - 10.8.1. In the case of a reasonable and necessary treatment dispute, whether the particular treatment in dispute provided or to be provided to the injured person was or is reasonable and necessary in the circumstances;
 - 10.8.2. In the case of a causation of treatment dispute, whether the particular treatment in dispute relates to the injury caused by the motor accident;
 - 10.8.3. In the case of a stabilisation of injury dispute, a list of the injuries sustained in the accident which were assessed by the assessor and whether each listed injury is or is not stabilised
 - 10.8.4. In the case of a permanent impairment dispute, a list of the injuries found by the assessor to have been caused by the accident and whether or not the degree of permanent impairment of the injured person is or is not greater than 10%
 - 10.8.5. In the case of an earning capacity dispute, whether there is an impairment to the earning capacity of the injured person as a result of the injury caused by the motor accident and the degree of any impairment.
- 10.9. In the case of an assessment of permanent impairment where more than one medical examination is to take place, the Proper Officer shall forward all the reports to one of the assessors who has undertaken an assessment of the claimant for the preparation of the certificate.
- 10.10. A draft copy of the report and certificate is to be provided to the Proper Officer within 15 days of the conclusion of an assessment.
- 10.11. An assessor may, at his or her own motion or at the request of an officer of MAS, correct or request the correction of an error in the draft report or certificate.
- 10.12. If the draft report or certificate is so altered, the altered draft report or certificate may be executed by the assessor.
- 10.13. Examples of errors in the certificate or report are where:
 - 10.13.1. There is an obvious clerical or typographical error;
 - 10.13.2. There is an error arising from an accidental slip;
 - 10.13.3. There is an error arising from an omission;
 - 10.13.4. There is a defect of form;
 - 10.13.5. In the case of a certificate or report concerning the assessment of permanent impairment the assessor has not followed the prescribed method of assessment as set out in the AMA Guides to the Evaluation of Permanent Impairment 4th edition or the Authority's Guidelines for the assessment of permanent impairment of a person injured as a result of a motor vehicle accident.
- 10.14. An officer of MAS shall forward a copy of the final certificate and report to all parties within 5 days of the receipt in the registry of the final certificate and report signed by the assessor.
- 10.15. Where a CARS assessor has referred a matter to MAS (see Chapter 5) the Proper Officer shall forward a copy of the final certificate and report to CARS.
- 10.16. The Proper Officer may, at any time, issue a certificate in accordance with an agreed settlement, provided the terms of the agreed settlement are reduced to writing, signed by or on behalf of the parties and lodged with the Proper Officer, and the Proper Officer is satisfied

that the terms of the agreed settlement are matters upon which the Proper Officer has power to make an assessment. In those circumstances an assessor need not provide a report

CHAPTER 11 REVIEW

- 11.1 Following receipt of a certificate and statement of reasons or report, either party may apply for a review under section 63(1).
- 11.2 An application for review **must**:
- 11.2.1 Be in the form approved by the Authority and
 - 11.2.2 Set out or be accompanied by such particulars and information as may be required in that form:
- 11.3 An application for review must be made within 20 days of the date of sending of the certificate to the parties by the registry.
- 11.4 An officer of MAS is to send a copy of the application for review to the respondent within 10 days of receipt of the application in the registry.
- 11.5 The respondent must reply to the Proper Officer within 15 days of the date of sending of a copy of the application for review by the registry. The Proper Officer may consider the matter in the absence of a reply.
- 11.6 The reply to an application for review **must**:
- 11.6.1 Be in the form approved by the Authority and
 - 11.6.2 Set out or be accompanied by such particulars and information as may be required by that:
- 11.7 An officer of MAS is to send a copy of the reply to the applicant within 10 days of receipt of the reply in the registry.
- 11.8 The Proper Officer is to consider the application within 10 days of the date due for receipt in the registry of any reply.
- 11.9 In determining whether the Proper Officer is satisfied that there is reasonable cause to suspect an assessment is incorrect in a material respect the Proper Officer shall have regard to:-
- 11.9.1 The matters set out in section 63(3) of the Act and
 - 11.9.2 The objects of the Act.
- 11.10 Having considered the application the Proper Officer is to advise the parties of the decision supported by a brief statement of reasons.
- 11.11 If the Proper Officer is satisfied that there are reasonable grounds to suspect that the assessment was incorrect in a material respect as alleged by the review applicant, the Proper Officer is to:
- 11.11.1 Arrange for a panel of review of at least 3 assessors to undertake the review
 - 11.11.2 Appoint a secretary to the panel as soon as is practicable and advise the parties of the arrangements for the review within 10 days of the arrangement of the panel.
- 11.12 The secretary to the panel may be an officer of MAS or the Proper Officer and shall;
- 11.12.1 Establish what material was before the original assessor and forward copies to the members of the review panel;
 - 11.12.2 Forward a copy of the certificate and report of the original assessor to the members of the review panel;

