



New South Wales

Better Regulation Legislation Amendment (Miscellaneous) Bill 2024

Explanatory note

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

Overview of Bill

The object of this Bill is to amend legislation administered by the Minister for Customer Service and Digital Government, the Minister for Better Regulation and Fair Trading and the Minister for Building.

The Bill includes the following amendments—

- (a) minor amendments of a statute law revision nature,
- (b) amendments to the *Home Building Act 1989* to dissolve the Building Insurers' Guarantee Corporation and the Building Insurers' Guarantee Fund, which are no longer required,
- (c) amendments to reflect machinery of government changes.

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.

Schedule 1 Minor amendments

Schedule 1.1 Associations Incorporation Act 2009 No 7

Schedule 1.1 makes it clear that a person aggrieved by the distribution of an association's property, following the cancellation of the association's registration, may apply to the Supreme Court for an order about the disposal of the property.

Schedule 1.2 Building and Construction Industry Security of Payment Act 1999 No 46

Schedule 1.2 provides that a person who has undertaken to carry out construction work, or to supply related goods and services, is not entitled to a progress payment if the construction contract—

- (a) does not comply with the *Home Building Act 1989*, section 4, or
- (b) involves construction work that is residential building work done in contravention of the *Home Building Act 1989*, section 92.

Schedule 1.3 Charitable Fundraising Act 1991 No 69

Schedule 1.3 relates to the application of the *Licensing and Registration (Uniform Procedures) Act 2002*, Part 2 and provides that an application for an authority under the *Charitable Fundraising Act 1991* is taken to have been refused if the application is not determined within 28 days.

Schedule 1.4 Community Land Management Act 2021 No 7

Schedule 1.4 corrects terminology.

Schedule 1.5 Conveyancers Licensing Act 2003 No 3

Schedule 1.5 removes a redundant provision relating to the application of the *Licensing and Registration (Uniform Procedures) Act 2002*, Part 2 to licences under the *Conveyancers Licensing Act 2003*.

Schedule 1.6 Fair Trading Act 1987 No 68

Schedule 1.6[1] and [2] make it clear that the scheme for the publication of prices of fuel, including electricity, at service stations, known as FuelCheck, extends to public electric vehicle charging stations, even if the stations are not staffed. **Schedule 1.6[3]** provides that the standard retail price for electricity for the scheme is the price calculated in accordance with arrangements approved by the Commissioner for Fair Trading instead of the price per kilowatt hour.

Schedule 1.6[4] corrects terminology.

Schedule 1.7 Government Telecommunications Act 2018 No 67

Schedule 1.7 provides that notice of meetings of the Government Telecommunications Authority Advisory Board may be given to members in any way. Currently, notice must be given personally or by post.

Schedule 1.8 Home Building Act 1989 No 147

Schedule 1.8[1]–[3] update references to certain qualifications required for tradesperson certificates and supervisor certificates relating to mechanical services and medical gas work, medical gasfitting work and medical gas technician work.

Schedule 1.9 Motor Dealers and Repairers Act 2013 No 107

Schedule 1.9[1] provides that a person is not a motor dealer if the person sells a trailer to carry a new boat sold by the person. Currently, the exemption applies only to a person who sells a trailer to carry a second-hand boat sold by the person.

Schedule 1.9[2] updates a cross-reference.

Schedule 1.10 Pawnbrokers and Second-hand Dealers Act 1996 No 13

Schedule 1.10[1] and [4] enable a person pawning goods to use an electronic signature to sign a record of the agreement with the pawnbroker, or an extension of an agreement, if the record is kept electronically. **Schedule 1.10[2], [3] and [5]** make consequential amendments.

Schedule 1.11 Residential Tenancies Act 2010 No 42

Schedule 1.11[1]–[3] provide that the Commissioner for Fair Trading is a member, and the Chairperson, of the Rental Bond Board, instead of the Secretary of the Department of Customer Service, as is currently the case.

Schedule 1.11[4] provides that a person appointed to act as the deputy of the Chairperson of the Rental Bond Board has the Chairperson's functions.

Schedule 1.12 Residential Tenancies Regulation 2019

Schedule 1.12 omits redundant provisions.

