



New South Wales

Housing Amendment (Registrable Persons) Bill 2009

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 *Housing Act 2001* to enable the Director-General of the Department of Human Services, on the recommendation of the Commissioner of Police, to terminate the lease of a tenant who is renting public housing within the meaning of that Act and who is a registrable person under the *Child Protection (Offenders Registration) Act 2000*. The Commissioner of Police may make such a recommendation only if the Commissioner considers that the presence of the tenant at the public housing places any neighbours in the locality or the tenant at risk of being physically harmed or injured. The Director-General will be required to make alternative housing available to the tenant.

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 Act.

Schedule 1 Amendment of Housing Act 2001 No 52

Schedule 1 [1] inserts proposed Part 7A into the *Housing Act 2001* to achieve the object described in the Overview.

Schedule 1 [2] amends Schedule 3 to the *Housing Act 2001* to enable regulations to be made of a savings or transitional nature consequent on the enactment of the proposed Act.

First print



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New South Wales

Housing Amendment (Registrable Persons) Bill 2009

No. , 2009

A Bill for

An Act to amend the *Housing Act 2001* with respect to the housing of registrable persons under the *Child Protection (Offenders Registration) Act 2000*.

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| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Housing Amendment (Registrable Persons) Act 2009</i> . | 3 |
| 2 Commencement | 4 |
| This Act commences on the date of assent to this Act. | 5 |

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| Schedule 1 | Amendment of Housing Act 2001 No 52 | 1 |
| [1] Part 7A | | 2 |
| Insert after Part 7: | | 3 |
| | Part 7A Housing of registrable persons | 4 |
| 58A | Definitions | 5 |
| | In this Part: | 6 |
| | <i>registrable person</i> has the meaning that it has in the <i>Child Protection (Offenders Registration) Act 2000</i> , and includes a corresponding registrable person within the meaning of that Act. | 7 |
| | <i>termination</i> of a lease includes the termination of any right of a tenant to hold over (however arising) after the expiry of the period of the lease. | 8 |
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| 58B | Termination of lease of registrable person in certain circumstances | 13 |
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| | (1) The Director-General may, on the recommendation of the Commissioner of Police, by written order terminate the lease of a tenant who is renting public housing and who is a registrable person. | 15 |
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| | (2) The Commissioner of Police may make a recommendation under this section only if the Commissioner considers that the presence of the tenant at the public housing places any neighbours in the locality or the tenant at risk of being physically harmed or injured. | 19 |
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| | (3) On termination of the lease, the tenant must vacate the public housing the subject of the lease. | 24 |
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| | (4) An order of the Director-General under this section terminating a lease operates: | 26 |
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| | (a) to give the New South Wales Land and Housing Corporation an immediate right to exclusive possession of the premises concerned, and | 28 |
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| | (b) to authorise any police officer, using such force as is reasonably necessary, to enter the premises concerned and take such steps as are reasonably necessary in order to give the Corporation possession of the premises. | 31 |
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| | (5) This section extends to a lease entered into before the commencement of this Part. | 35 |
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| 58C | Provision of alternative housing | 1 |
| (1) | On termination of a lease under this Part, the Director-General must ensure alternative housing (whether or not public housing) is made available to the tenant. | 2 3 4 |
| (2) | The Director-General is required to ensure that alternative housing continues to be made available to the registrable person for so long as the person would have been a tenant under the terminated lease (subject to compliance by the registrable person with the terms and conditions under which the alternative housing is provided). | 5 6 7 8 9 10 |
| 58D | No compensation payable | 11 |
| (1) | No act or omission of a person in good faith in purported administration or execution of this Part gives rise to any civil liability against: | 12 13 14 |
| (a) | the person, or | 15 |
| (b) | the State or an authority of the State. | 16 |
| (2) | However, the Director-General must ensure that the tenant is repaid any rent, fee or charges for occupying the public housing referable to a period after termination of the lease under this Part. | 17 18 19 |
| 58E | Certain termination provisions do not apply to termination under this Part | 20 21 |
| | Part 5 of the <i>Residential Tenancies Act 1987</i> does not apply to or in respect of the termination of a lease under this Part. | 22 23 |
| 58F | Protection of exercise of functions of Director-General and Commissioner of Police under this Part | 24 25 |
| (1) | This section applies to a function (a <i>protected function</i>) conferred or imposed on the Director-General or the Commissioner of Police, including a delegate of the Director-General or Commissioner of Police, (a <i>protected person</i>) by or under this Part. | 26 27 28 29 30 |
| (2) | The exercise by any protected person of any protected function may not be: | 31 32 |
| (a) | challenged, reviewed, quashed or called into question before any court of law or administrative review body in any proceedings, or | 33 34 35 |
| (b) | restrained, removed or otherwise affected by any proceedings. | 36 37 |

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| <p>(3) Without limiting subsection (2), that subsection applies whether or not the proceedings relate to any question involving compliance or non-compliance, by a protected person, with the provisions of this Act or the rules of natural justice (procedural fairness).</p> <p>(4) Accordingly, no court of law or administrative review body has jurisdiction or power to consider any question involving compliance or non-compliance, by the protected person, with those provisions or with those rules so far as they apply to the exercise of any protected function.</p> <p>(5) This section has effect despite any provision of this Act or other legislation or any other law (whether written or unwritten).</p> <p>(6) In this section: <i>exercise</i> of functions includes: (a) the purported exercise of functions, and (b) the non-exercise or improper exercise of functions, and (c) the proposed, apprehended or threatened exercise of functions. <i>proceedings</i> includes: (a) proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, and (b) without limiting paragraph (a), proceedings in the exercise of the inherent jurisdiction of the Supreme Court or the jurisdiction conferred by section 23 of the <i>Supreme Court Act 1970</i>, but does not include any investigation or proceedings under the <i>Independent Commission Against Corruption Act 1988</i>.</p> <p>[2] Schedule 3 Savings, transitional and other provisions</p> <p>Insert at the end of clause 1 (1):</p> <p style="padding-left: 40px;"><i>Housing Amendment (Registrable Persons) Act 2009</i></p> | <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> |
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