- 11.12.3 Forward a copy of the application for review, any supporting submissions or documents and any reply to the members of the review panel
- 11.12.4 Provide administrative support to the review panel
- 11.13 Meetings of the panel may be;
 - 11.13.1 Face to face or conducted by telephone conference and
 - 11.13.2 Shall be held at the place and time decided by the panel, or if there is no decision, as the secretary to the panel directs.
- 11.14 If there is disagreement among the members of the panel:
 - 11.14.1 In the case of an odd numbered panel, a decision of the panel is that of the majority of its members
 - 11.14.2 In the case of an even numbered panel, the chairperson of the panel will have a casting vote
- 11.15 The assessors who are to constitute a panel must appoint from their number a chairperson of that panel. In the absence of a nomination the Proper Officer may nominate an assessor to:
 - 11.15.1 Preside over the meetings of the panel
 - 11.15.2 Prepare the report of the panel providing brief reasons for the decision of the panel
 - 11.15.3 Sign any new certificate on behalf of the panel
- 11.16 The panel may:
 - 11.16.1 Review the assessment on the papers provided to the original assessor
 - 11.16.2 If the members of the review panel are of the view that a review without a medical examination should not be done, then the secretary to the panel is to arrange forthwith a medical examination or examinations with the members of the panel
 - 11.16.3 Confirm the certificate or
 - 11.16.4 Revoke the certificate and issue a new certificate
- 11.17 The Proper Officer is to send a copy of the panel's decision and any amended certificate to:
 - 11.17.1 The parties to the assessment
 - 11.17.2 The original assessor

CHAPTER 12 INTERPRETERS

- 12.1 Only interpreters accredited by NAATI (National Accreditation Authority for Translators) may be used during the course of a medical assessment or review.

CHAPTER 13 PERSONS WHO MAY ACCOMPANY CLAIMANTS TO MAS

- 13.1 A parent, carer or other support person may accompany the claimant to a medical assessment or review if it is reasonable and necessary in the circumstances of the matter.
- 13.2 A parent, carer or other support person may be present during a medical assessment or review if it is reasonable and necessary in the circumstances
- 13.3 A claimant's legal or medical representative may not accompany a person to a medical assessment or review at all unless by a prior agreement with the Proper Officer and the Proper Officer is of the view the circumstances warrant the attendance of a legal practitioner.

CHAPTER 14 NON-ATTENDANCE

- 14.1 If the claimant fails to attend a medical or other examination for the purposes of an assessment then the claimant must pay any non-attendance or other fee unless, in the opinion of the Proper Officer, the claimant provides a reasonable excuse for the non-attendance.
- 14.2 Any non-attendance or other fee to be paid by the claimant must be paid within 28 days of the non-attendance except with the leave of the Proper Officer.
- 14.3 If the claimant cancels a medical or other examination for the purpose of an assessment less than 2 full working days before the examination, thereby incurring a cancellation fee, then the claimant must pay any such fee unless, in the opinion of the Proper Officer, the claimant provides a reasonable excuse for the cancellation at short notice.
- 14.4 Any cancellation fee to be paid by the claimant must be paid within 28 days of the cancellation except with the leave of the Proper Officer.

CHAPTER 15 TIME

- 15.1 Abridgement or extension of time
- 15.1.1 The Proper Officer may, if the circumstances justify, and on terms, abridge or extend any time limit fixed by these guidelines, including any time limit affecting the Proper Officer or an assessor
- 15.1.2 The Proper Officer may extend time under clause 16.1.1 above after the time expires, whether or not an application for the extension is made before the time expires or at all.
- 15.2 Reckoning of time:-
- 15.2.1 Any period of time fixed by these guidelines for the doing of any act or in connection with any assessment or directed by the Proper Officer or an assessor shall be reckoned in accordance with this paragraph
- 15.2.2 Where a time of one day or a longer time is to be reckoned by reference to a given day or event, the given day or the day of the given event shall not be counted
- 15.2.3 Where, apart from this sub-clause, the period in question, being a period of five days or less, would include a day on which the registry is closed, that day shall be excluded
- 15.2.4 Where the last day for doing a thing is a day on which the registry is closed, the thing may be done on the next day on which the registry is open.

