



New South Wales

Crown Lands and Irrigation Legislation Amendment (Removal of Transfer Restrictions) Bill 1997

Explanatory note

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

Overview of Bill

Generally, leases, land in the course of purchase and land purchased from the Crown under Crown lands and irrigation legislation cannot be transferred or otherwise dealt with without the consent of the Minister (or the Lands Administration Ministerial Corporation).

In dealing with most applications for consent to transfer farming type lands, the Minister or Ministerial Corporation is required to refuse consent if the transfer will result in a person holding an area that is substantially in excess of a home maintenance area.

Provisions relating to transfer restrictions on non-irrigation area lands are contained in the *Crown Lands (Continued Tenures) Act 1989*.

Provisions relating to transfer restrictions on irrigation area lands are contained in the *Crown Lands (Continued Tenures) Act 1989*, the *Hay Irrigation Act 1902* and the *Wentworth Irrigation Act 1890*.

Explanatory note

The object of this Bill is to amend those Acts:

- (a) to remove the requirement for the consent of the Minister or Ministerial Corporation to transfers of:
 - (i) all freehold land, and
 - (ii) all land comprised in incomplete purchases under the *Crown Lands (Continued Tenures) Act 1989*,
(consent will still be required for the transfer of most land under lease from the Crown or the Ministerial Corporation and most land under the *Hay Irrigation Act 1902* or the *Wentworth Irrigation Act 1890* that is in the course of purchase from the Ministerial Corporation), and
- (b) to remove the requirement for the Minister or Ministerial Corporation to take into consideration home maintenance areas when dealing with applications for consent to transfer leases or land in the course of purchase.

The Bill also removes some redundant provisions and makes other statute law revision amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act commences on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Crown Lands (Continued Tenures) Act 1989* contained in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Hay Irrigation Act 1902* contained in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the *Wentworth Irrigation Act 1890* contained in Schedule 3.

Schedule 1 Amendment of Crown Lands (Continued Tenures) Act 1989

Removal of transfer restrictions

Items [7], [10], [11], [13], [17], [19], [20], [23]–[26], [28]–[31], [36] and [37] relate to the removal of the requirement for the consent of the Minister to transfers of freehold land and land in the course of purchase.

Removal of requirement to take into consideration home maintenance areas

Items [21] and [22] relate to the removal of the requirement for the Minister to take into consideration home maintenance areas when dealing with applications for consent to transfer leases.

Other amendments

Items [1]–[6], [8], [9], [12], [14], [15], [34] and [35] remove redundant provisions relating to yearly leases and quarry licences (all now expired).

Items [16], [18], [27] and [33] are consequential amendments.

Item [32] is a statute law revision amendment.

Items [38] and [39] are savings and transitional amendments.

Schedules 2 Amendment of Hay Irrigation Act 1902 and and 3 Wentworth Irrigation Act 1890

Removal of transfer restrictions

Items [3], [4], [13] and [14] relate to the removal of the requirement for the consent of the Ministerial Corporation to transfers of freehold land.

Removal of requirement to take into consideration home maintenance areas

Items [10]–[12] relate to the removal of the requirement for the Ministerial Corporation to take into consideration home maintenance areas when dealing with applications to transfer leases or land in the course of purchase.

Other amendments

Items [1], [2], [5]–[9], [15]–[17], [19] and [20] are statute law revision amendments.

Items [18] and [21] are savings and transitional amendments.



New South Wales

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New South Wales

Crown Lands and Irrigation Legislation Amendment (Removal of Transfer Restrictions) Bill 1997

No , 1997

A Bill for

An Act to amend the *Crown Lands (Continued Tenures) Act 1989*, the *Hay Irrigation Act 1902* and the *Wentworth Irrigation Act 1890* so as to remove certain restrictions on the transfer of land; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crown Lands and Irrigation Legislation Amendment (Removal of Transfer Restrictions) Act 1997*.

2 Commencement

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This Act commences on the date of assent.

