



New South Wales

Regulatory Reform and Other Legislative Repeals Bill 2015

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

The *Occupational Licensing National Law Repeal Bill 2015* is cognate with this Bill.

Overview of Bill

The objects of this Bill are as follows:

- (a) to abolish the requirement for persons practising as property valuers in NSW to be registered, by repealing the *Valuers Act 2003*,
- (b) to repeal the *Internal Audit Bureau Act 1992*, dissolve the Internal Audit Bureau on that repeal and facilitate the disposal of the Bureau's assets before it is dissolved,
- (c) to repeal the *West Scholarships Act 1930* and, on that repeal, dissolve the trust administered under that Act,
- (d) to repeal certain other Acts that, for policy reasons, are no longer required,
- (e) to repeal certain other Acts and provisions of Acts and instruments for the purpose of statute law revision,
- (f) to make amendments to various Acts and instruments consequent on or related to the proposed repeals,
- (g) to make other provisions of a savings, transitional or ancillary nature.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 provides for the repeal of the *Valuers Act 2003*, the *Valuers Regulation 2010*, the *Internal Audit Bureau Act 1992* and the *West Scholarships Act 1930*. Clause 3 also repeals the *Land Acquisition (Charitable Institutions) Act 1946* and the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2013* for policy reasons. Additionally, clause 3 repeals Part 4 of the *Insurance Protection Tax Act 2001* because it is no longer required and various other provisions of that Act, and various principal Acts, for the purpose of statute law revision.

The repeal of the *Valuers Act 2003* will abolish the requirement for persons practising as property valuers in NSW to be registered, giving effect to Recommendation 13 of the Independent Pricing and Regulatory Tribunal's *Reforming licensing in NSW: Review of licence rationale and design* (September 2014). Amendments consequent on or related to the repeal of that Act are made by Schedule 1.

The repeal of the *Internal Audit Bureau Act 1992* is related to the dissolution of the Internal Audit Bureau by amendments to the *Public Finance and Audit Act 1983* made by Schedule 2. Other amendments consequent on or related to the repeal of the *Internal Audit Bureau Act 1992* are also made by Schedule 2.

The repeal of the *West Scholarships Act 1930* is related to the dissolution, by amendments to the *Education Act 1990* made by Schedule 3, of the trust administered under that Act.

The *Land Acquisition (Charitable Institutions) Act 1946* enables the Minister for Finance, Services and Property to compulsorily acquire land for certain institutions that have been declared by the Governor to be institutions for the purposes of the Act. The last institution to have been declared for those purposes was the New South Wales Branch of the Australian Boy Scouts Association in 1981.

The *State Revenue and Other Legislation Amendment (Budget Measures) Act 2013* contains uncommenced amendments to the *Health Insurance Levies Act 1982* that provide for an increase in the rate used to calculate the monthly levy payable under that Act by private health insurers. The amendments were intended to offset increased costs to the State caused by private health insurers reducing their rates for the treatment of privately insured patients in public hospitals. The insurers reversed their rate cuts and, therefore, it became unnecessary to commence the amendments and the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2013* can be repealed.

Various provisions of the *Insurance Protection Tax Act 2001* can be repealed because they relate to a tax that was abolished on 1 July 2011. Part 4 provides for the registration of certain insurers liable to pay the tax and has ongoing effect but, as a result of the abolition of the tax, is no longer required. Consequential amendments to the *Insurance Protection Tax Act 2001* are made by Schedule 3.

Clause 4 repeals provisions of Acts and an instrument that contain commenced amendments to Acts and instruments. Section 30 (2) (c) of the *Interpretation Act 1987* ensures that, when those Acts and instruments are repealed, the commenced amendments will not be affected.

Clause 5 repeals amending Acts, and provisions of amending Acts, that cannot be commenced because they amend Acts or provisions that have since been repealed.

Schedule 1 Consequential and other amendments related to repeal of Valuers Act 2003

Schedule 1 makes amendments to Acts and regulations specified in the Schedule that are consequent on or related to the repeal of the *Valuers Act 2003* by the proposed Act.

