



New South Wales

Housing Amendment (Community Housing Providers) Bill 2007

Explanatory note

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

Overview of Bill

The objects of this Bill are to provide for:

- (a) the appointment of a Registrar of Community Housing, and
- (b) the registration of community housing providers, and
- (c) the giving of assistance to registered community housing providers so as to support the provision of housing for people on a very low, low or moderate income.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Housing Act 2001* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Acts set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced.

Schedule 1 Amendment of Housing Act 2001

Schedule 1 [1] inserts definitions of *community housing*, *community housing agreement*, *community housing provider*, *registered community housing*, *registered community housing provider* and *Registrar* into section 3 the *Housing Act 2001* (the *Principal Act*).

Schedule 1 [2]–[4] amend the objects of the Principal Act with respect to community housing.

Schedule 1 [6] permits the Registrar to delegate his or her functions under the Principal Act. **Schedule 1 [5]** clarifies that the Director-General of the Department of Housing may delegate his or her functions under the Principal Act to the Corporation.

Schedule 1 [7] inserts a new Part 9A into the Principal Act dealing with community housing, the registration of organisations as registered community housing providers and the giving of assistance to registered community housing providers so as to support the provision of housing for people on very low, low or moderate incomes. Proposed section 67A provides for the appointment of a Registrar of Community Housing (*the Registrar*) by the Minister for Housing. Proposed section 67B sets out the functions of the Registrar, which include maintaining a register of community housing providers (*the register*) and assessing the suitability of organisations to be registered as community housing providers. Proposed section 67C sets out requirements in relation to the register. Proposed section 67D provides that the Registrar may, on the application of a body corporate that is a community housing provider, register the body corporate. Proposed section 67E sets out the conditions to which registration is subject. Proposed section 67F sets out the steps that may be taken if the Registrar reasonably believes that a registered community housing provider is not complying with the Principal Act or the regulations under that Act. Proposed section 67G provides for the cancellation of registration in certain circumstances. Proposed section 67H provides for a review by the Administrative Decisions Tribunal of a decision of the Registrar to refuse to register, or to cancel the registration of, a body corporate as a registered community housing provider. Other decisions of the Registrar are not subject to appeal or review. Proposed section 67I provides that the New South Wales Land and Housing Corporation may give assistance to registered community housing providers but not to community housing providers that are not registered. Any such assistance may only be provided under a community housing agreement. Proposed section 67J makes provision for the form and contents of community housing agreements.

Schedule 1 [8] permits the regulations under the Principal Act to prescribe a regulatory code for registered community housing providers, to make provision for fees payable in connection with any application made under the Principal Act, to prescribe what is meant by a very low, low or moderate income for the purposes of

the Principal Act and to prescribe terms or conditions that are taken to be included in community housing agreements, including in an existing community housing agreement.

Schedule 1 [9] amends Schedule 3 to the Principal Act to enable the regulations to make provision for matters of a savings and transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [10] inserts savings, transitional and other provisions that provide for the interim registration of community housing providers that are currently registered with the Office of Community Housing and for the construction of references in any document to any such organisation. The savings and transitional provisions also provide that existing agreements for the provision of assistance to community housing providers are taken to be community housing agreements and that proposed section 67I (1)–(3) will not apply to or in respect of assistance provided to a community housing provider that is not currently registered with the Office of Community Housing if the assistance is provided under an existing agreement within 2 years after the commencement of proposed Part 9A of the Principal Act.

Schedule 2 Amendment of other Acts

Schedule 2 makes consequential amendments to the *Property, Stock and Business Agents Act 2002*, the *Public Sector Employment and Management Act 2002* and the *Residential Tenancies Act 1987*.



