

Queensland



LOCAL GOVERNMENT (PALM BEACH LAND) ACT 1992

**Reprinted as in force on 25 May 1993
(Act not amended up to this date)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 25 May 1993.

See Endnotes for—

- details about when provisions commenced; and
- any provisions that have not commenced and are not incorporated in the reprint.

Queensland



LOCAL GOVERNMENT (PALM BEACH LAND) ACT 1992

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LOCAL GOVERNMENT (PALM BEACH LAND) ACT 1992

[reprinted as in force on 25 May 1993²]

An Act for the settlement of claims in relation to damage to houses at Palm Beach in the City of the Gold Coast

Short title

1. This Act may be cited as the *Local Government (Palm Beach Land) Act 1992*³.

Object of Act

2. The object of this Act is to provide for the settlement of claims in relation to damage caused by land subsidence to certain houses at Palm Beach in the City of Gold Coast.

How object is to be achieved

- 3.** The object of this Act is to be achieved by—
- (a) establishing a fund managed by the Public Trustee that is to be applied to the settlement of claims; and
 - (b) authorising the Gold Coast City Council to contribute to the fund; and
 - (c) providing for the contribution to the fund by insurance companies; and
 - (d) identifying persons who may be entitled to receive a payment from the fund; and
 - (e) providing for the assessment of the damage to the affected houses; and

- (f) specifying the minimum number and minimum value of claims required before the fund will be distributed; and
- (g) providing for an equitable distribution of the fund to each person entitled to receive payment, if a minimum number and minimum value of claims is achieved; and
- (h) providing for the distribution to be in full settlement of the person's claim; and
- (i) the closing of the fund after distribution to all persons entitled to payment from the fund.

Definitions

4. In this Act—

“area” means the area marked on the map set out in the Schedule;

“assess” includes reassess;

“chief executive” means the chief executive of the department;

“claimant” means a person who is entitled, under section 8, to payment from the fund;

“fund” means the fund established under section 5.

Establishment of fund

5.(1) A fund called the Palm Beach Land (Settlement of Claims) Fund is to be established by the Public Trustee.

(2) The Public Trustee is to administer the fund.

(3) Amounts paid into the fund are to be held by the Public Trustee to the credit of the fund.

(4) Interest earned on amounts in the fund becomes part of the fund.

Gold Coast City Council authorised to contribute to fund

6. The Gold Coast City Council is authorised to contribute an amount of not more than \$1.5 million to the fund. Contribution to the fund by other persons.

Contribution to the fund by other persons

7. Other moneys are to be paid to the fund by—

- (a) Suncorp Insurance and Finance, which is a statutory body incorporated under the *Suncorp Insurance and Finance Act 1985*; and
- (b) NZI Insurance Australia Limited A.C.N. 001 948 278.

Persons entitled to payment from fund

8.(1) A person is entitled to payment from the fund if—

- (a) the person was the owner of a house in the area on 25 August 1992; and
- (b) the person also owned the house at 30 September 1989; and
- (c) the person had, before 30 March 1992—
 - (i) notified the Gold Coast City Council of the person's intention to make a claim for damage caused to the house by land subsidence; or
 - (ii) started an action in a court of competent jurisdiction in relation to damage caused to the house by land subsidence; and
- (d) the house has been assessed under this Act as having been damaged by land subsidence.

(2) For the purposes of this section, the owner of a house is the registered proprietor of the land on which the house is situated, and includes the personal representative or trustee of the estate of the registered proprietor.

Performance of powers and functions of chief executive

9.(1) The chief executive may appoint suitably qualified persons to perform any powers or functions of the chief executive under this Act.

(2) A person may be appointed on terms that the chief executive considers appropriate.

(3) A person appointed under this section is authorised to perform the powers and functions specified by the chief executive.

(4) If a notification is to be given by or to the chief executive under this Act, it may be given by or to a person appointed by the chief executive for the purpose.

Assessment of damage

10.(1) The chief executive must assess the extent and value of damage caused by land subsidence to the house of each claimant.

(2) The chief executive must advise each claimant in writing of the value of damage assessed in relation to the claimant's house.

(3) Within 28 days of receiving written advice of the assessment from the chief executive, the claimant may notify the chief executive, in writing—

- (a) that the claimant accepts the value of the assessment; or
- (b) that the claimant requires a reassessment of the extent and value of damage caused to the claimant's house by land subsidence.

