

[Act 1998 No 47]



New South Wales

Aboriginal Housing Bill 1998

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to ensure that Aboriginal people and Torres Strait Islanders have access to affordable and quality housing,
 - (b) to ensure that such housing is appropriate having regard to the social and cultural requirements, living patterns and preferences of the Aboriginal people or Torres Strait Islanders to whom the housing is to be provided.
 - (c) to enhance the role of Aboriginal people and Torres Strait Islanders in determining, developing and delivering policies and programs relating to Aboriginal housing,
 - (d) to ensure that priority is given, in providing housing assistance for Aboriginal people and Torres Strait Islanders, to those individuals who are most in need.
 - (e) to increase the range of housing choices for Aboriginal people and Torres Strait Islanders so as to reflect the diversity of individual and community needs.
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- (f) to ensure that registered Aboriginal housing organisations are accountable, effective and skilled in the delivery of Aboriginal housing programs and services,
- (g) to ensure that the Aboriginal Housing Office's housing programs and services are administered efficiently and in co-ordination with other programs and services that are provided to assist Aboriginal people and Torres Strait Islanders,
- (h) to encourage the sustainable employment of Aboriginal people and Torres Strait Islanders in the delivery of Aboriginal housing assistance.

The Bill constitutes an Aboriginal Housing Office and confers functions on that Office relating to housing for Aboriginal people and Torres Strait Islanders.

Outline of provisions

Part 1 Preliminary

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 a day or days to be appointed by proclamation.

Clause 3 sets out the objects of the proposed Act, as described above in the overview.

Clause 4 defines certain words and expressions used in the proposed Act. *Aboriginal Housing Office* (or *AHO*) means the Aboriginal Housing Office constituted by the proposed Act. *AHO housing agreement* means an agreement between the AHO and a registered Aboriginal housing organisation, relating to the provision of assistance by the AHO. *Housing* includes any form of residential accommodation. A *registered Aboriginal housing organisation* is an organisation that is registered by the AHO under Part 5 of the proposed Act.

Clause 5 provides that notes in the proposed Act do not form part of the proposed Act.

Part 2 Constitution of Aboriginal Housing Office

Clause 6 constitutes the Aboriginal Housing Office as a body corporate.

Clause 7 provides that the Aboriginal Housing Office is, for the purposes of any Act, a statutory body representing the Crown.

Part 3 Functions of Aboriginal Housing Office

Division 1 Principal functions

Clause 8 provides that the Aboriginal Housing Office has the principal functions of:

- (a) planning and developing programs and services to assist Aboriginal people and Torres Strait Islanders in meeting their housing needs, and
- (b) delivering those programs and services, and
- (c) evaluating those programs and services from time to time in order to determine whether they continue to effectively meet the housing needs of Aboriginal people and Torres Strait Islanders.

In exercising those principal functions, the AHO is, among other things, to liaise with other agencies and co-ordinate its programs and services with those offered by other agencies.

Clause 9 sets out some of the ways in which the Aboriginal Housing Office may assist registered Aboriginal housing organisations, such as by providing funding or assistance in developing and implementing asset and management strategies. The AHO may transfer or lease property to, and construct housing for, a registered Aboriginal housing organisation.

Clause 10 provides that the Aboriginal Housing Office may enter into housing agreements with registered Aboriginal housing organisations in relation to assistance provided under the proposed Act. The AHO must not provide certain forms of assistance to a registered Aboriginal housing organisation (including funding) unless it has entered into such an agreement with the registered Aboriginal housing organisation.

Clause 11 provides that the Aboriginal Housing Office may provide housing to Aboriginal people and Torres Strait Islanders by lease or otherwise and may provide assistance with the cost of that housing.

Division 2 Functions relating to property

Clause 12 sets out the general functions of the Aboriginal Housing Office in relation to property.

Clause 13 allows the Aboriginal Housing Office to acquire land by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

Clause 14 allows the Aboriginal Housing Office to acquire property by gift, bequest or devise.

Division 3 Miscellaneous

Clause 15 provides that the Aboriginal Housing Office may enter into agency agreements in relation to the exercise of its functions under the proposed Act.

Clause 16 provides for other functions of the Aboriginal Housing Office.

Clause 17 allows the Aboriginal Housing Office to delegate to certain persons any of its functions under the proposed Act.

Part 4 AHO housing agreements

Clause 18 sets out the circumstances in which the Aboriginal Housing Office is considered to have an interest in land of a registered Aboriginal housing organisation for the purposes of the proposed Act (such as when the AHO transfers the land to the registered Aboriginal housing organisation). This allows the AHO to impose certain conditions on dealings in that land under an AHO housing agreement (see clauses 20 and 21).

Clause 19 deals with the general terms and conditions of AHO housing agreements. AHO housing agreements may be in a standard form approved by the Minister and may contain such terms and conditions as the AHO considers appropriate.

