

Service NSW (One-stop Access to Government Services) Act 2013 No 39

[2013-39]



New South Wales

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Service NSW (One-stop Access to Government Services) Act 2013 No 39



New South Wales

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

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 Public Service agency within the meaning of the *Government Sector Employment Act 2013*, 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, a county council or a joint organisation 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.

health information has the same meaning as in the [Health Records and Information Privacy Act 2002](#).

information includes personal information and health information.

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.

Note—

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

- (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

The CEO has the following functions—

- (a) the customer service functions delegated to, or otherwise conferred on, the CEO by or under this Act or another Act,
- (b) any functions conferred or imposed on the CEO by or under this Act or another Act,
- (c) any other functions relating to the delivery of Government services to the people of New South Wales, as directed by the Minister.

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 prescribed by the regulations for the purposes of this section,
- (h) any function that is ancillary to a function referred to in paragraphs (a) to (g).

5A Fees and payments relating to special circumstances

- (1) This section applies if—
 - (a) a special circumstances declaration is published, and
 - (b) as a result of the declaration—
 - (i) a Government agency, or the head of the agency, on whose behalf the CEO carries out customer service functions gives the CEO written notice that fees to be received, or received, by the CEO on behalf of the agency are to be waived, reduced, postponed or refunded, in whole or part, or
 - (ii) the Minister directs, by written notice given to the CEO, that a relevant payment is to be made to a Government agency on behalf of a person or a class of persons.
- (2) The CEO and members of the staff of Service NSW are, in accordance with the written notice—
 - (a) to waive, reduce, postpone or refund the fees, in whole or part, or
 - (b) make the payment.

(3) In this section—

relevant payment means a payment that is required by or under an Act to be made to a Government agency.

special circumstances declaration means—

- (a) a Natural Disaster Declaration for the purposes of the Natural Disaster Relief and Recovery Arrangements jointly administered by the Commonwealth and the States and Territories, or
- (b) a declaration under section 33 of the [State Emergency and Rescue Management Act 1989](#) that a state of emergency exists in the whole or part of New South Wales, or
- (c) another declaration prescribed by the regulations.

6 Updating customer information with other agencies

- (1) The CEO may disclose information about a person, that is obtained in the course of providing a relevant function to that person, 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.
- (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.
- (5) In this section—

relevant function means—

- (a) a customer service function on behalf of a Government agency, or
- (b) another function relating to the delivery of Government services under section 4(c).

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.
- (1A) To remove any doubt, subsection (1) applies to the delegation by a Minister of any of the Minister's delegable functions under section 9.7(1)(b) or (d) of the [Government](#)

Sector Finance Act 2018 that are customer service functions.

- (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, a county council or a joint organisation within the meaning of the *Local Government Act 1993* must not be delegated to the CEO by the council, county council or joint organisation or any other person unless the council, county council or joint organisation, by a resolution of the council, county council or joint organisation, 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 Commissioner of Fines Administration with respect to the exercise of a penalty notice function. This subsection has effect whether or not any arrangement entered into under section 114 (2) 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, a county council or a joint organisation within the meaning of the *Local Government Act 1993* unless the council, county council or joint organisation, by a resolution of the council, county council or joint organisation, 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 Commissioner of Fines Administration under section 114 (2) of the *Fines Act 1996*, or
- (b) any function conferred on the Commissioner of Fines Administration 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

- (1) 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 relevant 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.
- (2) In this section—

relevant functions means—

 - (a) customer service functions, or
 - (b) functions relating to the delivery of Government services under section 4(c).

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 relevant functions on behalf of the CEO.
- (2) In this section—

approved person means—

 - (a) 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
 - (b) a council, a county council or a joint organisation within the meaning of the [Local Government Act 1993](#).

relevant functions means—

 - (a) customer service functions, or

- (b) functions relating to the delivery of Government services under section 4(c).

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).