**3 Amendment of Crown Lands (Continued Tenures) Act 1989
No 7**

The *Crown Lands (Continued Tenures) Act 1989* is amended as set out in Schedule 1.

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4 Amendment of Hay Irrigation Act 1902 No 57

The *Hay Irrigation Act 1902* is amended as set out in Schedule 2.

5 Amendment of Wentworth Irrigation Act 1890 54 Vic No 7

The *Wentworth Irrigation Act 1890* is amended as set out in Schedule 3.

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**Schedule 1 Amendment of Crown Lands
(Continued Tenures) Act 1989**

(Section 3)

[1] Section 3 Definitions

Omit “, a yearly lease” from the definition of *holding* in section 3 (1). 5

[2] Section 3 (1), definitions of “quarry licence” and “yearly lease”

Omit the definitions.

[3] Section 4 Application of Act

Omit “, permissive occupancies and quarry licences” from section 4 (b). 10

Insert instead “and permissive occupancies”.

[4] Section 5 Continued tenures

Omit “, occupancy or licence” from section 5 (2).

Insert instead “or occupancy”. 15

[5] Section 5 (4)

Omit “, yearly lease” from paragraph (b) of the definition of *tenure*.

[6] Section 5 (4)

Omit paragraph (d) from the definition of *tenure*.

[7] Section 6 Incomplete purchases etc

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Omit section 6 (2) and (4).

[8] Section 9 Yearly leases

Omit the section.

[9] Section 12 Quarry licences

Omit the section. 25

Schedule 1 Amendment of Crown Lands (Continued Tenures) Act 1989

- [10] Section 14 Freehold land acquired by way of exchange—
transfer restrictions**
Omit the section.
- [11] Section 15 Land held with closer settlement build-up holdings—
transfer restrictions** 5
Omit the section.
- [12] Schedule 1 Continued tenures**
Omit Part 4.
- [13] Schedule 2 Provisions applicable to continued tenures etc**
Omit clause 2 (b) and (c) of Part 1. 10
- [14] Schedule 2, Part 4**
Omit the Part.
- [15] Schedule 2, Part 7**
Omit the Part.
- [16] Schedule 3 Transfer restrictions** 15
Omit “(Sections 14, 15, Parts 1–3, 5 of Schedule 2, clause 7 (3) of
Schedule 7)” from the heading to Schedule 3.
Insert instead “(Parts 2, 3 and 5 of Schedule 2)”.
- [17] Schedule 3, Part 1, clause 1**
Omit “, or formerly comprised, in a holding”. 20
Insert instead “in a perpetual lease, a term lease or a special lease”.
- [18] Schedule 3, Part 1**
Omit clause 1 (b).

[19] Schedule 3, Part 1

Omit clause 2 (2) (b).

[20] Schedule 3, Part 1

Omit “comprised, or formerly comprised, in an incomplete purchase or” from clause 2 (2) (c).

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[21] Schedule 3, Part 1

Omit clause 5 (2)–(6).

[22] Schedule 3, Part 1

Omit clauses 6 and 7.

[23] Schedule 3, Part 1

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Omit clause 8 (2A), (2B), (3) and (4).

[24] Schedule 3, Part 1

Omit clause 9.

[25] Schedule 3, Part 2 heading

Omit “, auction and tender purchases and town land leases and purchases”.

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Insert instead “and town land leases”.

[26] Schedule 3, Part 2

Omit “, or formerly comprised,” from clause 1.

[27] Schedule 3, Part 2

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Omit clause 1 (b).

Schedule 1 Amendment of Crown Lands (Continued Tenures) Act 1989

[28] Schedule 3, Part 2

Omit “comprised, or formerly comprised, in an incomplete purchase or” from clause 2 (2) (b).

[29] Schedule 3, Part 2

Omit clause 6 (3).

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[30] Schedule 3, Part 2

Omit clause 6 (5) (b) and (c).

[31] Schedule 3, Part 3

Omit the Part.