Schedule 1.13 Strata Schemes Development Act 2015 No 51

Schedule 1.13 requires copies of court orders to be lodged with the Registrar-General electronically if the plan and accompanying documents are lodged electronically.

Schedule 1.14 Strata Schemes Management Act 2015 No 50

Schedule 1.14[1] updates an offence provision to correct an error made by the *Strata Legislation Amendment Act 2023*.

Schedule 1.14[2] makes it clear that the bond scheme for building defects applies to building work if the owners corporation is liable to pay for the building work, even if the building work is not carried out on a building that is part of the parcel of the strata scheme. The owners corporation may be liable to pay for building work under a strata management statement or registered building management statement.

Schedule 1.15 Strata Schemes Management Regulation 2016

Schedule 1.15 updates references to offences under the *Strata Schemes Management Act 2015* for which penalty notices may be issued.

Schedule 1.16 Surveying and Spatial Information Act 2002 No 83

Schedule 1.16 provides for notice of meetings of the Board of Surveying and Spatial Information to be given to members in any way. Currently, notice must be given personally or by post.

Schedule 1.17 Tow Truck Industry Act 1998 No 111

Schedule 1.17[1] and [2] provide that tow truck operators licences and drivers certificates may be granted for 3 or 5 years for all applicants. Currently, a licence or certificate may be granted for only 1 year if the applicant has not held a licence or certificate continuously for the previous 3 years.

Schedule 2 Amendments relating to dissolution of Building Insurers' Guarantee Corporation

Schedule 2.2 amends the *Home Building Act 1989* to dissolve the Building Insurers' Guarantee Corporation (the *Corporation*) and the Building Insurers' Guarantee Fund (the *Fund*), which was administered by the Corporation. The Corporation and the Fund were established to administer claims by persons affected by the collapse of HIH and FAI insurance companies. The Fund was closed to new claims on 1 January 2018 and the last claims were finalised in December 2020.

Schedule 2.1 and 2.3–2.5 make consequential amendments to other Acts and regulations.

Schedule 3 Amendments relating to administrative arrangements

Schedule 3 updates the following Acts to reflect machinery of government changes—

- (a) *Biofuels Act 2007*,

- (b) *Building and Construction Industry Security of Payment Act 1999,*
- (c) *Building and Development Certifiers Act 2018,*
- (d) *Building Products (Safety) Act 2017,*
- (e) *Design and Building Practitioners Act 2020,*
- (f) *Home Building Act 1989,*
- (g) *Plumbing and Drainage Act 2011,*
- (h) *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020,*
- (i) *Swimming Pools Act 1992.*



New South Wales

Better Regulation Legislation Amendment (Miscellaneous) Bill 2024

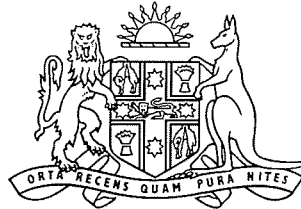
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This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council

Clerk of the Parliaments



New South Wales

Better Regulation Legislation Amendment (Miscellaneous) Bill 2024

No. _____, 2024

A Bill for

An Act to amend various Acts and regulations administered by the Minister for Customer Service and Digital Government, the Minister for Better Regulation and Fair Trading and the Minister for Building.

The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with/without amendment.

Legislative Assembly

Clerk of the Legislative Assembly

Tabling copy

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Better Regulation Legislation Amendment (Miscellaneous) Act 2024*.

3

2 Commencement

4

This Act commences as follows—

5

- (a) for Schedule 1.14[2]—on a day or days to be appointed by proclamation,
- (b) otherwise—on the date of assent to this Act.