Clause 20 allows an AHO housing agreement to include conditions relating to land of the registered Aboriginal housing organisation in which the AHO has an interest. The conditions may provide for the rights of the AHO if the registered Aboriginal housing organisation fails to use the land for the purposes contemplated by the agreement or proposes to sell or dispose of the land or if registration of the registered Aboriginal housing organisation is revoked.

Clause 21 provides that land in which the Aboriginal Housing Organisation has an interest must not be transferred or otherwise dealt with except with the consent of the AHO. Such a condition may be given effect to by a recording on the Register kept under the *Real Property Act 1900*.

Clause 22 allows an AHO housing agreement to create a charge over land of a registered Aboriginal housing organisation in order to secure payment of money that is or may become payable under the agreement.

Clause 23 provides that AHO housing agreements are binding and allows the AHO to monitor the activities of a registered Aboriginal housing organisation to determine whether it is complying with the agreement.

Clause 24 allows for regulations to be made with respect to AHO housing agreements.

Part 5 Registration of Aboriginal housing organisations

Clause 25 defines *eligible organisation*. Eligible organisations are Aboriginal or Torres Strait Islanders corporations, Aboriginal Land Councils and other organisations controlled by Aboriginal people or Torres Strait Islanders. Eligible organisations may be registered under the proposed Act.

Clause 26 provides for the registration of eligible organisations. The Aboriginal Housing Office may register an eligible organisation if the AHO is satisfied that the organisation concerned provides or proposes to provide housing or housing related services for Aboriginal people or Torres Strait Islanders and is, having regard to such matters as may be determined by the AHO, suitable to be registered.

Clause 27 provides that registration may be revoked, for such reasons as the Aboriginal Housing Office thinks fit (such as failure to comply with an AHO housing agreement).

Clause 28 requires the Aboriginal Housing Office to keep a register of registered Aboriginal housing organisations.

Part 6 Management of Aboriginal Housing Office

Clause 29 provides that the Aboriginal Housing Office is subject to the control and direction of the Minister.

Clause 30 constitutes the Board of the Aboriginal Housing Office. The Board consists of the Chief Executive Officer and such Aboriginal persons as are appointed by the Minister. The Minister is to determine the eligibility criteria for appointment to the Board. The Board is to have a Chairperson, who may be appointed as a part-time or full-time member of the Board.

Clause 31 provides that the Board is to determine the policies of the Aboriginal Housing Office and has such other functions as may be conferred on it by or under the proposed Act or any other Act.

Clause 32 provides for the establishment of Aboriginal Regional Housing Committees to advise the Board on Aboriginal housing issues and to exercise such other functions as are delegated to them by the Board.

Clause 33 provides that the Chief Executive Officer of the Aboriginal Housing Office is responsible for the day to day management of the affairs of the AHO in accordance with specific policies and general directions of the Board of the AHO.

Clause 34 provides for the staff of the Aboriginal Housing Office.

Part 7 Finance

Clause 35 provides for the establishment of an Aboriginal Housing Fund in the Special Deposits Account. The Fund is to be applied for the purpose of enabling the Aboriginal Housing Office to exercise its functions.

Clause 36 provides for the investment of money in the Aboriginal Housing Fund.

Part 8 Miscellaneous

Clause 37 deals with the preparation and implementation of strategic plans by the Aboriginal Housing Office.

Clause 38 provides that certain office holders under the proposed Act are not personally liable for anything done or omitted to be done in good faith for the purpose of executing the proposed Act or any other Act.

Clause 39 provides for the financial year of the Aboriginal Housing Office.

Clause 40 provides for the seal of the Aboriginal Housing Office.

Clause 41 provides for the recovery of debts by the Aboriginal Housing Office.

Clause 42 provides that the proposed Act binds the Crown.

Clause 43 is a general regulation-making power.

Clause 44 is a formal provision giving effect to Schedule 2, which amends other Acts.

Clause 45 is a formal provision giving effect to Schedule 3, which contains savings, transitional and other provisions.

Clause 46 provides for the review of the proposed Act.

Schedules

Schedule 1 relates to the constitution and procedure of the Board of the Aboriginal Housing Office.

Schedule 2 makes amendments to the following Acts:

Aboriginal Land Rights Act 1983

Home Building Act 1989

Housing Act 1985

Local Government Act 1993

Public Authorities (Financial Arrangements) Act 1987

Public Finance and Audit Act 1983

Public Sector Management Act 1988

Residential Tenancies Act 1987

Statutory and Other Offices Remuneration Act 1975

The amendments extend certain provisions in those Acts that relate to the Land and Housing Corporation to the Aboriginal Housing Office, and contain other provisions of a consequential nature.

Schedule 3 contains savings, transitional and other provisions. It includes provision for the transfer of assets, rights and liabilities of the State that relate to Aboriginal housing (such as assets, rights and liabilities of the Department of Housing or the Land and Housing Corporation) to the Aboriginal Housing Office. It also includes provision for the transfer of existing agreements relating to housing to the AHO and the extension of the proposed Act to those agreements, in particular the provisions relating to transfers or other dealings in land (see clause 21).