



Queensland

Land and Other Legislation Amendment Regulation (No. 1) 2014

Subordinate Legislation 2014 No. 117

made under the

Land Act 1994

Petroleum and Gas (Production and Safety) Act 2004

Contents

		Page
Part 1	Preliminary	
1	Short title	5
2	Commencement	5
Part 2	Amendment of Land Regulation 2009	
3	Regulation amended	5
4	Insertion of new pt 4, div 1AA.	5
	Division 1AA Lease and other land conversion	
	25A What this division does.	5
	25B Purchase price	6
	25C Net present value	6
	25D Unimproved value.	7
	25E Value of commercial timber	8
	25F Cash premium	8
5	Amendment of s 26 (Definitions for div 1)	9
6	Insertion of new s 26A	9
	26A Rent periods	9
7	Replacement of s 27 (Categories for rent assessment—Act, s 182)	9
	27 Rental categories for rental assessment	10

Contents

8	Replacement of s 28 (Category 11 lease)	11
	28 Category 11.1 or 11.2 lease	11
9	Omission of s 35 (Amount and sub-periods for payment of rent—Act, s 181)	12
10	Amendment of s 36 (Matters for calculating rent (valuations for rental purposes)—Act, s 183).	12
11	Replacement of ss 37–39.	12
	37 Minimum rent for leases of particular categories	12
	37A Rent for leases of particular categories	13
	37B Rent for leases with particular title references	13
	37C Designated set rent	14
	38 Protection against undue rental increases	14
	39 No rent payable once offer to convert lease is accepted	16
	39A Rent adjustments	17
12	Replacement of pt 4, div 2 (Concessional rents)	18
	40 Charitable, recreational and sporting concessions.	18
	40A Development and investigation concessions	19
	40B Residential hardship concessions	19
	40C Limited rent discount for particular leases	20
	40D Governor in Council may defer rent or instalment	21
	40E Minister may defer rent or instalment	22
	40F Change of circumstances.	23
13	Insertion of new s 40G	23
	40G Rent and instalments are payable—general.	23
14	Amendment of s 41 (When rent is payable—Act, s 190)	24
15	Amendment of s 42 (When instalments are payable—Act, s 190)	24
16	Amendment of s 43 (Places for payment of rent and instalments—Act, s 190)	25
17	Insertion of new ss 43A and 43B	25
	43A Method of paying rent and instalments.	25
	43B Overpayment of rent.	25
18	Insertion of new pt 4, div 4	26
	Division 4 Action for non-payment of rent or instalments	
	43C When this division applies	26
	43D Penalty interest on outstanding rent and instalments.	26
	43E Notice of intention to cancel	27
	43F Designated officer may reinstate licence or permit	28

19	Amendment of s 55 (Discount applying to grazing homestead freeholding lease—Act, s 466)	28
20	Insertion of new pt 7A.	28
	Part 7A Review of rental category decisions and appeals	
	Division 1 Right of appeal	
	58A Notice of right of appeal to be given.	29
	Division 2 Internal review of rental category decisions	
	58B Appeal process starts with internal review	29
	58C Who may apply for review etc.	29
	58D Applying for review	29
	58E Stay of operation of decision etc.	30
	58F Decision on reconsideration	31
	Division 3 Appeals	
	58G Who may appeal.	31
	58H Procedure for an appeal to the court	31
	58I Powers of court on appeal	32
	58J Effect of decision of court on appeal	32
	58K Jurisdiction of the court	32
21	Amendment of s 59 hdg (Amount prescribed—Act, ss 47, 184, 191 and 499)	33
22	Amendment of s 60 hdg (Interest rate prescribed—Act, ss 184, 192, 500 and 503I)	33
23	Replacement of s 61 (Penalty interest on rent and instalments—Act, s 195)	33
	61 Regulated conditions—Act, s 212B(1)	33
24	Insertion of new s 61A	33
	61A Regulated islands—Act, s 434A(1)	33
25	Amendment of sch 6 (Averaged value)	33
26	Amendment of sch 9 (Amount prescribed)	34
27	Amendment of sch 10 (Interest rate prescribed)	34
28	Insertion of new schs 10A and 10B	34
	Schedule 10A Regulated conditions	
	Schedule 10B Regulated islands	
29	Amendment of sch 11 (Fees)	39
30	Amendment of sch 12 (Dictionary)	40

Contents

Part 3	Amendment of Petroleum and Gas (Production and Safety) Regulation 2004	
31	Regulation amended	41
32	Insertion of new sdiv 3	41
	Subdivision 3 Change to production commencement day	
15	Shorter period to change production commencement day—Act, s175AA(c)	41

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Land and Other Legislation Amendment Regulation (No. 1) 2014*.

2 Commencement

This regulation commences on 1 July 2014, immediately after the commencement of part 10 of the *Natural Resources and Mines Legislation (Fees) Amendment Regulation (No. 1) 2014*.

