



New South Wales

Housing Amendment Act 2025 No 2

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Housing Amendment Act 2025 No 2

Act No 2, 2025

An Act to amend the *Housing Act 2001* to enable the Minister to exercise the same functions as the NSW Land and Housing Corporation; to make provision for the transfer of assets, rights and liabilities; and for the purpose of effecting statute law revision. [Assented to 2 March 2025]

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Housing Amendment Act 2025*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Housing Act 2001 No 52

[1] Section 3 Definitions

Omit the definition of *Department*. Insert instead—

Department means the department in which this Act is administered.

[2] Section 3, definition of “public housing”

Insert “or Minister” after “means housing owned or leased by the Corporation”.

[3] Section 6 Establishment of New South Wales Land and Housing Corporation

Omit “of the Department of Planning, Industry and Environment” wherever occurring in section 6(2) and (3).

[4] Part 4 Acquisition, sale, development and management of land and property

Insert after Division 5—

Division 6 Functions of Minister in relation to land and property

35A Exercise of functions

The Minister must not exercise a function under, or conferred by, this division unless for a purpose that is consistent with the objects of this Act.

35B Dealing with property

The Minister may purchase, exchange, take on lease, hold, dispose of and otherwise deal with property.

35C Acquisition of land

- (1) The Minister may, for the purposes of this Act, acquire land, including an interest in land, by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) For the purposes of the *Public Works and Procurement Act 1912*, an acquisition of land by the Minister is taken to be for an authorised work and the Minister is, in relation to that authorised work, taken to be the Constructing Authority.
- (3) The *Public Works and Procurement Act 1912*, sections 34, 35, 36 and 37 do not apply to works constructed under this Act.

35D Power to accept gifts

- (1) The Minister may acquire by gift, bequest or devise any property for any of the purposes of this Act and may agree to, and carry out the conditions of, the gift, bequest or devise.
- (2) The rule of law relating to remoteness of vesting does not apply to a condition of a gift, bequest or devise to which the Minister has agreed.

35E Surrender of land

- (1) The Minister may accept a surrender of land leased, dedicated or granted under this Act.
- (2) For this section—
 - (a) section 19(2)–(6) is taken to apply to the Minister in relation to the acceptance of a surrender of land under this section, and

- (b) references to the Corporation in section 19(2)–(6) are to be read as references to the Minister.

35F Functions of Corporation apply to Minister

- (1) The Minister has the same functions as the Corporation has under relevant legislation.
- (2) For this section, the provisions of relevant legislation extend to the Minister as if references in the provisions to the Corporation, however described, include references to the Minister.
- (3) To avoid doubt, sections 69, 69A, 69C, 72B, 73 and 74(2) extend to the Minister as if a reference in the provision to the Corporation includes a reference to the Minister.
- (4) Despite subsections (1)–(3), the following provisions do not extend to the Minister merely by operation of the other provisions of this section—
 - (a) section 63,
 - (b) section 66,
 - (c) other provisions of relevant legislation prescribed by the regulations.
- (5) This section does not limit other functions of the Minister under this division.
- (6) In this section—

relevant legislation means Acts, regulations or other subordinate instruments relating to the Corporation, including the following—

 - (a) this Act,
 - (b) the *Environmental Planning and Assessment Act 1979*,
 - (c) the *Residential Tenancies Act 2010*.

35G Transfer of land and other assets, rights and liabilities

- (1) The Minister may, by written order, transfer—
 - (a) the assets, rights and liabilities of a government agency to the Minister as specified in the order, or
 - (b) the assets, rights and liabilities of the Minister to a government agency as specified in the order.
- (2) The Minister must not make the order unless the government agency, not including a government agency the Minister is responsible for, consents to the transfer.
- (3) Schedule 2A applies to a transfer of assets, rights or liabilities by order under this section.
- (4) In this section—

assets—

 - (a) means any legal or equitable estate or interest, whether present or future, whether vested or contingent and whether personal or assignable, in real or personal property of any description, and
 - (b) includes money, securities, choses in action and documents.

government agency means the following—

 - (a) a Minister, other than the Minister administering this Act,
 - (b) a Public Service agency within the meaning of the *Government Sector Employment Act 2013*,

(c) a NSW government agency or statutory corporation,

(d) a State owned corporation.

liabilities means any liabilities, debts or obligations, whether present or future, whether vested or contingent and whether personal or assignable.

rights means any rights, powers, privileges or immunities, whether present or future, whether vested or contingent and whether personal or assignable.

35H Minister to report to Parliament

- (1) The Minister must, for each 12-month period commencing 1 July, prepare a statement to Parliament about the Minister's activities to support housing development and achieve housing targets in New South Wales.
- (2) The statement must include all of the following—
 - (a) details about the activities carried out by the Minister in the exercise of the Minister's functions under, or conferred by, this Act during the period,
 - (b) details about other related, or relevant, activities carried out by the Minister in the exercise of the Minister's functions under, or conferred by, this Act during the period,
 - (c) a report about progress in implementing Government policies and plans relevant to housing development and targets,
 - (d) an assessment of the Minister's activities in supporting the implementation of the Government policies and plans relevant to housing development and targets.
- (3) The Minister must ensure a copy of the statement is tabled in each House of Parliament no later than 12 months after the last statement was tabled.
- (4) The Minister must ensure the statement is made publicly available on a NSW Government website no later than 7 days after being tabled in Parliament.

[5] Section 70 Misuse of information

Omit "the Department of Planning and Environment" in section 70(6)(b) and (d).