(4) If the claimant notifies the chief executive that the claimant requires a reassessment, then, within 28 days of receiving the notification, the chief executive must—

- (a) reassess the extent and value of damage caused to the claimant's house by land subsidence; and
- (b) advise the claimant, in writing, of the value reassessed in relation to the claimant's house.

(5) If the value of damage to the claimant's house is not increased on reassessment, any amount the claimant subsequently receives from the fund is to be reduced by the cost of the reassessment.

(6) The chief executive may extend the period of 28 days mentioned in subsection (3) if, in a particular case, the chief executive considers the circumstances warrant an extension of the period.

(7) A claimant is not entitled to payment from the fund if the claimant—

- (a) fails to allow the assessment of the extent and value of the damage to the claimant's house; or
- (b) fails to give a notification under subsection (3) within the period specified in this section or, if an extended period is allowed, the extended period.

Criteria to determine if fund will be distributed to the claimants

11.(1) The fund may be distributed only if, after all claimants' houses that can be assessed have been assessed or reassessed and the time for notifications to be given to the chief executive under section 10(3) has expired—

- (a) at least 90% of the claimants have accepted the value of the assessment of damage made in relation to their houses; and
- (b) the total value of the assessments of the claimants that have accepted is at least 90% of the total assessment of damage caused to the claimants' houses by land subsidence.

(2) If the criteria specified in subsection (1)(a) and (b) are not achieved—

- (a) the chief executive must notify the Public Trustee; and
- (b) the Public Trustee must refund amounts in the fund to the contributors to the fund in the same proportions that they contributed to it.

Offer to claimants

12.(1) If the fund is to be distributed to the claimants, the chief executive must determine the amount to be offered to each claimant, having regard to—

- (a) the total value of the assessments of damage made and accepted; and
- (b) the amount that will be in the fund when the fund is distributed to claimants.

(2) The chief executive must notify each claimant—

- (a) of the amount offered to the claimant; and
- (b) that the amount is offered in full and final settlement of the claimant's claim for damage caused to the claimant's house by land subsidence.

(3) The chief executive must act as quickly as possible in giving effect to this section.

Acceptance of offer

13.(1) If a claimant wishes to accept the amount offered by the chief executive, the claimant must notify the chief executive, in the form approved by the chief executive, of the acceptance within 28 days of receiving the offer.

(2) The chief executive must authorise the Public Trustee to pay the amount to the claimant as quickly as possible after being notified of the acceptance of the offer.

(3) The chief executive may extend the period of 28 days mentioned in subsection (1) if, in a particular case, the chief executive considers the circumstances warrant an extension of the period.

(4) A claimant is not entitled to payment from the fund if the claimant fails to give the notification required by subsection (1) within the period specified in this section or, if an extended period is allowed, the extended period.

Payment by Public Trustee

14. On receiving written authorisation from the chief executive to pay an amount to a claimant, the Public Trustee must pay the amount to the claimant.

Possible balance in fund

15.(1) If—

- (a) some of the claimants do not accept the amount offered by the chief executive; or
- (b) interest accrues to the fund in addition to that taken into account under section 12(1)(b);

the amount to which claimants are entitled is not affected.

(2) Any balance left in the fund must be refunded to the contributors to the fund in the same proportions that they contributed to it.

Closure of fund

16. When all amounts required to be paid out of the fund have been paid—

- (a) the Public Trustee must close the fund; and
- (b) advise the chief executive in writing of the closure of the fund.

Application of amounts paid

17. Claimants who receive an amount from the fund in settlement of their claim are not required to use it to repair the damage the subject of the claim.

Expiry of Act

18.(1) This Act expires on a day to be fixed by proclamation.

(2) The day fixed by proclamation must be after the closure of the fund by the Public Trustee.

SCHEDULE

MAP

sections 4 and 8



The area bounded by the bold line is the area mentioned in sections 4 and 8.

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2 Date to which amendments incorporated

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. However, no amendments have commenced operation before that day. Future amendments of the *Local Government (Palm Beach Land) Act 1992* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

3 List of legislation

Local Government (Palm Beach Land) Act 1992 No. 60

date of assent 7 December 1992

commenced on date of assent

Note—This Act expires on a day to be fixed by proclamation (see s 18)