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New South Wales

Housing Amendment (Community Housing Providers) Bill 2007

No. , 2007

A Bill for

An Act to amend the *Housing Act 2001* with respect to community housing; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Housing Amendment (Community Housing Providers) Act 2007</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Amendment of Housing Act 2001 No 52	7
The <i>Housing Act 2001</i> is amended as set out in Schedule 1.	8
4 Amendment of other Acts	9
Each Act specified in Schedule 2 is amended as set out in that Schedule.	10
5 Repeal of Act	11
(1) This Act is repealed on the day following the day on which all of the provisions of the Act have commenced.	12 13
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	14 15

Schedule 1	Amendment of Housing Act 2001	1
	(Section 3)	2
[1]	Section 3 Definitions	3
	Insert in alphabetical order:	4
	<i>community housing</i> means housing (other than public housing) for people on a very low, low or moderate income or people with additional needs.	5 6 7
	Note. Section 75 (2) (c) permits the regulations to prescribe what is meant by a very low, low or moderate income for the purposes of this Act.	8 9 10
	<i>community housing agreement</i> means an agreement between the Corporation and a registered community housing provider made in accordance with this Act.	11 12 13
	<i>community housing provider</i> means a body corporate that provides community housing.	14 15
	<i>registered community housing</i> means community housing that is provided by a registered community housing provider.	16 17
	<i>registered community housing provider</i> means a community housing provider that is registered under Part 9A.	18 19
	<i>Registrar</i> means the Registrar of Community Housing appointed under Division 1 of Part 9A.	20 21
[2]	Section 5 Objects of Act	22
	Insert “and community housing” after “public housing” in section 5 (1) (d).	23
[3]	Section 5 (1) (g)	24
	Insert “, community housing” after “public housing”.	25
[4]	Section 5 (1) (j) and (k)	26
	Insert after section 5 (1) (i):	27
	(j) to ensure that registered community housing is developed as a viable and diversified component of the New South Wales social housing sector,	28 29 30
	(k) to support the provision of registered community housing for people on a very low, low or moderate income,	31 32
[5]	Section 15 Delegations	33
	Omit “or the Corporation” from section 15 (2).	34
	Insert instead “, or to the Corporation,”.	35

[6] Section 15 (3)	1
Insert after section 15 (2):	2
(3) The Registrar may delegate to an officer of the Department, or to the Corporation, the exercise of any of the Registrar's functions under this Act (including any function delegated to the Registrar under this section), other than this power of delegation.	3 4 5 6
[7] Part 9A	7
Insert after Part 9:	8
Part 9A Community housing	9
Division 1 Registrar of Community Housing	10
67A Appointment of Registrar of Community Housing	11
(1) The Minister may appoint a person as the Registrar of Community Housing.	12 13
(2) The Registrar is, in the exercise of functions under this Act, subject to the control and direction of the Minister.	14 15
(3) The employment of the Registrar is subject to Part 3.1 of the <i>Public Sector Employment and Management Act 2002</i> , but is not subject to Chapter 1A or 2 of that Act.	16 17 18
67B Registrar's functions	19
The Registrar's functions are as follows:	20
(a) to maintain a register of community housing providers,	21
(b) to assess the suitability of organisations to be registered as community housing providers,	22 23
(c) to investigate complaints and other matters in respect of registered community housing providers,	24 25
(d) to provide information to persons in relation to community housing,	26 27
(e) to provide advice to the Minister in relation to community housing and any other matter under this Part,	28 29
(f) to advise on the matters to be included in a regulatory code for registered community housing providers,	30 31
(g) any other function conferred or imposed on the Registrar by or under this or any other Act.	32 33