Insert instead "the department in which the *Environmental Planning and Assessment Act 1979* is administered".

[6] Section 74A

Insert after section 74—

74A Delegations

- (1) The Minister may delegate the exercise of any of the following functions to a relevant person—
 - (a) a function of the Minister under, or conferred by, this Act, other than this power of delegation,
 - (b) a function of the Minister under another Act if the function arises—
 - (i) from the Minister's capacity as the Minister administering this Act, or being related to the role, or
 - (ii) in relation to a function conferred on the Minister under this Act.
- (2) A relevant person to whom the Minister has delegated a function under this section may, if authorised by the Minister, subdelegate the function to another relevant person.

- (3) In this section—
relevant person means—
(a) an employee of the Department, or
(b) the Corporation.

[7] **Schedule 2A**

Insert after Schedule 2—

Schedule 2A Transfer of assets, rights and liabilities

section 35G(3)

1 Definitions

In this schedule—

instrument means an instrument, other than this Act, that creates, modifies or extinguishes rights or liabilities, or would do so if lodged, filed or registered in accordance with a law, and includes a judgement, order or process of a court.

transfer order means an order made by the Minister under section 35G(1).

transferee means the government agency or the Minister to whom any assets, rights or liabilities are transferred by a transfer order.

transferor means the government agency or the Minister from whom any assets, rights or liabilities are transferred by a transfer order.

2 Vesting in transferee

If assets, rights or liabilities are transferred by a transfer order, the following provisions have effect subject to the order—

- (a) the assets of the transferor vest in the transferee without the need for any further conveyance, transfer, assignment or assurance,
- (b) the rights or liabilities of the transferor become the rights or liabilities of the transferee,
- (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
- (d) the transferee has all the entitlements and obligations of the transferor in relation to the assets, rights and liabilities that the transferor would have had but for the order, whether or not the entitlements and obligations were actual or potential when the order took effect,
- (e) an act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in relation to the transferor or a predecessor of the transferor is, to the extent to which the act, matter or thing has any force or effect, taken to have been done or omitted by, to or in relation to the transferee,
- (f) a reference to the transferor or a predecessor of the transferor in an Act, instrument made under an Act or document, must be read as, or as including, a reference to the transferee to the extent to which the reference relates to the assets, rights or liabilities.

3 Variation of contracts

A transfer order may vary the terms and conditions of an instrument or contract that relates to assets, rights or liabilities to the extent that is necessary or convenient for the transfer.

4 Terms and conditions of transfer

A transfer order may specify the terms and conditions of the transfer.

5 Date of vesting

A transfer order takes effect on—

- (a) the date specified in the order, or
- (b) otherwise—the day on which the order is made by the Minister.

6 Consideration for vesting

A transfer order may specify—

- (a) the consideration, if any, for the transfer, and
- (b) the values, if any, at which the assets, rights or liabilities are transferred.

7 Operation of this schedule

- (1) The operation of this schedule must not be regarded as—
 - (a) a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) a breach of a contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) giving rise to a remedy by a party to an instrument, or causing or permitting the termination of an instrument, because of a change in the beneficial or legal ownership of an asset, right or liability, or
 - (d) an event of default under a contract or other instrument.
- (2) No attornment to the transferee by a lessee from the transferor is required.
- (3) The operation of this schedule includes the making of a transfer order.

8 No compensation payable

No compensation is payable to a person in connection with a transfer order except to the extent to which the transfer order provides.

9 Transfer of interests in land

- (1) The transfer order may transfer an interest in relation to land vested in the transferor without transferring the whole of the interests of the transferor in the land.
- (2) If the interest transferred is not a separate interest, the transfer order operates to create the interest transferred on the terms specified in the transfer order.

10 Transitional arrangements for planning decisions under EPA Act 1979, Part 5

- (1) This clause applies to a planning decision made by a transferor—
 - (a) in connection with land to be transferred under the transfer order, and
 - (b) before the transfer order takes effect.
- (2) The transferee to whom the land is transferred under the transfer order is taken to have made the planning decision.

- (3) In this clause—
planning decision means a decision made, or other action taken, for the purposes of the *Environmental Planning and Assessment Act 1979*, Part 5.

11 State tax not payable

- (1) State tax is not payable in relation to—
- (a) the transfer of assets, rights or liabilities by operation of this schedule, including, without limitation, an instrument executed only for a purpose ancillary to or consequential on the operation of this schedule, or
 - (b) anything certified by the Minister in writing as having been done in consequence of the transfer, or
 - (c) anything in connection with a matter referred to in paragraph (a) or (b).
Example— the transfer or registration of land
- (2) In this clause—
State tax means the following—
- (a) application fees,
 - (b) registration fees,
 - (c) duty or other tax, fees or charges imposed by, or under, a law of the State.

12 Confirmation of vesting

- (1) The Minister may, by written notice, confirm a transfer of assets, rights or liabilities by operation of this schedule.
- (2) The notice is conclusive evidence of the transfer.

13 Certification to registration authorities

- (1) A transferee or transferor may lodge with a registration authority a certificate certifying information required by the authority to enable the authority to exercise the functions of the authority in connection with the vesting of an asset, right or liability under a transfer order.
- (2) The registration authority must accept and act on the certificate.
- (3) The registration authority is not entitled to require the information in the certificate to be provided to the authority in a particular form or way.
- (4) In this clause—
registration authority means a person that has functions under any law in connection with the keeping of a register in relation to assets, rights or liabilities.

[Second reading speech made in—
Legislative Council on 11 February 2025
Legislative Assembly on 19 February 2025]