[32] Schedule 4 Subdivision of holdings

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Omit “irrigation areas” from the heading to clause 6.
Insert instead “special land districts”.

[33] Schedule 4, clause 6

Insert “(as in force before its amendment by the *Crown Lands and Irrigation Legislation Amendment (Removal of Transfer Restrictions) Act 1997*)” after “Schedule 3 (removal of restrictions on transfer)”.

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[34] Schedule 5 Rent etc

Omit “, a yearly lease” from clause 1 (1).

[35] Schedule 5, clause 7

Omit the clause.

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[36] Schedule 7 Purchase of land held under lease

Omit clause 7 of Part 1.

[37] Schedule 7, Part 2

Omit clause 5.

[38] Schedule 8 Savings and transitional provisions

Insert at the end of clause 1 (1):

Schedule 1 to the *Crown Lands and Irrigation Legislation Amendment (Removal of Transfer Restrictions) Act 1997* 5

[39] Schedule 8, Part 3

Insert at the end of the Schedule:

**Part 3 Provisions consequent on enactment of
Crown Lands and Irrigation Legislation
Amendment (Removal of Transfer
Restrictions) Act 1997** 10

4 Definition

In this Part:

amending Act means the *Crown Lands and Irrigation Legislation Amendment (Removal of Transfer Restrictions) Act 1997*. 15

5 Applications for consent to transfer

An application for consent made under clause 4 of Part 1 of Schedule 3 that was not determined before the amendment of clause 5 of Part 1 of Schedule 3 by Schedule 1 [21] to the amending Act is to be dealt with under clause 5 of Part 1 of Schedule 3 as so amended. 20

6 Certain references on folios of the Register to cease to have effect 25

On commencement of the amending Act, any reference to Part 1 or 2 of Schedule 3 on a folio of the Register created in respect of an incomplete purchase or land formerly comprised in an incomplete purchase ceases to have effect in respect of that purchase or land. 30

Schedule 2 Amendment of Hay Irrigation Act 1902

(Section 4)

- [1] **Section 19A Power to sell land**
Omit "Minister" from section 19A (7) (b).
Insert instead "Ministerial Corporation". 5
- [2] **Section 19B Purchase price of leased lands**
Omit "Minister's" from section 19B (4) (b).
Insert instead "Ministerial Corporation's".
- [3] **Section 20 Application of Part**
Omit section 20 (c). 10
- [4] **Section 21 Consent to transfer**
Omit section 21 (2) (b).
- [5] **Section 24 Dealing with applications**
Omit "due to the Minister or the Ministerial Corporation" from
section 24 (2) (a). 15
Insert instead "due to the Ministerial Corporation".
- [6] **Section 24 (2) (a)**
Omit "required to be paid by the Minister or the Ministerial
Corporation".
Insert instead "required by the Ministerial Corporation to be paid". 20
- [7] **Section 24 (2) (b)**
Insert "if the land is land in the course of purchase in fee simple
from the Ministerial Corporation," before "the proposed transferee".
- [8] **Section 24 (2) (b) (i)**
Omit "Minister or". 25

[9] Section 24 (2) (b) (i)

Omit "Minister as the Minister may require or to the".

[10] Section 24 (3)–(7)

Omit the subsections.

[11] Section 25 Restrictions on exercise of mortgagee's powers

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Omit the section.

[12] Section 26 Devolution under a will or on intestacy

Omit the section.

[13] Section 27 Removal of restrictions

Omit the section.

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[14] Section 28 Valuation of land

Omit the section.

[15] Section 28A Savings and transitional provisions

Omit the section.

[16] Section 30

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Omit the section. Insert instead:

30 Savings and transitional provisions

The Third and Fourth Schedules have effect.

[17] Fourth Schedule Savings and transitional provisions

Omit "(Section 28A)" from the heading to the Schedule.
Insert instead "(Section 30)".