Division 2	Registration of community housing providers	1
		2
67C	The register	3
(1)	The Registrar is to keep a register of community housing providers.	4
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(2)	The register is to be kept in the form determined by the Registrar and is, subject to the regulations, to contain such information with respect to community housing providers as may be determined by the Registrar.	6
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(3)	The register must be available for inspection free of charge by any person:	10
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(a)	in person at the head office of the Department at all reasonable times, and	12
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(b)	by such other means (such as Internet access) and at such other times as the Registrar determines.	14
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(4)	The Registrar may carry out searches of the register on a person's behalf and may charge a fee for the search, not exceeding the amount (if any) prescribed by the regulations.	16
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67D	Applications for registration	19
(1)	The Registrar may, on the application of a body corporate that is a community housing provider, register the body corporate if the Registrar is satisfied that the application demonstrates the body corporate's commitment to providing community housing consistently with this Act and the regulations.	20
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(2)	An application must be made in a form approved by the Registrar and be accompanied by the relevant fee, if any, prescribed by the regulations.	25
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(3)	The Registrar may register a body corporate in a particular class on the register and may register it indefinitely or for a specified period.	28
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(4)	The Registrar is, on determining an application under this section, to give written notice to an applicant of that determination setting out the class of registration (if any), the date on which the registration will be cancelled (if the registration is for a specified period) and the reasons for the Registrar's determination.	31
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67E	Conditions of registration	1
(1)	It is a condition of registration that the registered community housing provider:	2
(a)	must, at the times and in a manner approved by the Registrar, provide information that satisfies the Registrar that the provider is exercising its functions in compliance with this Act and the regulations, and	3
(b)	must, within a reasonable time after receiving a written request for information from the Registrar in relation to the affairs of the provider, provide the Registrar with the information requested and provide, in a form that satisfies the Registrar, a copy of any record specified in the request, and	4
(c)	must allow the Registrar to carry out inspections at any reasonable time of the provider's premises or records.	5
(2)	Registration is also subject to any condition that may be prescribed by the regulations.	6
(3)	Subsection (1) does not authorise:	7
(a)	a community housing provider to provide information to the Registrar that identifies an individual who is an occupier of residential premises, or	8
(b)	the Registrar to enter residential premises occupied by an individual,	9
	other than with the consent of the individual.	10
67F	Compliance with Act and regulations	11
(1)	If the Registrar reasonably believes that a registered community housing provider is not complying with this Act or the regulations, the Registrar may issue a notice in writing to the provider (a <i>notice of intent to cancel registration</i>) stating that the provider's registration will be cancelled unless, within the period specified in the notice, the provider satisfies the Registrar that its registration should not be cancelled.	12
(2)	The period specified in a notice of intent to cancel registration is to be at least 14 days.	13
(3)	The Registrar may issue a notice of intent to cancel registration only if the provider has been given written notification of the matters in respect of which the notice is to be issued and been given a period of at least 30 days to address those matters.	14

(4)	The Registrar is not required to comply with subsections (2) and (3) if the Registrar reasonably believes that the failure to comply is serious and requires urgent action.	1 2 3
67G	Cancellation of registration	4
(1)	The Registrar must cancel the registration of a body corporate as a registered community housing provider if the Registrar is satisfied of any one or more of the following:	5 6 7
(a)	that the body corporate has made an application for its registration to be cancelled,	8 9
(b)	that the body corporate has been wound up or has otherwise ceased to exist,	10 11
(c)	that the body corporate's registration was for a specified period and that period has expired,	12 13
(d)	that a notice of intent to cancel registration has been issued to the body corporate under section 67F and the body corporate has failed, within the period specified in the notice, to satisfy the Registrar that its registration should not be cancelled.	14 15 16 17 18
(2)	The Registrar is, on determining to cancel a registration under this section, to give written notice to the body corporate of that determination setting out the date on which the registration is cancelled and the reasons for the Registrar's determination.	19 20 21 22
(3)	The registration of a body corporate is cancelled on the date specified in the notice under subsection (2), not being a date prior to the giving of the notice.	23 24 25
(4)	No compensation is payable to any person or body in connection with the cancellation of a registration under this section.	26 27
67H	Review of certain decisions by Administrative Decisions Tribunal	28
(1)	A body corporate may apply to the Administrative Decisions Tribunal for a review of any of the following decisions of the Registrar:	29 30 31
(a)	a decision to refuse to register the body corporate as a registered community housing provider,	32 33
(b)	a decision to cancel the registration of the body corporate as a registered community housing provider.	34 35
(2)	A decision of the Registrar made under this Division, other than a decision referred to in subsection (1), is final and not subject to appeal or review.	36 37 38

Division 3	Giving assistance to registered community housing providers	1
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67I	Corporation may give assistance	3
(1)	The Corporation may, if it is consistent with the objects of this Act and if it considers it prudent to do so, give assistance to a registered community housing provider under a community housing agreement.	4 5 6 7
(2)	Assistance may include, but is not limited to, either or both of the following:	8 9
(a)	providing funding, land or other property to a community housing provider,	10 11
(b)	entering into a partnership with a community housing provider.	12 13
(3)	Assistance is not to be given to a community housing provider unless the community housing provider is registered and, as far as reasonably practicable, the Corporation is to withdraw assistance from a community housing provider that ceases to be registered.	14 15 16 17 18
(4)	The Corporation is to ensure that the giving of any assistance under this section is consistent with the <i>Public Authorities (Financial Arrangements) Act 1987</i> and any relevant guidelines of the Director-General.	19 20 21 22
67J	Community housing agreements	23
(1)	A community housing agreement:	24
(a)	may be in a standard form approved by the Director-General, and	25 26
(b)	is to contain such terms and conditions as may be prescribed by the regulations, and	27 28
(c)	may contain such terms and conditions as the Corporation considers appropriate (whether or not the standard form of agreement is used).	29 30 31
(2)	Without limiting subsection (1), a community housing agreement may include provisions with respect to:	32 33
(a)	requiring the registered community housing provider concerned to meet specified standards and targets in relation to the community housing services and programs provided by that community housing provider, and	34 35 36 37

