

Passed by both Houses



New South Wales

Service NSW (One-stop Access to Government Services) Bill 2013

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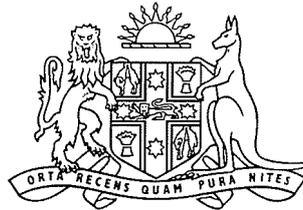
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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2013*



New South Wales

Service NSW (One-stop Access to Government Services) Bill 2013

Act No , 2013

An Act to facilitate the provision by Service NSW of one-stop access to government services; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Service NSW (One-stop Access to Government Services) Act 2013*.

2 Commencement

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

3 Definitions

(1) In this Act:

authority means a licence, permit, approval or any other authorisation.

Chief Executive Officer or **CEO** means the Chief Executive Officer of Service NSW.

customer service function—see section 5.

delegate includes sub-delegate.

function includes a power, authority or duty, and **exercise** a function includes perform a duty.

Government agency means:

- (a) a Minister, or
- (b) a Division of the Government Service within the meaning of the *Public Sector Employment and Management Act 2002*, or
- (c) a statutory body representing the Crown, or
- (d) a body (whether incorporated or unincorporated) established or continued for a public purpose by or under the provisions of a statutory instrument, or
- (e) the NSW Police Force, or
- (f) the Teaching Service, or
- (g) the NSW Health Service, or
- (h) a wholly-owned subsidiary of the Crown in right of the State or of a Government agency, or
- (i) a council or a county council within the meaning of the *Local Government Act 1993*, or
- (j) the Chief Commissioner of State Revenue, or
- (k) a person or body declared by the regulations to be a Government agency.

information includes personal information, and health information within the meaning of the *Health Records and Information Privacy Act 2002*.

personal information has the same meaning as it has in the *Privacy and Personal Information Protection Act 1998*.

Service NSW means the Service NSW Division of the Government Service.

- (2) Notes included in this Act do not form part of this Act.

Part 2 One-stop access to Government services

4 Functions of CEO relating to one-stop access by customers to Government services

The Chief Executive Officer has the following functions:

- (a) customer service functions delegated to or otherwise conferred on the CEO under this or any other Act,
- (b) any other function conferred or imposed on the CEO by or under this or any other Act.

5 Customer service functions

The following functions are *customer service functions*:

- (a) receipt of applications or fees for, or related to, authorities granted under an Act, or otherwise obtained from a Government agency,
- (b) issue of authorities and other functions relating to authorities granted under an Act, or otherwise obtained from a Government agency,
- (c) provision of information or advice about Government services or State legislation or any other matter,
- (d) receipt of payments or claims for payments, or making of payments,
- (e) any function of an agency of the Commonwealth Government, an agency of the Government of another State or Territory or an agency of the Government of another country, as referred to in section 9,
- (f) any function of a person (other than a Government agency or an agency referred to in paragraph (e)) as referred to in section 10,
- (g) any function that is ancillary to a customer service function.

6 Updating customer information with other agencies

- (1) The CEO may disclose information about a person, that is obtained in the course of providing customer service functions to that person for a Government agency, to another Government agency.
- (2) The CEO may disclose the information to the other Government agency only if the person consents to the disclosure of the information to that other agency.
- (3) The regulations may make provision for or with respect to the provision of consent for the purposes of this section.

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- (4) The Minister is not to recommend the making of a regulation under subsection (3) unless the Minister has certified that the Privacy Commissioner has been consulted on the proposed regulation.