CHAPTER 16 SERVICE

- 16.1 Where a claimant or insurer notifies, in any document lodged, an address for service, then leaving a copy at that address shall be taken to be good service on the person.
- 16.2 Sending a copy of any document lodged by pre-paid post addressed to the claimant person, insurer or their respective solicitors or agents shall be taken to be good service on a day five days after the copy is so sent.
- 16.3 Where the address for service of a claimant, an insurer or their respective solicitors or agents includes an exchange box in the Australian Document Exchange Pty Limited, leaving a copy, addressed to that claimant, insurer, solicitor or agent, in that exchange box or at another exchange box for transmission to that exchange box, shall be taken to be good service on a day two days after the copy is so left.

CHAPTER 17 COSTS OF ASSESSMENT

- 17.1 The insurer will pay the reasonable expenses of the claimant and any accompanying person (see clause 14.1) attending a medical or other examination arranged by MAS.

TENDERS

Department of Public Works and Services

SUPPLIES AND SERVICES FOR THE PUBLIC SERVICE

TENDERS for the undermentioned Period Contracts, Supplies and Services, required for the use of the Public Service, will be received by the Department of Public Works and Services, Level 3, McKell Building, 2-24 Rawson Place, Sydney, NSW 2000, up til 9.30 am on the dates shown below:

4 September 2001

01/2765 EOI FOR A CUSTOMER DECISION TOOL FOR PERSONAL COMPUTERS.
DOCUMENTS: \$220.00 PER SET

5 September 2001

014/7189 SCANNING DOCUMENTS FOR THE DEPARTMENT MINERAL RESOURCES.
DOCUMENTS: \$110.00 PER SET

016/7190 ALUMINIUM V-HULL AND HEAVY DUTY FLAT BOTTOM BOATS (INCLUDING TRAILERS).
DOCUMENTS: \$110.00 PER SET

12 September 2001

012/7146 PROVISION OF MEDIA MONITORING SERVICES. DOCUMENTS: \$110.00 PER SET

016/7179 SPONSORSHIP SERVICES. DOCUMENTS: \$110.00 PER SET

013/7203 PROVISION OF SHIPPING SERVICES TO LORD HOWE ISLAND. DOCUMENTS: \$110.00 PER SET

18 September 2001

S01/00325 (48) LAND AND PROPERTY INFORMATION NSW, DITM – CATERING CONTRACT.
DOCUMENTS: \$165.00 PER SET

025/7191 PRINTING OF 'THE SCHOOL MAGAZINE'. DOCUMENTS: \$110.00 PER SET

01/7201 SUPPLY OR LEASE/PURCHASE OF ICP ATOMIC EMISSION SPECTROMETER.
DOCUMENTS: \$110.00 PER SET

01/7212 WAVELENGTH DISPERSIVE X-RAY SPECTROMETER. DOCUMENTS: \$110.00 PER SET

19 September 2001

003/7112 SPECIAL FLUORESCENT LUMINAIRES. DOCUMENTS: \$110.00 PER SET

20 September 2001

016/7181 AERIAL LADDER PLATFORM VEHICLES. DOCUMENTS: \$110.00 PER SET

S01/00108 (1020) CLEANING FOR DEPARTMENT OF HOUSING – LIVERPOOL. CATEGORY B. INSPECTION DATE AND TIME: 28 AUGUST 2001 AT 10:45 AM SHARP. AREA: 18,801.2 SQUARE METERS.
DOCUMENTS: \$55.00 PER SET

25 September 2001

S0172563 2001 HSC SECURITY CENTRES GREATER SYDNEY METRO AREA. DOCUMENTS: \$110.00 PER SET

27 September 2001

S01/00305 (906) CLEANING OF WESTMEAD CORONER'S COURT. CATEGORY D. INSPECTION DATE AND TIME: 13 SEPTEMBER 2001 AT 11:30 AM SHARP. AREA: 611 SQUARE METERS.
DOCUMENTS: \$27.50 PER SET

00/7136 REHABILITATION OF OYSTER LEASES IN GEORGES RIVER ESTUARY.
DOCUMENTS: \$110.00 PER SET

TENDER DOCUMENT FEE

Tender documents for inspection and purchase, and application forms for Expression of Interest are available at the address above. Where charges apply for tender documents, they are not refundable, cheques and credit cards (Bankcard, Mastercard and Visa) only are acceptable, payable to Department of Public Works and Services. NO CASH payments will be accepted. Documents can be Express Posted on request at an extra cost. Non attendance of mandatory site meetings will render tenders informal.