(b)	ensuring that the funding, housing and other assistance provided to the registered community housing provider is used for the purposes for which it was provided.	1 2 3
(3)	The regulations may make provision for or with respect to community housing agreements.	4 5
[8]	Section 75 Regulations	6
	Omit section 75 (2). Insert instead:	7
(2)	In particular, the regulations may make provision for or with respect to any one or more of the following:	8 9
(a)	prescribing a regulatory code or codes for registered community housing providers or classes of such providers setting out requirements that those providers must comply with in relation to their operations and the provision of community housing,	10 11 12 13 14
(b)	fees in connection with any application under this Act,	15
(c)	prescribing what is meant by a very low, low or moderate income for the purposes of this Act,	16 17
(d)	prescribing terms or conditions that are taken to be included in community housing agreements, including in an existing community housing agreement.	18 19 20
[9]	Schedule 3 Savings, transitional and other provisions	21
	Insert at the end of clause 1 (1):	22
	<i>Housing Amendment (Community Housing Providers) Act 2007</i>	23
[10]	Schedule 3	24
	Insert at the end of the Schedule with appropriate numbering:	25
Part	Provisions consequent on enactment of Housing Amendment (Community Housing Providers) Act 2007	26 27 28
	Community housing providers taken to be registered on the commencement of Part 9A	29 30
	A community housing provider that is registered with the Office of Community Housing immediately before the commencement of Part 9A is, on the commencement of that Part, taken to be registered under that Part until whichever of the following occurs first:	31 32 33 34 35

- (a) the community housing provider applies to be registered under that Part and the application is determined by the Registrar, 1
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- (b) the registration is cancelled in accordance with that Part, 4
- (c) 2 years after the commencement of that Part. 5

References to registered organisations 6

A reference in any document to an organisation for the time being registered with the Office of Community Housing is, on the commencement of Part 9A, taken to be a reference to a registered community housing provider. 7
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Existing agreements taken to be community housing agreements 11

An agreement between the Corporation and a community housing provider that is in force immediately before the commencement of Part 9A under which the Corporation provides assistance to the community housing provider is, on the commencement of that Part, taken to be a community housing agreement. 12
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Assistance provided to unregistered community housing providers under existing agreements 18
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Section 67I (1)–(3) does not apply to or in respect of assistance provided to a community housing provider within 2 years after the commencement of Part 9A, but only if: 20
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- (a) the community housing provider is not registered with the Office of Community Housing immediately before the commencement of that Part, and 23
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25
- (b) the assistance is provided under an agreement that is in force immediately before the commencement of that Part. 26
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Schedule 2	Amendment of other Acts	1
	(Section 4)	2
2.1	Property, Stock and Business Agents Act 2002 No 66	3
	Section 5 Exemptions from Act	4
	Omit “an organisation for the time being registered with the Office of Community Housing, or” from section 5 (1) (m).	5 6
	Insert instead “a registered community housing provider within the meaning of the <i>Housing Act 2001</i> , or an organisation for the time being registered”.	7 8
2.2	Public Sector Employment and Management Act 2002 No 43	9
	Schedule 2 Executive positions (other than non-statutory SES positions)	10
	Insert at the end of Part 3:	11
	Registrar of Community Housing appointed under section 67A (1) of the <i>Housing Act 2001</i>	12 13
2.3	Residential Tenancies Act 1987 No 26	14
	Section 3 Definitions	15
	Omit “an organisation for the time being registered with the Office of Community Housing, or” from paragraph (e) of the definition of <i>social housing provider</i> in section 3 (1).	16 17 18
	Insert instead “a registered community housing provider within the meaning of the <i>Housing Act 2001</i> , or an organisation for the time being registered”.	19 20