



New South Wales

# Housing Legislation Amendment Bill 2016

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to amend the *Housing Act 2001* to provide for the New South Wales Land and Housing Corporation (the **Housing Corporation**) to enter into concurrent leases with registered community housing providers in respect of housing owned by the Housing Corporation (the housing subject to the concurrent lease will no longer be public housing and accordingly the tenants will no longer be eligible for a rental rebate under that Act but may instead be eligible for rental assistance from the Commonwealth), and
- (b) to amend the *Community Housing Providers (Adoption of National Law) Act 2012* to provide for the establishment of a local registration scheme for community housing providers that are unable to be registered under the Community Housing Providers National Law (NSW) and to permit the Housing Corporation and the FACS Secretary to give assistance to locally registered community housing providers.

## 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      Amendment of Housing Act 2001 No 52**

**Schedule 1 [4]** permits the New South Wales Land and Housing Corporation (the *Housing Corporation*) to enter into concurrent leases with registered community housing providers in respect of housing owned by the Housing Corporation. A concurrent lease is a lease of the rights and obligations of the landlord (the Housing Corporation) under a lease to another person (in this case the community housing provider). The Housing Corporation is permitted to enter a concurrent lease even if the housing is not currently leased. On entering the concurrent lease, the tenant in the housing is required to pay rent to the community housing provider rather than the Housing Corporation. The Housing Corporation is also to be permitted to transfer a tenant's housing file to the community housing provider. No consent is required from the tenant in respect of the entering into of the concurrent lease or the transfer of information. However, the Housing Corporation can only transfer personal or health information if it is satisfied that the community housing provider has procedures in place that will ensure the privacy of the information. **Schedule 1 [1]** provides that housing that is subject to a concurrent lease to a registered community housing provider is no longer public housing. **Schedule 1 [2]** defines *registered community housing provider* for the purposes of the *Housing Act 2001*. **Schedule 1 [3]** makes a consequential amendment.

**Schedule 1 [5]** permits regulations to be made under the *Housing Act 2001* containing savings and transitional provisions consequent on the enactment of any Act that amends that Act, including the proposed Act.

## **Schedule 2      Amendment of Community Housing Providers (Adoption of National Law) Act 2012 No 59**

**Schedule 2 [2]** requires the Minister for Family and Community Services or the Minister for Social Housing to establish a *local registration scheme* (being a local system of registration, monitoring and regulation of entities that provide community housing but are unable to be registered under the Community Housing Providers National Law (NSW)). The local registration scheme is to be consistent with the national system of registration, monitoring and regulation of community housing providers under the National Law. **Schedule 2 [1]** inserts a definition of *registered community housing provider* in Part 3 of the *Community Housing Providers (Adoption of National Law) Act 2012* to include community housing providers registered under the local registration scheme. This means that those locally registered community housing providers will now be able to seek assistance from the Housing Agencies (being the New South Wales Land and Housing Corporation and the Secretary of the Department of Family and Community Services).



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New South Wales

# Housing Legislation Amendment Bill 2016

No. , 2016

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## **A Bill for**

An Act to amend the *Housing Act 2001* with respect to the entry of concurrent leases; and to amend the *Community Housing Providers (Adoption of National Law) Act 2012* with respect to the registration of, and provision of assistance to, community housing providers that cannot be registered under the Community Housing Providers National Law (NSW).

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**The Legislature of New South Wales enacts:**

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**1 Name of Act**

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This Act is the *Housing Legislation Amendment Act 2016*.

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**2 Commencement**

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

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<b>Schedule 1</b>	<b>Amendment of Housing Act 2001 No 52</b>	1
<b>[1] Section 3 Definitions</b>		2
	Insert “or housing subject to a concurrent lease to a registered community housing provider” after “that Act” in the definition of <i>public housing</i> .	3 4
<b>[2] Section 3, definition of “registered community housing provider”</b>		5
	Insert in alphabetical order:	6
	<i>registered community housing provider</i> has the same meaning as it has in the Community Housing Providers National Law (NSW).	7 8
<b>[3] Part 3, Division 3, heading</b>		9
	Omit “and agreements”. Insert instead “, agreements and concurrent leases”.	10
<b>[4] Section 13A</b>		11
	Insert after section 13:	12
<b>13A Entering into concurrent leases</b>		13
(1)	The Corporation may enter into a concurrent lease with a registered community housing provider in respect of any housing owned by the Corporation (whether or not the housing is leased to a tenant at the time that the concurrent lease is entered).	14 15 16 17
(2)	On entering into a concurrent lease under this section:	18
(a)	any rent payable by a tenant (other than rent in arrears that was payable before the concurrent lease was entered into) becomes payable to the registered community housing provider and not to the Corporation and any provision of the concurrent lease, to the extent that it provides otherwise (whether directly or constructively), does not have effect, and	19 20 21 22 23
(b)	the tenant is no longer renting public housing.	24
(3)	On entering into a concurrent lease under this section in respect of housing, the Corporation may provide to the registered community housing provider any information in relation to the housing (including personal or health information about a tenant or any other person).	25 26 27 28
(4)	The Corporation is not to provide personal or health information to a registered community housing provider under this section unless the Corporation is satisfied that the registered community housing provider has procedures in place to ensure the privacy of the information.	29 30 31 32
(5)	Nothing in this section limits any other power the Corporation may have to enter into a lease or a concurrent lease (including entering into a concurrent lease with a registered community housing provider).	33 34 35
(6)	For the avoidance of doubt, the consent of a tenant is not required in order for the Corporation to enter into a concurrent lease or to provide information under this section.	36 37 38
<b>[5] Schedule 3 Savings, transitional and other provisions</b>		39
	Insert at the end of clause 1 (1):	40
	any Act that amends this Act	41

<b>Schedule 2</b>	<b>Amendment of Community Housing Providers (Adoption of National Law) Act 2012 No 59</b>	1 2
<b>[1] Section 13 Definitions</b>		3
Insert in alphabetical order in section 13 (1):		4
<i>registered community housing provider</i> means a registered community housing provider within the meaning of the Community Housing Providers National Law (NSW) and includes an entity registered under the local registration scheme established under section 25A.		5 6 7 8
<b>[2] Section 25A</b>		9
Insert before section 26:		10
<b>25A Local registration scheme</b>		11
(1) The Minister is to establish a local system of registration, monitoring and regulation of entities that provide community housing but are unable to be registered under the Community Housing Providers National Law (NSW) (the <i>local registration scheme</i> ).		12 13 14 15
(2) The Minister is to endeavour to ensure that the local registration scheme is, as far as reasonably practicable, consistent with the national system of registration, monitoring and regulation of community housing providers under the Community Housing Providers National Law (NSW).		16 17 18 19
(3) The Minister may, for the purposes of the local registration scheme, impose functions on the Registrar for this jurisdiction.		20 21
(4) The regulations may make provision for or with respect to the local registration scheme, including by providing that provisions of the Community Housing Providers National Law (NSW) are taken to apply in respect of the local registration scheme subject to any modifications that may be prescribed by the regulations.		22 23 24 25 26
(5) The Minister may delegate the exercise of any function of the Minister under this section to the Housing Secretary.		27 28
(6) In this section: <i>entity</i> means an entity within the meaning of the Community Housing Providers National Law (NSW) and includes a body prescribed by the regulations.		29 30 31 32