6

7

Schedule 1	Minor amendments	1
1.1	Associations Incorporation Act 2009 No 7	2
	Section 77 Distribution of assets	3
	Omit section 77(4). Insert instead—	4
	(4) A person aggrieved by the operation of this section in relation to an association’s property may apply to the Supreme Court for an order about the disposal of the property.	5 6 7
	(5) The Supreme Court may deal with an application by making the orders the Court thinks fit in relation to the disposal of the association’s property.	8 9
1.2	Building and Construction Industry Security of Payment Act 1999 No 46	10 11
	Section 8 Right to progress payments	12
	Insert at the end of the section—	13
	(2) A person is not entitled to a progress payment under subsection (1) if the construction contract—	14 15
	(a) does not comply with the <i>Home Building Act 1989</i> , section 4, or	16
	(b) involves construction work that is residential building work done in contravention of the <i>Home Building Act 1989</i> , section 92.	17 18
1.3	Charitable Fundraising Act 1991 No 69	19
	Section 13A Application to authorities of Licensing and Registration (Uniform Procedures) Act 2002	20 21
	Omit section 13A(3)(c).	22
1.4	Community Land Management Act 2021 No 7	23
	Sections 83(2)(e), 109(3)(b) and 228(3)	24
	Omit “common property” wherever occurring. Insert instead “association property”.	25
1.5	Conveyancers Licensing Act 2003 No 3	26
	Section 11 Application to licences of Licensing and Registration (Uniform Procedures) Act 2002	27 28
	Omit section 11(3)(h).	29
1.6	Fair Trading Act 1987 No 68	30
[1]	Section 58 Scheme for publication of service station fuel prices	31
	Insert “, whether or not the building or place is staffed” after “there” in section 58(6), definition of <i>service station</i> .	32 33
[2]	Section 58(6), definition of “service station”	34
	Insert at the end of the definition—	35
	Example— a public electric vehicle charging station that is not staffed	36

[3] Section 58(6), definition of “standard retail price”	1
Omit the definition. Insert instead—	2
<i>standard retail price</i> , in relation to a prescribed fuel supplied by retail at a service station, means the following—	3
(a) for hydrogen—the price per kilogram at which the fuel is available to retail customers, without discounts or special offers,	4
(b) for electricity—the price calculated in accordance with arrangements approved by the Secretary by order published on the NSW legislation website,	5
(c) otherwise—the price per litre at which the fuel is available to retail customers, without discounts or special offers.	6
[4] Section 60D Fit and proper person	7
Omit “suspension” from section 60D(3)(b)(ii). Insert instead “cancellation”.	8
1.7 Government Telecommunications Act 2018 No 67	9
Section 13 Membership of Advisory Board	10
Omit “personally or in the ordinary course of post” from section 13(4)(e).	11
1.8 Home Building Act 1989 No 147	12
[1] Sections 33E(1)(b)(i) and (1A)(b)(i), 33F(1)(b)(i) and (1A)(b)(i) and 33G(1)(b)(i) and (1A)(b)(i)	13
Insert “and test” after “Install” wherever occurring.	14
[2] Section 33F Additional requirements for obtaining endorsed contractor licenses and supervisor and tradesperson certificates relating to medical gasfitting work	15
Omit section 33F(1A)(a). Insert instead—	16
(a) has successfully completed the VET qualification Certificate IV in Plumbing, and	17
[3] Section 33G Additional requirements for obtaining endorsed contractor licenses and supervisor and tradesperson certificates relating to medical gas technician work	18
Omit section 33G(1A)(a)(ii).	19
1.9 Motor Dealers and Repairers Act 2013 No 107	20
[1] Section 5 Motor dealers	21
Omit “second-hand” from section 5(5).	22
[2] Section 150 Purposes for which powers of authorised officer may be exercised	23
Omit “Part 4.5 of the <i>Road Transport Act 2013</i> ” from section 150(b).	24
Insert instead “the <i>Road Transport Act 2013</i> , Part 4.5 or 4.5A”.	25
1.10 Pawnbrokers and Second-hand Dealers Act 1996 No 13	26
[1] Section 28 Pawnbroker’s record of pledges	27
Omit section 28(3). Insert instead—	28
(3) A pledge is not validly made unless—	29