(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 3A Information collected during COVID-19 pandemic—additional protections

17A Objective of Part

The objective of this Part is to recognise that—

- (a) the collection of information about the location or movement of people during the COVID-19 pandemic plays a vital role in protecting people from serious illness and death, and
- (b) people are generally compelled to provide the information under extraordinary powers that have been invoked because of the pandemic, and
- (c) people expect the information provided will be used only for the purposes of protecting them from the pandemic, and
- (d) inappropriate use or disclosure of the information may increase the circumstances in which information is not provided and consequently increase the risk of serious illness or death.

17B Information collected by CEO in relation to COVID-19

- (1) This section applies to personal information or health information held by the CEO if the information was collected—
 - (a) in the exercise of a function under an order made under the *Public Health Act 2010*, section 7 in response to COVID-19 (a **public health order**), or
 - (b) under authority of a public health order, or
 - (c) for the purpose of COVID-19 contact tracing and because of a direction given by the Minister under section 4(c).
- (2) The information held must not be used or disclosed except—
 - (a) for the purposes for which it was collected, or
 - (b) for the purposes of contact tracing, including in another Australian jurisdiction, or
 - (c) for information collected in relation to the issue of a permit—for the purposes of investigating or prosecuting a breach of a public health order related to the permit, or
 - (d) for information collected in relation to a declaration provided when entering or

leaving New South Wales—for the purposes of investigating or prosecuting a breach of a public health order related to the declaration, or

- (e) for information about an individual—to provide access to the information for—
 - (i) the individual, or
 - (ii) if the individual is under 16 years of age—a person having parental responsibility for the individual, or
 - (iii) if the individual lacks capacity to access the information—a person having the care of the individual.
- (3) Nothing in this section prevents the proper disposal of the information.
- (4) This section extends to information collected by the CEO—
 - (a) before the commencement of this section, or
 - (b) that was not required to be provided to the CEO.
- (5) This section has effect despite—
 - (a) another provision of this Act, or
 - (b) another Act or law, including a warrant or an order of a court.
- (6) A failure to comply with this section is taken to be conduct to which the [Privacy and Personal Information Protection Act 1998](#), Part 5 applies.

17C Review of Part

- (1) The Minister must review this Part to determine whether the policy objectives of the Part remain valid and whether the terms of the Part remain appropriate for securing the objectives.
- (2) The review must be undertaken as soon as possible after the period of 1 year from the commencement of this Part.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 6 months after the end of the period of 1 year.

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, a county council or a joint organisation 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.

Part 2 Provisions consequent on enactment of *Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Act 2020*

2 Definitions

In this Part—

amendment Act means the *Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Act 2020*.

relevant period means the period—

- (a) starting on 18 July 2019, and
- (b) ending immediately before the commencement of the amendment Act.

3 Functions of the CEO

- (1) This clause applies if, during the relevant period, the CEO or a member of the staff of Service NSW exercised a function referred to in section 4(c) as inserted by the amendment Act.
- (2) The exercise of the function is taken to be as valid as if it had been exercised after the commencement of the amendment Act.

4 Waiver, reduction, postponement or refund of fees before commencement

- (1) This clause applies if, during the relevant period, the CEO or a member of the staff of Service NSW took relevant action because—
 - (a) a declaration, that would be a special circumstances declaration within the meaning of section 5A if it were made after the commencement of the amendment Act, had been published, and
 - (b) as a result of the event that resulted in the declaration being made—
 - (i) the person was suffering financial hardship, or
 - (ii) special circumstances existed.
- (2) The relevant action is taken to have been as valid as if it had happened after the commencement of the amendment Act.
- (3) In this clause—

relevant action, in relation to Service NSW, means—

- (a) Service NSW waived, reduced, postponed or refunded, in whole or part, a fee payable or paid by a person under an Act or regulations, or
- (b) Service NSW made a payment.

5 Power to waive, reduce, postpone or refund fees and to make payments applies to events before commencement

To remove any doubt, the power under section 5A to waive, reduce, postpone or refund a fee or to make a payment applies in relation to—

- (a) a person who was suffering financial hardship—
 - (i) during the relevant period, or
 - (ii) because of events that happened during the relevant period, or
- (b) special circumstances—
 - (i) that existed during the relevant period, or
 - (ii) that exist because of events that happened during the relevant period.

Schedule 2 (Repealed)