



New South Wales

# Protection of Public Ownership Bill 2009

## Explanatory note

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

## Overview of Bill

The object of this Bill is to prevent, without the approval of Parliament, the privatisation of publicly-owned assets or agencies or of services provided by those agencies and to place restrictions on the sale and use of land owned by a public education authority.

## 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 on the date of assent to the proposed Act.

**Clause 3** defines certain words and expressions used in the proposed Act.

**Clause 4** provides that certain publicly-owned assets are not to be sold, leased or otherwise disposed of, without Parliamentary mandate. This provision will not apply to a sale, lease or other disposal to another public authority, any entity owned by a public authority or any other entity owned by the State or if the value of the things being sold, leased or disposed of is less than \$1,000,000.

**Clause 5** provides that a travelling stock reserve must not be sold, leased or otherwise disposed of, or dealt with in any way that prevents public access to the reserve, without Parliamentary mandate.

**Clause 6** places restrictions on the sale and use of land owned by a public education authority. Such land must not be sold unless the public education authority has entered into a contract for the purchase of similar land. Such land must not be leased, or otherwise allowed to be used, unless the land is not required for public education purposes and is to be used for another public purpose. The provision also requires records relating to these activities to be kept and an annual report to be prepared and tabled in Parliament.

**Clause 7** restricts outsourcing by public authorities to arrangements that have been approved by Parliament and arrangements that will cost, or earn, the public authority less than \$1,000,000 during each year that the arrangements are in place.

**Clause 8** provides that proposed section 7 does not apply in respect of any arrangements that are in place before the commencement of the proposed Act.



New South Wales

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New South Wales

# Protection of Public Ownership Bill 2009

No. , 2009

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## A Bill for

An Act to prevent, without the approval of Parliament, the privatisation of publicly-owned assets or agencies or of services provided by those agencies; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Protection of Public Ownership Act 2009</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5
<b>3 Definitions</b>	6
In this Act:	7
<b>government school</b> has the same meaning as it has in the <i>Education Act 1990</i> .	8
<b>public authority</b> means any of the following:	9
(a) a public authority constituted by or under an Act,	10
(b) a statutory body representing the Crown,	11
(c) a State owned corporation,	12
(d) a Division of the Government Service,	13
but does not include a council within the meaning of the <i>Local Government Act 1993</i> .	14
<b>public education authority</b> means the Department of Education and Training, a government school or a TAFE establishment and includes the Crown on behalf of any such authority.	15
<b>TAFE establishment</b> has the same meaning as it has in the <i>Technical and Further Education Commission Act 1990</i> .	16
<b>4 Sale, lease or other disposal of publicly-owned assets prohibited without Parliamentary mandate</b>	17
(1) The following are not to be sold, leased or otherwise disposed of, unless the disposal is approved by resolution of each House of Parliament:	18
(a) a public authority,	19
(b) any assets or main undertakings of a public authority or of any entity owned by a public authority,	20
(c) any other assets of the State or of an entity owned by the State.	21
(2) This section does not apply to a sale, lease or other disposal to another public authority, any entity owned by a public authority or any other entity owned by the State.	22
(3) This section does not apply to a sale, lease or other disposal if the value of the things being sold, leased or disposed of is less than \$1,000,000.	23

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(4)	For the purposes of this section, the <i>main undertakings</i> of an entity are:	1
(a)	in relation to a State owned corporation and any of its subsidiaries—the main undertakings as specified in the most recent statement of corporate intent of the State owned corporation, or	2 3 4 5
(b)	in relation to any other entity—the main business carried out by, and business activities of, that entity.	6 7
<b>5</b>	<b>Sale, lease or other disposal of, or prevention of public access to, travelling stock reserves prohibited without Parliamentary mandate</b>	8 9
(1)	A travelling stock reserve must not be sold, leased or otherwise disposed of, or dealt with in any way that prevents public access to the reserve, unless the disposal or other dealing is approved by resolution of each House of Parliament.	10 11 12 13
(2)	In this section, <i>travelling stock reserve</i> has the same meaning as it has in the <i>Rural Lands Protection Act 1998</i> .	14 15
<b>6</b>	<b>Restrictions on sale and use of certain land by public education authorities</b>	16 17
(1)	A public education authority must not sell any land owned by it unless it has entered into a contract for the purchase of land that:	18 19
(a)	has a value equal to, or greater than, the land being sold, and	20
(b)	has an area equal to, or greater than, the land being sold, and	21
(c)	is in a location that is in the same general area as the land being sold.	22 23
(2)	A public education authority must not lease any land owned by it, or otherwise allow the use of such land, unless the land is not required for public education purposes and the land is to be used for another public purpose.	24 25 26 27
(3)	Records relating to the sale of land owned by a public education authority, and the lease or use of such land for purposes other than public education, must be kept by the public education authority. An annual report containing such records and a description of such sales, leases and uses during the previous year must be prepared and tabled in each House of Parliament.	28 29 30 31 32 33

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<b>7</b>	<b>Outsourcing of certain services by public authorities prohibited without Parliamentary mandate</b>	1 2
(1)	A public authority must not enter into any arrangements for its services to be provided, or any of its activities to be carried out, by persons or bodies other than its staff (or the staff of another public authority) unless the arrangements are approved by resolution of each House of Parliament.	3 4 5 6 7
(2)	This section does not apply to arrangements if the cost of having services provided, or activities carried out, in accordance with the arrangements will cost, or earn, the public authority less than \$1,000,000 during each year that the arrangements are in place.	8 9 10 11
<b>8</b>	<b>Savings and transitional provision</b>	12
	Section 7 does not apply in respect of any arrangements that are in place before the commencement of this Act.	13 14