Many of the amendments replace references, in various Acts and regulations, to valuers registered under the *Valuers Act 2003* (**registered valuers**) with references to qualified valuers. **Qualified valuer** is generally defined, for the purposes of the relevant provisions of those Acts and regulations, as persons having certain categories of membership with the Australian Valuers Institute, the Australian Property Institute or the Royal Institution of Chartered Surveyors. See, in particular, **Schedule 1.1, 1.3 [1] and [2], 1.4, 1.5 [4]–[6], 1.17 [1] and [2], 1.18, 1.22–1.24, 1.25 [1] and [2], 1.26 [1] and [2], 1.27 [3] and [4], 1.29 [2] and [3] and 1.30 [1] and [2].**

Schedule 1.5 [1], 1.19 and 1.29 [1] make consequential amendments. **Schedule 1.17 [3]** makes a law revision amendment.

Schedule 1.14 amends the *Land Acquisition (Just Terms Compensation) Act 1991* to ensure that **loss attributable to disturbance** of land (which is defined as being certain costs and fees incurred by persons entitled to compensation in connection with the compulsory acquisition of land) includes valuation fees only if they are the fees of a qualified valuer. **Qualified valuer** is defined as in other Acts referred to above. The loss attributable to disturbance of land is one of the matters that an authority of the State must have regard to in determining the amount of compensation payable in connection with the compulsory acquisition of land.

Schedule 1.11 [3] inserts savings and transitional provisions into the *Fair Trading Act 1987* consequent on the repeal of the *Valuers Act 2003*, including a 3-year transitional arrangement that will ensure that persons who are registered valuers immediately before the repeal will be taken to be qualified valuers for the purposes of the various Acts and regulations that refer to qualified valuers (proposed clauses 42, 43 and 45 of Schedule 5 to the *Fair Trading Act 1987*).

Schedule 1.5 [3] amends the *Community Land Management Act 1989* by omitting a requirement for 5-yearly valuations of buildings comprised in association property. The requirement was originally included in that Act for the purpose of determining the minimum amount for which those buildings must be insured against damage or destruction by fire or other risks. The requirement is redundant because the Act and its regulation provide that the minimum amount is to be determined by adding up estimates of costs that would be incurred in replacing the buildings. **Schedule 1.5 [2] and 1.6** make consequential amendments.

Schedule 1.27 [1] and [2] and 1.28 amend the *Strata Schemes Management Act 1996* and *Strata Schemes Management Regulation 2010* to align provisions that deal with insurance of buildings in strata schemes with the provisions of the *Community Land Management Act 1989* (as proposed to be amended) and its regulation that deal with similar matters and are described above.

Schedule 1.8 [1], 1.13 [1] and 1.21 [1] amend the *Duties Act 1997*, the *First Home Owner Grant (New Homes) Act 2000* and the *Regional Relocation Grants (Skills Incentive) Act 2011* to remove references to registered valuers from provisions dealing with the evidence that the Chief Commissioner of State Revenue may require, obtain or rely on for the purposes of determining a person's liability for duty or eligibility for a grant under those Acts. **Schedule 1.8 [2] and [3], 1.13 [2] and 1.21 [2]** make consequential amendments.

Schedule 1.9 amends a provision of the *Election Funding, Expenditure and Disclosures Regulation 2009* that enables the Electoral Commission to appoint or approve a person to carry out a property valuation if of the opinion that the value of property disposed of has not been correctly stated. Currently, the person must be a registered valuer (in the case of real property) or have at least 5 years' experience in making valuations of the kind of property disposed of (in any other case). The amendment removes any reference to a registered valuer and requires that the approved or appointed person have at least 5 years' experience in making valuations of the kind of property disposed of in any case.

Schedule 1.10 [1] amends the *Encroachment of Buildings Act 1922* to enable the Land and Environment Court to refer any question in proceedings under that Act to a valuer or registered land surveyor (rather than to a registered valuer or registered land surveyor, as is currently the case).

Schedule 1.3 [3], 1.5 [7], 1.7 [2], 1.10 [2], 1.25 [3], 1.26 [3], 1.29 [4], 1.30 [3] and 1.31 [3] amend various Acts to enable the making of savings and transitional regulations consequent on the enactment of any Act that amends those Acts (including the proposed Act). Other Acts amended by Schedule 1 already contain provisions that enable the making of such regulations consequent on the enactment of any Act that amends those Acts.