(a)	the person pawning the goods signs the record, including by, if the record is kept in electronic form, signing a hard copy or attaching an electronic signature, and	1 2 3
(b)	at the time of signing, the record contained all the particulars required by or under this Act to be included in the record.	4 5
[2]	Section 28(4)	6
	Omit “original record, or hard copy,”. Insert instead “record”.	7
[3]	Section 29A Agreement to extend redemption period	8
	Omit “original record” from section 29A(5)(a). Insert instead “record”.	9
[4]	Section 29A(6)(a) and (b)	10
	Omit the paragraphs. Insert instead—	11
(a)	the person entering the extending agreement with the pawnbroker signs the record, including by, if the record is kept in electronic form, signing a hard copy or attaching an electronic signature, and	12 13 14
(b)	at the time of signing, the document contained all the particulars required by or under this Act to be included in the document.	15 16
[5]	Section 29A(7)	17
	Omit “original of any such”.	18
1.11	Residential Tenancies Act 2010 No 42	19
[1]	Section 178 Members of Rental Bond Board	20
	Omit “of the Department of Customer Service” from section 178(1)(a).	21
	Insert instead “, who is the Chairperson of the Board”.	22
[2]	Section 178(1)(a), note	23
	Insert at the end of section 178(1)(a)—	24
	Note— <i>Secretary</i> is defined in section 3(1) to mean the Commissioner for Fair Trading or, if there is no person employed as Commissioner for Fair Trading, the Secretary of the Department of Customer Service.	25 26 27
[3]	Section 178(2)	28
	Omit the subsection.	29
[4]	Schedule 1 Membership and procedure of Rental Bond Board	30
	Omit clause 4(5). Insert instead—	31
(5)	To avoid doubt, the deputy of a member who is the Chairperson has the member’s functions as Chairperson and is taken to be Chairperson.	32 33
1.12	Residential Tenancies Regulation 2019	34
[1]	Section 39, heading	35
	Omit “—ss 44(2), 83(2)(a), 98(4), 115(3), 125(3), 134(3), 141(2), 175(3) and 190(1) of Act”.	36 37

[2] Section 39(6)	1
Omit the subsection.	2
1.13 Strata Schemes Development Act 2015 No 51	3
[1] Section 197 Application of Act to electronic form plans and other documents	4
Omit “, other than an office copy of a court order,” from section 197(1)(b).	5
[2] Section 197(3) and (3A)	6
Omit section 197(3). Insert instead—	7
(3) If a plan is lodged electronically, any other document that is required to be lodged with the plan must also be lodged electronically in an electronic form approved by the Registrar-General.	8 9 10
(3A) Subsection (3) does not apply to a document excepted from that subsection by the regulations or another Act or by the Registrar-General.	11 12
1.14 Strata Schemes Management Act 2015 No 50	13
[1] Section 186 Strata scheme information to be given to lessee	14
Insert at the end of section 186(3)—	15
Maximum penalty—5 penalty units.	16
[2] Section 191 Building work to which Part applies	17
Omit section 191(1). Insert instead—	18
(1) This part applies to the following building work—	19
(a) residential building work carried out on a building or part of a building that is part of the parcel of a strata scheme,	20 21
(b) building work carried out on a building or part of a building that is—	22
(i) part of the parcel of a strata scheme, and	23
(ii) used or proposed to be used for mixed use purposes that include residential purposes,	24 25
(c) building work that—	26
(i) is carried out on a building or part of a building that is not part of the parcel of a strata scheme, and	27 28
(ii) the owners corporation is liable to pay for under a strata management statement or a building management statement registered under the <i>Conveyancing Act 1919</i> , Part 23, Division 3B.	29 30 31 32
(1A) Building work specified in subsection (1)(c) is taken to be carried out on a building in a part of the parcel of a strata scheme for the purposes of this part.	33 34
1.15 Strata Schemes Management Regulation 2016	35
[1] Schedule 5 Penalty notice offences	36
Omit “Section 186(1) and (2)” from Column 1 under the heading Offences under the Act .	37
Insert instead “Section 186(1) and (3)”.	38

[2] Schedule 5, Offences under the Act, Column 1	1
Omit “Section 258(1), (2) and (3)”. Insert instead “Section 258(1) and (3)”.	2
1.16 Surveying and Spatial Information Act 2002 No 83	3
Schedule 1 The Board of Surveying and Spatial Information	4
Omit “personally or in the ordinary course of post” from clause 4(1)(b).	5
1.17 Tow Truck Industry Act 1998 No 111	6
[1] Section 22 Term of licence	7
Omit section 22(2)(b).	8
[2] Section 31 Term of drivers certificate	9
Omit section 31(2)(b).	10