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Schedule 2 Amendment of Hay Irrigation Act 1902

[18] Fourth Schedule

Insert at the end of clause 1 (1):

*Schedule 2 to the Crown Lands and Irrigation
Legislation Amendment (Removal of Transfer
Restrictions) Act 1997*

5

[19] Fourth Schedule, clause 3 heading

Omit "removal of transfer restrictions".

Insert instead "consent to transfer".

[20] Fourth Schedule, clause 3

Omit "under Part 3". Insert instead "under section 23".

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[21] Fourth Schedule, Part 3

Insert at the end of the Schedule:

**Part 3 Provisions consequent on enactment of
Crown Lands and Irrigation Legislation
Amendment (Removal of Transfer
Restrictions) Act 1997**

15

4 Definition

In this Part:

amending Act means the *Crown Lands and Irrigation
Legislation Amendment (Removal of Transfer
Restrictions) Act 1997*.

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5 Applications for consent to transfer

An application for consent made under section 23 that
was not determined before the amendment of section 24
by Schedule 2 [10] to the amending Act is to be dealt
with under section 24 as so amended.

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Schedule 3 Amendment of Wentworth Irrigation Act 1890

(Section 5)

[1] Section 22B Power to sell land

Omit "Minister" from section 22B (7) (b).
Insert instead "Ministerial Corporation".

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[2] Section 22C Purchase price of leased lands

Omit "Minister's" from section 22C (4) (b).
Insert instead "Ministerial Corporation's".

[3] Section 23 Application of Part

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Omit section 23 (c).

[4] Section 24 Consent to transfer

Omit section 24 (2) (b).

[5] Section 27 Dealing with applications

Omit "due to the Minister or the Ministerial Corporation" from section 27 (2) (a).
Insert instead "due to the Ministerial Corporation".

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[6] Section 27 (2) (a)

Omit "required to be paid by the Minister or the Ministerial Corporation".
Insert instead "required by the Ministerial Corporation to be paid".

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[7] Section 27 (2) (b)

Insert "if the land is land in the course of purchase in fee simple from the Ministerial Corporation," before "the proposed transferee".

Schedule 3 Amendment of Wentworth Irrigation Act 1890

- [8] **Section 27 (2) (b) (i)**
Omit "Minister or".
- [9] **Section 27 (2) (b) (i)**
Omit "Minister as the Minister may require or to the".
- [10] **Section 27 (3)–(7)** 5
Omit the subsections.
- [11] **Section 28 Restrictions on exercise of mortgagee's powers**
Omit the section.
- [12] **Section 29 Devolution under a will or on intestacy**
Omit the section. 10
- [13] **Section 30 Removal of restrictions**
Omit the section.
- [14] **Section 31 Valuation of land**
Omit the section.
- [15] **Section 32 Savings and transitional provisions** 15
Omit the section.
- [16] **Section 35**
Omit the section. Insert instead:
- 35 Savings and transitional provisions**
Schedules 2 and 3 have effect. 20
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[17] Schedule 3 Savings and transitional provisions

Omit "(Section 32)" from the heading to the Schedule.
Insert instead "(Section 35)".

[18] Schedule 3

Insert at the end of clause 1 (1):

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*Schedule 3 to the Crown Lands and Irrigation
Legislation Amendment (Removal of Transfer
Restrictions) Act 1997*

[19] Schedule 3, clause 3 heading

Omit "removal of transfer restrictions".
Insert instead "consent to transfer".

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[20] Schedule 3, clause 3

Omit "under Part 3". Insert instead "under section 26".

[21] Schedule 3, Part 3

Insert at the end of the Schedule:

15

**Part 3 Provisions consequent on enactment of
Crown Lands and Irrigation Legislation
Amendment (Removal of Transfer
Restrictions) Act 1997**

4 Definition

20

In this Part:

amending Act means the *Crown Lands and Irrigation
Legislation Amendment (Removal of Transfer
Restrictions) Act 1997*.

5 Applications for consent to transfer

An application for consent made under section 26 that was not determined before the amendment of section 27 by Schedule 3 [10] to the amending Act is to be dealt with under section 27 as so amended.

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