Schedule 1.2, 1.7 [1], 1.11 [1] and [2], 1.12, 1.15, 1.16, 1.20 and 1.31 [1] and [2] make other miscellaneous amendments to various Acts that are consequent on the repeal of the *Valuers Act 2003*.

Schedule 2 Consequential and other amendments related to repeal of Internal Audit Bureau Act 1992

Schedule 2 makes amendments to Acts specified in the Schedule that are consequent on or related to the repeal of the *Internal Audit Bureau Act 1992* (the **IAB Act**) by the proposed Act.

Schedule 2.3 [1] amends the IAB Act to authorise the Internal Audit Bureau (**IAB**) to dispose of all or any of its assets, rights or liabilities to the private sector or any public authority of the State (before the repeal of that Act by the proposed Act and the dissolution of IAB by **Schedule 2.4 [3]**).

Schedule 2.3 [2] amends the IAB Act to extend the functions of the Board of Management established under that Act to include the determination of any policies that are necessary to facilitate the dissolution of IAB.

Schedule 2.3 [3] inserts a note into the IAB Act.

Schedule 2.3 [4] amends the IAB Act to enable the making of savings and transitional regulations consequent on the enactment of any Act that amends the IAB Act (including the proposed Act).

Schedule 2.4 [3] amends the *Public Finance and Audit Act 1983* (the **PFA Act**) to provide for the dissolution of IAB on the repeal of the IAB Act. **Schedule 2.1, 2.2, 2.4 [1] and 2.5–2.7** make consequential amendments to the PFA Act and various other Acts.

Schedule 2.4 [2] amends the PFA Act to enable the making of savings and transitional regulations consequent on the enactment of the proposed Act or any other Act the amends the PFA Act.

Schedule 3 Other amendments consequent on repeals

Schedule 3 makes other amendments to Acts specified in the Schedule that are consequent on the repeal of various Acts by the proposed Act.

Schedule 3.2 amends the *Education Act 1990* to provide for the dissolution of the trust administered under the *West Scholarships Act 1930*, and the transfer of trust assets, rights and liabilities to the Crown, on the repeal of that Act. The amendments also enable any money transferred to the Crown to be provided to schools or other bodies for the purpose of awards to final year primary school students.

Schedule 3.1, 3.3, 3.5 and 3.6 transfer the substance of provisions (of possible ongoing effect) of Acts repealed by the proposed Act to various other Acts. In accordance with section 30A of the *Interpretation Act 1987*, the transfer of those provisions does not affect the operation (if any) or meaning of the provisions. In particular:

- (a) **Schedule 3.1** transfers sections 5–8 and 9 (2) of the *Forestry (Darling Mills State Forest Revocation) Act 2005* to the *Crown Lands Act 1989*, and
- (b) **Schedule 3.3** transfers sections 3, 6–9, 15–17, 18 (1) and 19 of the *HomeFund Restructuring Act 1993* to the *Housing Act 2001*, and
- (c) **Schedule 3.5** transfers sections 3–5 of the *National Parks and Wildlife (Adjustment of Areas) Act 2005* to the *National Parks and Wildlife Act 1974*, and
- (d) **Schedule 3.6** transfers section 2 (3) and (5) of the *Transfer of Records Act 1923* to the *Supreme Court Act 1970*.

Schedule 3.4 [1] amends the *Insurance Protection Tax Act 2001* consequent on the repeal of redundant provisions of that Act relating to an abolished tax. **Schedule 3.4 [2]** inserts savings and transitional provisions (including a provision that enables the making of savings and transitional regulations) consequent on the enactment of the proposed Act.

Schedule 4 General savings, transitional and other provisions

Schedule 4 contains savings, transitional and other provisions of general effect.

Clause 1 ensures that (unless expressly provided to the contrary) any instrument that is in force and made under a provision of an Act that is amended or substituted by the proposed Act will be taken to have been made under the Act as amended.

Clause 2, in conjunction with section 29A of the *Interpretation Act 1987*, enables the Governor, by proclamation, to revoke the repeal of any Act or instrument (or any provision of an Act or instrument) by the proposed Act and restore its operation. The Act or provision to which the revocation applies is taken not to be, and never to have been, repealed.

Clause 3 enables the making of regulations of a savings or transitional nature having a short term effect and relating to incidental matters arising out of the proposed Act with regard to which no specific, or sufficient, provision has been made in the proposed Act.