Schedule 2	Amendments relating to dissolution of Building Insurers' Guarantee Corporation	1
		2
2.1	Government Information (Public Access) Regulation 2018	3
	Schedule 3 Agencies declared to be part of other agencies	4
	Omit the matter relating to the Building Insurers' Guarantee Corporation.	5
2.2	Home Building Act 1989 No 147	6
[1]	Section 103F Interpretation	7
	Omit section 103F(1), definitions of <i>chief executive, claims administrator, former approved insurer, Guarantee Corporation, guarantee fund</i> and <i>insurer</i> .	8
	Insert in alphabetical order—	9
	<i>guarantee fund</i> or <i>Fund</i> means the Home Building Insurers Guarantee Fund.	10
	<i>insurer</i> —	11
	(a) means a licensed insurer other than the Self Insurance Corporation, but	12
	(b) does not include an insolvent insurer.	13
[2]	Section 103F(1), definition of “insolvent insurer”	14
	Omit the note.	15
[3]	Section 103I Indemnity	16
	Omit section 103I(2)(f).	17
[4]	Sections 103J, 103K(1) and (4), 103L, 103M(1) and (3)(b), 103N(1) and (2), 103S(1A), 103V, 103W, 103X(2), 103Z and 103ZB	18
	Omit “a claims administrator” and “the claims administrator” wherever occurring.	19
	Insert instead “the Authority”.	20
[5]	Sections 103K(3), 103M(2), 103N(3) and (5), 103S(2) and (3) and 103U	21
	Omit “A claims administrator” and “The claims administrator” wherever occurring.	22
	Insert instead “The Authority”.	23
[6]	Sections 103N, 103S, 103U, 103W, 103X, 103Z and 103ZA, headings	24
	Omit “Claims administrator”, “claims administrators”, “claims administrator” and “Guarantee Corporation” wherever occurring.	25
	Insert instead “Authority”.	26
[7]	Part 6A, Division 3 Administrative and financial matters relating to former approved insurers	27
	Omit the division.	28
[8]	Section 103S	29
	Omit section 103S(1).	30
[9]	Section 103S(1AA)(a)	31
	Omit “(other than claims relating to insolvent former approved insurers)”.	32

[10] Section 103S(1A)	1
Omit “Without limiting subsection (1)(c), the”. Insert instead “The”.	2
[11] Section 103ZC Delegation	3
Omit the section.	4
[12] Section 123A	5
Omit “or claims administrator” and “or a claims administrator” wherever occurring.	6
[13] Section 124 Order for substituted service	7
Omit “, Authority or a claims administrator” from section 124(1).	8
Insert instead “or the Authority”.	9
[14] Section 131 Certificate evidence	10
Omit “or a claims administrator” from section 131(2)(e).	11
[15] Schedule 1 Definitions and other interpretative provisions	12
Omit clause 1(1), definition of <i>claims administrator</i> .	13
[16] Schedule 4 Savings and transitional provisions	14
Insert “before its amendment by the <i>Better Regulation Legislation Amendment (Miscellaneous) Act 2024</i> ” after “Part 6A” in clause 149(4).	15 16
[17] Schedule 4	17
Insert at the end of the schedule, with appropriate part and clause numbering—	18
 Part Provision consequent on enactment of Better Regulation Legislation Amendment (Miscellaneous) Act 2024	19 20 21
 Dissolution of Building Insurers' Guarantee Corporation and closure of Building Insurers' Guarantee Fund	22 23
On the day on which Part 6A, Division 3 is repealed—	24
(a) the Building Insurers' Guarantee Corporation is dissolved, and	25
(b) the Building Insurers' Guarantee Fund is closed, and	26
(c) the balance of the Building Insurers' Guarantee Fund is transferred to the Self Insurance Corporation, and	27 28
(d) the assets, rights and liabilities of the Building Insurers' Guarantee Corporation are transferred to the Self Insurance Corporation.	29 30
 2.3 Home Building Regulation 2014	31
 Clause 51 Evidence of acceptance of risk	32
Omit the clause.	33
 2.4 Insurance Protection Tax Act 2001 No 40	34
 [1] Section 3C Refunds of tax from Policyholders Protection Fund	35
Omit “Building Insurers' Guarantee Fund and the” from section 3C(1).	36