7 Delegation of customer service functions to CEO under other Acts or instruments

- (1) A Government agency or any other person may, under a provision of an Act or an instrument that permits the delegation of a customer service function by the agency or person (a *delegation provision*), delegate the customer service function to the CEO.
- (2) A delegation provision of any such Act or instrument extends to the CEO as if the CEO were a person to whom functions could be delegated under that provision.
- (3) A delegation provision under which a customer service function is delegated to the CEO extends so as to authorise the CEO to sub-delegate the function under that provision to any of the following persons:
- (a) a member of staff of Service NSW,
 - (b) a person, or a member of a class of persons, prescribed by the regulations.
- (4) Subsection (3) and any sub-delegation by the CEO under a delegation provision are subject to the terms of the delegation to the CEO, including any restriction on sub-delegation in those terms.
- (5) A customer service function of a council or a county council within the meaning of the *Local Government Act 1993* must not be delegated to the CEO by the council or county council or any other person unless the council or county council, by a resolution of the council or county council, approved the delegation before it was made.

8 CEO may enter agreements to exercise customer service functions

- (1) The CEO and a Government agency, or a person authorised on behalf of a Government agency, may enter into an agreement:
- (a) for the CEO to exercise a non-statutory customer service function of the agency, or
 - (b) with respect to the exercise of a customer service function delegated to the CEO.
- (2) Without limiting subsection (1), the CEO may enter into an agreement under that subsection with the State Debt Recovery Office with respect to the exercise of a penalty notice function. This subsection has effect whether or not any arrangement entered into under section 114 (1A) of the *Fines Act 1996* permits such an agreement to be made.

- (3) The CEO may exercise a customer service function or other function conferred under an agreement under this section in accordance with that agreement.
- (4) An agreement must not be entered into under this section by, or on behalf of, a council or a county council within the meaning of the *Local Government Act 1993* unless the council or county council, by a resolution of the council or county council, approved the agreement before it was entered into.
- (5) In this section:
penalty notice function means:
 - (a) a function exercisable under an arrangement entered into by the State Debt Recovery Office under section 114 (1A) of the *Fines Act 1996*, or
 - (b) any function conferred on the State Debt Recovery Office under section 114 of the *Fines Act 1996*.

9 Customer service functions of agencies of other jurisdictions

- (1) This section applies to a function of an agency of the Commonwealth Government, an agency of the Government of another State or Territory or an agency of a Government of another country that is prescribed as a customer service function, or is of a class of functions prescribed by the regulations as customer service functions, for the purposes of this section.
- (2) The CEO may exercise a customer service function that is delegated to the CEO under an Act of the Commonwealth or another State or Territory or under an instrument made under any such Act.
- (3) The CEO may sub-delegate a customer service function delegated to the CEO under any such Act, if permitted to do so by or under the Act.
- (4) The CEO may enter into an agreement with an agency of the Commonwealth Government or of the Government of another State or Territory, or any other person authorised to do so under a law of the Commonwealth or the State or Territory, with respect to the exercise of a customer service function of the agency.
- (5) The CEO may enter into an agreement with an agency of the Government of another country, or a person authorised by that Government to do so, with respect to the exercise of a customer service function of the agency.
- (6) Without limiting subsections (4) and (5), any such agreement may provide for the collection, disclosure and use of information.

- (7) The CEO may exercise a customer service function conferred under an agreement under this section in accordance with that agreement.

10 Customer service agreements with non-government entities

- (1) This section applies to a function of a person (other than a Government agency or an agency of another Government) that is prescribed as a customer service function, or is of a class of functions prescribed by the regulations as customer service functions, for the purposes of this section.
- (2) The CEO may enter into an agreement with a person with respect to the exercise of a customer service function of the person.
- (3) Without limiting subsection (2), any such agreement may provide for the following:
- (a) the collection, disclosure and use of information,
 - (b) joint arrangements for the exercise of customer service functions and related matters.
- (4) The CEO may exercise a customer service function conferred under an agreement under this section in accordance with the agreement.

11 Internal records

The CEO may collect, maintain and use records of the following information for the internal administrative purposes of Service NSW, including for the purposes of its interactions with customers for whom customer service functions are exercised:

- (a) details of transactions between customers and Service NSW,
- (b) the preferences of customers for transacting matters with Service NSW and agencies for which it acts,
- (c) other information about customers.