Further Information is available on the Internet: <http://www.dpws.nsw.gov.au/tenders>

PRIVATE ADVERTISEMENTS

COUNCIL NOTICES

BAULKHAM HILLS SHIRE COUNCIL

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Baulkham Hills Shire Council declares, with the approval of His Excellency the Governor, that the land described in the Schedule below, excluding mines and deposits of minerals within the land, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of public open space. Dated at Sydney, 20th August, 2001. D. MEAD, General Manager, Baulkham Hills Shire Council, PO Box 75, Castle Hill, NSW 1765.

SCHEDULE A

Lot 11, DP 833069

SCHEDULE B

Easement for transmission lines affecting Lot 11, DP 833069 shown so burdened on S.B.D. 63/120 notified in *Government Gazette* dated 20th September, 1963 Folio 2760/01 and shown on DP 643549. [0749]

FAIRFIELD CITY COUNCIL

Roads Act 1993, Section 116

Proposed Vehicle Access Restriction – Freedom Plaza
(Park Road between John Street and Arthur Street)

NOTICE is hereby given that Council intends to restrict vehicle access to Freedom Plaza, Cabramatta, between 9.30 a.m. and 3.30 p.m. every day. The proposal is to improve safety and amenity of pedestrians in Freedom Plaza. Council is now seeking comments on the proposal from the public and interested organisations. Submissions, in writing, either by way of support or objection to the proposal, must reach Council by Friday, 28th September, 2001 (please quote Council's reference number G10-06-640). For further information, please telephone Council's Traffic and Road Safety Branch on (02) 9725 0874. A. YOUNG, City Manager, Fairfield City Council, PO Box 21, Fairfield, NSW 1860. [0750]

KEMPSEY SHIRE COUNCIL

Kempsey Rural Fire Service

Notice of Declaration of Bush Fire Danger Period

NOTICE is hereby given that a delegate of Council on 29th August, 2001 by instrument declared that the statutory bush fire danger period be imposed within the Kempsey Shire for the period midnight Friday, 31st August, 2001 to midnight Sunday, 30th September, 2001 inclusive. This declaration will bring forward the statutory bush fire danger period with permit requirements

continuing after midnight Sunday, 30th September, 2001 to midnight Sunday, 31st March, 2002. This declaration comes in response to recommendations by the Kempsey Bush Fire Management Committee and is imposed due to the prevailing dry weather conditions and persistent high winds. Allocation of bush fire permits will be subject to compliance with the usual conditions, including notification to neighbouring landholders and a guarantee that sufficient firefighting apparatus and personnel will be on hand to manage the fire. This declaration has the full concurrence of National Parks and Wildlife Service and State Forests of NSW. Dated 29th August, 2001. R. Haigh, Fire Control Officer, Kempsey Rural Fire District. KEMPSEY SHIRE COUNCIL, PO Box 78, West Kempsey, NSW 2440. [0759]

PRISTINE WATERS COUNCIL

Rural Fires Act 1997

New South Wales Rural Fire Service

Notice of Declaration of Bush Fire Danger Period –
Clarence Valley Zone

NOTICE is hereby given that pursuant to section 82 of the Rural Fires Act 1997, a bush fire danger period has been declared throughout the Clarence Valley Zone (Copmanhurst, Grafton City, Maclean and Pristine Waters Councils) commencing midnight 24th August, 2001 until 31st March, 2002. B. Condie, Zone Manager, NSW Rural Fire Service. PRISTINE WATERS COUNCIL, PO Box 13, Ulmarra, NSW 2462. [0751]

RICHMOND VALLEY COUNCIL

Rural Fires Act 1997

New South Wales Rural Fire Service

Declaration of Bush Fire Danger Period – Richmond
Valley District

IN accordance with section 82 of the Rural Fires Act 1997, the bush fire danger period for the Richmond Valley Local Government area will commence at 1.00 a.m. on Friday, 24th August, 2001. This requires that any person wishing to light a fire from 24th August, 2001 must obtain a fire permit in accordance with section 87 of the Rural Fires Act 1997. B. Townsend, Fire Control Officer, Richmond Valley District. RICHMOND VALLEY COUNCIL, Locked Bag 10, Casino, NSW 2470. [0752]

SOUTH SYDNEY COUNCIL

Roads Act 1993, Section 162

Naming of Public Roads – Within the Former ACI
Development Site at 782–822 Bourke Street, Waterloo

NOTICE is hereby given that South Sydney Council by Resolution dated 15th August, 2001 and pursuant to section 162, Division 4 of the Roads Act 1993, has named the public roads as follows:

Description

Roads within the development site bounded by Bourke Street, Crescent Street, South Dowling Street and Lachlan Street, Zetland. (Plan No. S6-280/261).

