



New South Wales

Fiscal Responsibility Amendment (Privatisation Restrictions) Bill 2021

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the Fiscal Responsibility Act 2012 to prevent the sale, disposal or lease of certain state owned assets unless the proposed transaction has been reviewed by a parliamentary committee and approved by both Houses of Parliament.

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.

Schedule 1 amends the *Fiscal Responsibility Act 2012* for the purposes set out in the overview above.



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New South Wales

Fiscal Responsibility Amendment (Privatisation Restrictions) Bill 2021

No , 2021

A Bill for

An Act to amend the Fiscal Responsibility Act 2012 to prevent the sale of certain state owned assets unless a parliamentary committee report on the merits of the sale is tabled and both Houses of Parliament approve the sale; and for related purposes.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Fiscal Responsibility Amendment (Privatisation Restrictions) Act 2021*.

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4

2 Commencement

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

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Schedule 1 **Amendment of Fiscal Responsibility Act 2012 No 58**

Section 8A

Insert before section 9—

8A **Privatisation of certain state owned assets**

- (1) The Crown must not sell, otherwise dispose of or grant a lease of, or cause the sale, disposal or lease of, a state owned asset unless—
 - (a) the relevant parliamentary committee reviews the proposed sale, disposal or lease (the *proposed transaction*), and
 - (b) a report of the review that complies with subsection (2) is tabled in each House of Parliament, and
 - (c) the proposed transaction is then approved by resolution of each House of Parliament.
- (2) The report must contain the following—
 - (a) a description of the terms of the proposed transaction,
 - (b) the relevant parliamentary committee's recommendation on whether the proposed transaction should proceed,
 - (c) the reasons for the recommendation.
- (3) A transaction that breaches subsection (1) is void.
- (4) Nothing in this section prevents a sale, disposal or lease—
 - (a) in the ordinary course of the business or operations of a state owned asset, or
 - (b) that results in the state owned asset remaining in public ownership or control.
- (5) This section prevails over an inconsistent provision of another Act or law.
- (6) In this section—

related body corporate has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

relevant parliamentary committee means a joint parliamentary committee with a function of reviewing and reporting on proposals for the sale, disposal or lease of state owned assets for the purposes of subsection (1)(a) and (b).

state owned asset means the following, and includes a related body corporate and an asset of the following—

 - (a) Alpha Distribution Ministerial Holding Corporation,
 - (b) Electricity Retained Interest Corporation—Ausgrid,
 - (c) Electricity Retained Interest Corporation—Endeavour Energy,
 - (d) Essential Energy,
 - (e) Forestry Corporation,
 - (f) Hunter Water Corporation,
 - (g) Insurance and Care NSW,
 - (h) Landcom,
 - (i) New South Wales Treasury Corporation,
 - (j) Newcastle Port Corporation,

- | | | |
|-----|---|---|
| (k) | Sydney Water Corporation, | 1 |
| (l) | toll road operation rights for the Sydney Harbour Bridge, | 2 |
| (m) | toll road operation rights for the Sydney Harbour Tunnel, | 3 |
| (n) | Transport Asset Holding Entity of New South Wales, | 4 |
| (o) | Water NSW, | 5 |
| (p) | another asset prescribed by the regulations. | 6 |