[2] Section 16 Definitions	1
Omit the definitions of <i>Building Insurers' Guarantee Fund</i> and <i>Guarantee Corporation</i> .	2
[3] Section 16B Policyholders Protection Fund	3
Omit section 16B(2)(b) and (3)(a).	4
[4] Sections 16D and 16F	5
Omit the sections.	6
[5] Section 16H Policyholders Protection Fund to reimburse additional money advanced from Consolidated Fund	7
Omit "Building Insurers' Guarantee Fund or the".	8
2.5 State Insurance and Care Governance Act 2015 No 19	10
Section 10 Functions of ICNSW	11
Omit section 10(2)(e).	12

Schedule 3	Amendments relating to administrative arrangements	1
		2
3.1	Biofuels Act 2007 No 23	3
[1]	Section 3 Definitions	4
	Omit “Department of Finance, Services and Innovation” from section 3(1), definition of <i>Department</i> .	5
	Insert instead “department in which this Act is administered”.	6
[2]	Section 24 Expert Panel	7
	Omit section 24(1)(a1).	8
3.2	Building and Construction Industry Security of Payment Act 1999 No 46	9
		10
[1]	Section 4 Definitions	11
	Insert in alphabetical order in section 4(1)—	12
	<i>Department</i> means the department in which this Act is administered.	13
[2]	Section 4(1), definition of “Secretary”	14
	Omit the definition. Insert instead—	15
	<i>Secretary</i> means the Secretary of the Department.	16
[3]	Section 32C Authorised officers	17
	Omit “of Customer Service” wherever occurring.	18
3.3	Building and Development Certifiers Act 2018 No 63	19
		20
	Section 4 Definitions	21
	Omit section 4(1), definitions of <i>Department</i> and <i>Secretary</i> .	22
	Insert instead in alphabetical order—	23
	<i>Department</i> means the department in which this Act is administered.	24
	<i>Secretary</i> means the Secretary of the Department.	25
3.4	Building Products (Safety) Act 2017 No 69	26
		27
[1]	Section 3 Definitions	28
	Insert in alphabetical order in section 3(1)—	29
	<i>Department</i> means the department in which this Act is administered.	30
[2]	Section 3(1), definition of “Secretary”	31
	Omit the definition. Insert instead—	32
	<i>Secretary</i> means the Secretary of the Department.	33
[3]	Section 75 Persons eligible for appointment as authorised officers	34
	Omit “of Customer Service” from section 75(1)(a).	

3.5 Design and Building Practitioners Act 2020 No 7	1
Section 3 Definitions	2
Omit “Department of Customer Service” from section 3(1), definition of <i>Department</i> .	3
Insert instead “department in which this Act is administered”.	4
3.6 Home Building Act 1989 No 147	5
[1] Sections 48D(1), 114(1), 119(b), 128(1)(a) and 131(1)	6
Omit “of Customer Service” wherever occurring.	7
[2] Schedule 1 Definitions and other interpretative provisions	8
Insert in alphabetical order in clause 1(1)—	9
<i>Department</i> means the department in which this Act is administered.	10
[3] Schedule 1, clause 1(1), definition of “Secretary”	11
Omit the definition. Insert instead—	12
<i>Secretary</i> means the Secretary of the Department.	13
3.7 Plumbing and Drainage Act 2011 No 59	14
Section 3 Definitions	15
Omit section 3(1), definition of <i>plumbing regulator</i> . Insert instead—	16
<i>plumbing regulator</i> means the Secretary of the department in which this Act is administered.	17
	18
3.8 Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 No 9	19
	20
Section 3 Definitions	21
Omit “Department of Customer Service” from section 3(1), definition of <i>Department</i> .	22
Insert instead “department in which this Act is administered”.	23
3.9 Swimming Pools Act 1992 No 49	24
[1] Section 3 Definitions	25
Insert in alphabetical order in section 3(1)—	26
<i>Department</i> means the department in which this Act is administered.	27
[2] Section 3(1), definition of “Secretary”	28
Omit the definition. Insert instead—	29
<i>Secretary</i> means the Secretary of the Department.	30

[3] Section 27 Authorised officers may be appointed

1

Omit “of Customer Service” from section 27(1)(b).

2