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New South Wales

# Land Sales Amendment Bill 1998

## Explanatory note

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

### Overview of Bill

The objects of this Bill are to amend the *Land Sales Act 1964* (the Principal Act) so as to make provision in that Act for various matters currently prescribed by the *Land Sales Regulation 1997* and to consequentially repeal that Regulation.

#### The Bill:

- (a) transfers the exemption of local councils and statutory bodies representing the Crown from the requirements of Part 3 of the Principal Act (currently contained in clause 7 of the Regulation) to section 6 of the Principal Act, and
  - (b) provides for notice of a vendor's intention to charge the land to which an instalment contract relates to be in a form approved by the Registrar-General instead of being in a form prescribed by the regulations, and
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- (c) provides for the amount that the vendor under an instalment contract can be required in certain circumstances to refund to the purchaser for the costs incurred by the purchaser in obtaining legal advice in connection with the contract to be an amount, not exceeding the amount specified in the undertaking attached to or endorsed on the contract, for the reasonable costs of obtaining that advice (instead of an amount not exceeding an amount prescribed by the regulations for the purposes of section 9 of the Principal Act).

### 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 assent.

**Clause 3** is a formal provision giving effect to the amendments to the *Land Sales Act 1964* set out in Schedule 1.

**Clause 4** repeals the *Land Sales Regulation 1997*.

### Schedule 1 Amendments

Schedule 1 [1] gives effect to the object of the Bill described in paragraph (a) of the Overview.

Schedule 1 [2] and [3] give effect to the object described in paragraph (c) of the Overview. Section 9 (2) (a) (i) of the Principal Act currently provides that if a vendor tenders to the purchaser an instalment contract for execution by the purchaser, the vendor is to annex to, or endorse on, the contract an undertaking that the vendor will refund to the purchaser the costs (not exceeding an amount prescribed by the regulations) incurred by the purchaser in obtaining legal advice in connection with that contract. The *Land Sales Regulation 1997* currently provides that the maximum amount of such costs is \$140. The proposed amendments instead provide that the amount payable is to be an amount not exceeding an amount stated in the undertaking annexed to or endorsed on the instalment contract as the reasonable costs of obtaining such advice. This amount may be varied by agreement in writing between the vendor and purchaser at any time before the purchaser executes the instalment contract.

Schedule 1 [4] gives effect to the object of the Bill described in paragraph (b) of the Overview.

Schedule 1 [5]–[7] make consequential amendments as well as amendments of a savings and transitional nature.

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New South Wales

## Land Sales Amendment Bill 1998

No. , 1998

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### **A Bill for**

An Act to amend the *Land Sales Act 1964* in relation to the refund by a vendor of certain legal costs payable by a purchaser under an instalment contract and certain other matters currently prescribed by the *Land Sales Regulation 1997*; and for other purposes.

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

**1 Name of Act**

This Act is the *Land Sales Amendment Act 1998*.

**2 Commencement**

This Act commences on the date of assent.

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**3 Amendment of Land Sales Act 1964 No 12**

The *Land Sales Act 1964* is amended as set out in Schedule 1.

**4 Repeal of Land Sales Regulation 1997**

The *Land Sales Regulation 1997* is repealed.

## Schedule 1 Amendments

(Section 3)

### [1] Section 6 Exemptions

Insert at the end of the section:

- (2) An instalment contract for the sale of a lot in a subdivision of land under the provisions of the *Real Property Act 1900*, being a contract under which the vendor of the lot is: 5

(a) a statutory body representing the Crown, or

(b) a local council, 10

is exempt from the provisions of this Part.

### [2] Section 9 Receipts for certain preliminary deposits to indicate that sale is by instalment contract

Omit "the costs, not exceeding an amount prescribed by regulations under this Act," from section 9 (2) (a) (i). 15

Insert instead "an amount, not exceeding an amount stated in the undertaking, for the reasonable costs".

### [3] Section 9 (3)

Insert after section 9 (2):

- (3) The amount for reasonable costs stated in the undertaking under subsection (2) (a) (i) may be varied by agreement in writing between the vendor and purchaser at any time before execution of the instalment contract by the purchaser. 20

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Schedule 1 Amendments

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- [4] Section 14 Notice of intention to charge land to be given to purchaser and trustee**
- Omit "the form prescribed by regulations made under this Act" from section 14 (1).  
Insert instead "a form approved by the Registrar-General". 5
- [5] Section 30**
- Insert after section 29:
- 30 Savings and transitional provisions**
- The Sixth Schedule has effect.
- [6] Fifth Schedule** 10
- Omit "the costs (not exceeding the amount prescribed by the regulations under the *Land Sales Act 1964*)" from paragraph 2 (a) of the Fifth Schedule.  
Insert instead "an amount, not exceeding an amount stated in the undertaking, for the reasonable costs". 15
- [7] Sixth Schedule**
- Insert after the Fifth Schedule:
- Sixth Schedule Savings and transitional provisions**  
(Section 30)
- 1 Regulations** 20
- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
- Land Sales Amendment Act 1998*

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- (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 in the Gazette, 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.

**2 Forms**

A form prescribed under section 14 as in force immediately before the amendment of that section by the *Land Sales Amendment Act 1998* is taken to be an approved form under that section, as amended, until a form is approved by the Registrar-General under that section.

**3 Undertakings**

- (1) In this clause:
- amending Act* means the *Land Sales Amendment Act 1998*.
- (2) The amendments made to section 9 by the amending Act do not apply to an undertaking tendered by a vendor to a purchaser before the commencement of those amendments.



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Schedule 1      Amendments

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- (3) Clause 5 of the *Land Sales Regulation 1997*, as in force immediately before its repeal by the amending Act, continues to apply to an undertaking referred to in subclause (2) as if that Regulation were still in force.