J. W. BOURKE, General Manager, South Sydney City Council, Locked Bag 5000, Strawberry Hills, NSW 2012.

[0758]

Road Names

Crystal Street;
Potter Street;
Broome Street;
Danks Street
(extension of existing street);
Gadigal Avenue
(extension of existing street).

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of ELVENA MARY MUDDLE, late of Woy Woy, in the State of New South Wales, retired, who died on 9th July, 2001, must send particulars of his claim to the executor, John Darryll Turnell, c.o. Peninsula Law, Solicitors, 103-105 Blackwall Road, Woy Woy or their agents Turner Whelan, Solicitors, Level 2, 162 Goulburn Street, Sydney, within one (1) calendar month from publication of this notice. After that time the executor may distribute the assets of the estate having regard only to the claims of which at the time of distribution he has notice. Probate was granted in New South Wales on 20th August, 2001. PENINSULA LAW, Solicitors, 103-105 Blackwall Road, Woy Woy, NSW 2256 (DX 8806 and 8807, Woy Woy), tel.: (02) 4342 1111.

[0761]

TWEED SHIRE COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that the Tweed Shire Council, by resolution of the Council dated 2nd October, 1996 has resolved to dedicate the land described hereunder as public road pursuant to section 10 of the Roads Act 1993. J. F. GRIFFIN, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah, NSW 2484.

SCHEDULE

Lot 4 in Deposited Plan 837715.

[0753]

TWEED SHIRE COUNCIL

Roads Act 1993, Section 10

Dedication of Lands as Public Road

NOTICE is hereby given that the Tweed Shire Council, by resolution of the Council dated 2nd May, 2001 has resolved to dedicate the land described hereunder as public road pursuant to section 10 of the Roads Act 1993. J. F. GRIFFIN, General Manager, Tweed Shire Council, PO Box 816, Murwillumbah, NSW 2484.

SCHEDULE

Lots 1 and 2, DP 1024097.

[0754]

ESTATE NOTICES

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of GORDON CAMPBELL ROSS, late of 59 Noorilla Street, Griffith, in the State of New South Wales, retired, who died on 25th May, 2001, must send particulars of his claim to the executors, Colin Ross and Kevin Dole, c.o. Olliffe & McRae, Solicitors, PO Box 874, Griffith, 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 13th July, 2001. OLLIFFE & McRAE, Solicitors, PO Box 874, Griffith, NSW 2680 (DX 5901, Griffith), tel.: (02) 6962 1744.

[0755]

COMPANY NOTICES

NOTICE of final meeting.—BOWGALL PTY LIMITED (In voluntary liquidation), ACN 062 079 529.—Notice is hereby given that pursuant to section 509 of the Corporations Law, the final meeting of members of the company will be held at 92 Cooper Street, Cootamundra on 28th September, 2001 at 2.00 p.m. for the purpose of the liquidator laying before the meeting an account of the winding up and the giving of any explanation thereof. Dated 24th August, 2001. M. McNAMARA, Liquidator, c.o. Dawson & Partners, Chartered Accountants, Jindalee House, 92 Cooper Street, Cootamundra, NSW 2590, tel.: (02) 6942 1711.

[0756]

NOTICE of final meeting.—PRETAN PTY LIMITED (In voluntary liquidation), ACN 062 079 752.—Notice is hereby given that pursuant to section 509 of the Corporations Law, the final meeting of members of the company will be held at 92 Cooper Street, Cootamundra on 28th September, 2001 at 2.00 p.m. for the purpose of the liquidator laying before the meeting an account of the winding up and the giving of any explanation thereof. Dated 24th August, 2001. M. McNAMARA, Liquidator, c.o. Dawson & Partners, Chartered Accountants, Jindalee House, 92 Cooper Street, Cootamundra, NSW 2590, tel.: (02) 6942 1711.

[0757]

NOTICE convening final meeting of members and creditors.—ACN 002 244 153 PTY LIMITED (In liquidation), ACN 002 244 153.—Notice is hereby given that the final general meeting of the abovenamed company will be held at the office of Lower, Russell & Farr, corner Henry and Lawson Streets, Penrith on 19th September, 2001 at 10.00 a.m. for the purpose of having an account laid before them showing the manner in which the winding up has been conducted and the property of the company disposed of and of hearing any explanations that may be given by the liquidator. Persons claiming to be creditors are required to prove their debt by no later than 4.00 p.m. of the previous day. In default they will be excluded from the benefit of the dividend. Dated 29th August, 2001. S. H. LOWER, Liquidator, c.o. Lower, Russell & Farr, Chartered Accountants, corner Henry and Lawson Streets, Penrith, NSW 2751, tel.: (02) 4732 3033.

[0760]