12 Agreements authorising agents to act for Service NSW

- (1) The CEO may enter into an agreement with an approved person for the person to act as an agent for the CEO in providing customer service functions on behalf of the CEO.
- (2) An **approved person** is a person, or a person who is a member of a class of persons, prescribed by the regulations for the purposes of this section or a council or a county council within the meaning of the *Local Government Act 1993*.

Part 3 Privacy and access to and disclosure of information

13 Meaning of “service agency”

In this Part:

service agency means a Government agency or other agency or person for whom the CEO is exercising customer service functions.

14 Disclosure and use of information for purposes of functions

- (1) The CEO may disclose information obtained in connection with the exercise of customer service functions and other functions conferred on the CEO by or under this Act to the following:
 - (a) a Government agency, if the information is obtained in connection with the exercise by the CEO of customer service functions for that agency,
 - (b) a Government agency, if the disclosure is for the purposes of, or for purposes related to, section 16,
 - (c) the person to whom the customer service functions are provided, if the information relates to the person or the service provided,
 - (d) if the information is obtained in connection with the exercise by the CEO of customer service functions for a Government agency, any person to whom the Government agency is authorised or required to disclose the information,
 - (e) any person or agency, or class of persons or agencies, prescribed by the regulations, but only for the purpose specified by the regulations in relation to that person, agency or class.
- (2) The Minister is not to recommend the making of a regulation under subsection (1) (e) unless the Minister has certified that the Privacy Commissioner has been consulted on the proposed regulation.
- (3) The CEO may disclose information obtained in connection with the exercise of customer service functions for a service agency (other than a Government agency) if:
 - (a) the information is obtained in connection with the exercise by the CEO of customer service functions for the service agency, and
 - (b) the disclosure is permitted under the delegation or agreement that confers the power to exercise the function, and
 - (c) in the case of a service agency that is an agency of the Commonwealth Government or of the Government of another State or Territory, the disclosure is permitted under any law of the

Commonwealth or of another State or Territory that applies to the exercise of the function.

- (4) A Government agency may disclose information to the CEO for the following purposes:
 - (a) the exercise by the CEO of customer service functions for the agency or other related functions,
 - (b) the purposes of, or for purposes related to, section 16.
- (5) Information may be disclosed by, and to, the CEO for the purposes of, and in accordance with, section 6.
- (6) A person to whom information is authorised to be disclosed under this section may use the information for the purpose for which it was disclosed.
- (7) This section applies to a person acting as an agent of the CEO under section 12 in the same way as it applies to the CEO.
- (8) This section has effect despite the provisions of any other Act (whether enacted before or after this Act).

Note. Section 62 of the *Privacy and Personal Information Protection Act 1998* makes it an offence for a public sector official to disclose personal information obtained in the exercise of official functions unless it is disclosed in the exercise of those functions.

15 Collection of information

- (1) It is sufficient compliance with section 10 of the *Privacy and Personal Information Protection Act 1998* or clause 4 of Schedule 1 to the *Health Records and Information Privacy Act 2002* in relation to the collection of information from a person by the CEO in connection with customer service functions, if:
 - (a) the CEO gives a notice to the person that refers the person to information provided by the service agency in relation to the collection of that information, and
 - (b) the information provided by the service agency contains the matters about which the person is required to be made aware under those provisions or, in the case of an agency of the Government of the Commonwealth or of another State or Territory, contains information that substantially meets the requirements of those provisions.
- (2) It is sufficient compliance with section 10 of the *Privacy and Personal Information Protection Act 1998* or clause 4 of Schedule 1 to the *Health Records and Information Privacy Act 2002* in relation to the collection

of information from a person by the CEO for the purposes of section 6 of this Act, if:

- (a) the CEO gives a notice to the person that contains a statement that information given by the person is to be used for the purposes of updating information about the person held by a Government agency other than the agency for which customer services are provided to the person, and
 - (b) the statement refers the person to information provided by the CEO that is available on the website of Service NSW or at the place where the information is collected and that contains the matters about which the person is required to be made aware under those provisions.
- (3) It is sufficient compliance with section 10 of the *Privacy and Personal Information Protection Act 1998* or clause 4 of Schedule 1 to the *Health Records and Information Privacy Act 2002* in relation to the collection of information from a person by the CEO for the purposes of section 11 of this Act, if:
- (a) the CEO gives a notice to the person that contains a statement that information given by the person may be used for the purposes set out in that section, and
 - (b) the statement refers the person to information provided by the CEO that is available on the website of Service NSW or at the place where the information is collected and that contains the matters about which the person is required to be made aware under those provisions.

16 Access to information and State records management

- (1) An agreement entered into under this Act, or a delegation of a customer service function, may provide for the exercise by the CEO of the following functions of a Government agency:
 - (a) functions relating to access to information under the *Government Information (Public Access) Act 2009*, if the information is obtained or arises in connection with the exercise of functions for that agency,
 - (b) functions relating to State records under the *State Records Act 1998*, if the State records relate to or are made in connection with the exercise of functions for that agency.
- (2) Any such agreement or delegation may also provide for the exercise by a Government agency of functions of the CEO of a kind referred to in subsection (1) (a) or (b).

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- (3) The CEO or a Government agency may exercise a function conferred on the CEO or the Government agency under this section despite any provision of the *Government Information (Public Access) Act 2009*, the *State Records Act 1998*, the *Privacy and Personal Information Protection Act 1998* or the *Health Records and Information Privacy Act 2002*.

17 Other lawful collection, disclosure or use of information not affected

Nothing in this Act restricts or prevents any other lawful collection, disclosure or use of information by the CEO, a Government agency or any other person or agency.

Part 4 Miscellaneous

18 Delegation

- (1) The CEO may delegate the exercise of any function of the CEO under this Act (other than this power of delegation) to:
 - (a) any member of staff of Service NSW, or
 - (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.
- (2) This section does not apply to a function that is delegated to the CEO by a Government agency or any other person.

19 Transfer of assets, rights and liabilities of Government agencies in connection with transfer of customer service functions

- (1) A Government agency may transfer any assets, rights or liabilities of the Government agency to the Crown, with the consent of the Minister and the Minister who administers the Act under which the Government agency is constituted or who is otherwise responsible for the agency, if the transfer is for the purposes of enabling the CEO to exercise customer service functions for the Government agency.
- (2) A transfer authorised by this section is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (3) A transfer authorised by this section is not to be regarded as an event of default under any contract or other instrument.
- (4) No attornment to the Crown by a lessee from the Government agency is required.
- (5) This section does not apply to a council or a county council within the meaning of the *Local Government Act 1993*.
- (6) In this section:

assets 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 (including money), and includes securities, choses in action and documents.

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 any law), and includes any judgment, order or process of a court.

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).

20 Personal liability

- (1) A matter or thing done or omitted to be done by the CEO, a member of staff of Service NSW, or a person acting under the direction of the CEO or a member of staff of Service NSW, does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this Act, subject the CEO, member of staff or person so acting personally to any action, liability, claim or demand.
- (2) However, any such liability attaches instead to the Crown.

21 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

22 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Schedule 2 Amendment of Acts and instrument

2.1 Government Information (Public Access) Regulation 2009

Clause 11A

Insert after clause 11:

11A Declaration of Service NSW as government agency

For the purposes of clause 5 (1) of Schedule 4 to the Act, the Service NSW Division of the Government Service is declared to be an agency.

2.2 Health Records and Information Privacy Act 2002 No 71

Section 4 Definitions

Insert after paragraph (e) of the definition of *public sector agency* in section 4 (1):

(e1) Service NSW Division of the Government Service,

2.3 Privacy and Personal Information Protection Act 1998 No 133

Section 3 Definitions

Insert after paragraph (e) of the definition of *public sector agency* in section 3 (1):

(e1) Service NSW Division of the Government Service,