Part 2 Amendment of Land Regulation 2009

3 Regulation amended

This part amends the *Land Regulation 2009*.

4 Insertion of new pt 4, div 1AA

Part 4, before division 1—

insert—

Division 1AA Lease and other land conversion

25A What this division does

This division prescribes the way the purchase price, unimproved value and cash premium must be decided for the purposes of the following provisions of the Act—

[s 4]

- (a) section 34IA(2);
- (b) section 69(1);
- (c) section 109C(4);
- (d) section 127(6)(b);
- (e) section 170(1).

25B Purchase price

- (1) The purchase price of land is an amount equal to the total of—
 - (a) the value of the land; and
 - (b) the market value of any commercial timber on the land (see section 25E).
- (2) The value of the land is—
 - (a) for a category 11.1 or 11.2 lease—the net present value of the land (see section 25C); or
 - (b) otherwise—the unimproved value of the land, as if it were fee simple (see section 25D).

25C Net present value

- (1) The *net present value* is the amount worked out using the following formula—

$$A \times \left[\frac{1 - (1/(1+i)^{30})}{i} \right] + A \times \left[\frac{(1+g)/(i-g)}{(1+i)^{30}} \right]$$

where—

A is the annual rent for the lease worked out by multiplying the unimproved value of the lease by

the percentage rate for the lease as stated in section 37A.

i is .08.

g is .025.

- (2) The net present value is to be worked out as at the day the chief executive receives the conversion application.

25D Unimproved value

- (1) The *unimproved value of land* is—
 - (a) for a category 11.1 or 11.2 lease—the rental valuation; or
 - (b) otherwise—the amount that an estate in fee simple in the land in an unimproved state would be worth if—
 - (i) after proper marketing, there were an exchange between a willing buyer and a willing seller in an arms-length transaction; and
 - (ii) the buyer and seller had acted knowledgeably, prudently and without compulsion.
- (2) Also, the unimproved value includes the value of improvements and development work made by the State to the land, and for which the State has not been paid, before the lease started or the deed of grant was issued.
- (3) However, the unimproved value does not include the value of any commercial timber on the land.
- (4) The unimproved value is—
 - (a) for land that has been reclaimed under the authority of an Act—as at the day the permission to reclaim the land was given; or

[s 4]

- (b) otherwise—as at the day the chief executive receives either—
 - (i) the conversion application; or
 - (ii) the application under section 34I(1) of the Act.
- (5) To remove any doubt, it is declared that the Land Valuation Act does not apply to the meaning of unimproved value.

25E Value of commercial timber

- (1) The value of any commercial timber on the land is the market value of any commercial timber on the land that is the property of the State, other than forest products that are the subject of a consent agreement.
- (2) The market value of any commercial timber is to be worked out—
 - (a) if the value is not appealed—as at the day the chief executive receives the conversion application; or
 - (b) if the value is appealed—as at the day the appeal is decided; or
 - (c) if a person has applied to buy the commercial timber—as at the day the person applied; or
 - (d) if the Minister made an offer to sell the commercial timber before the day mentioned in paragraph (c)—as at the day the offer was made.

25F Cash premium

The cash premium is equal to the minimum rent for the category of the lease that the closed road will be amalgamated with.

5 Amendment of s 26 (Definitions for div 1)

Section 26, definition *relevant category lease*, ‘category 11,’—
omit, insert—
category

6 Insertion of new s 26A

After section 26—
insert—

26A Rent periods

- (1) The rental period for a lease, licence or permit is 1 year starting on 1 July.
- (2) However—
 - (a) if a lease, licence or permit starts in a rental period—the first rental period for the lease, licence or permit is from the start of the lease, licence or permit until the next 30 June; and
 - (b) if a lease, licence or permit ends in a rental period—the last rental period for the lease, licence or permit is from 1 July before the lease, licence or permit ends until the lease, licence or permit ends.
- (3) Also, if the annual rent for a lease, licence or permit is more than \$2000, the rental period for the lease, licence or permit may be divided into quarterly sub-periods starting on 1 July.

7 Replacement of s 27 (Categories for rent assessment—Act, s 182)

Section 27—
omit, insert—

[s 7]

27 Rental categories for rental assessment

- (1) The section applies to—
 - (a) a decision (a *rental category decision*) by the Minister to include a lease or licence into a rental category mentioned in subsection (4) for the purposes of rent assessment; and
 - (b) a decision (also a *rental category decision*) by the chief executive to include a permit into a rental category mentioned in subsection (4) for the purposes of rent assessment.
- (2) The relevant decision maker must give a lessee, licensee or permittee notice of the rental category decision when—
 - (a) the lease, licence or permit is being offered; or
 - (b) approval is given for a lease to be used for an additional purpose.
- (3) A lessee, licensee or permittee may appeal under part 7A against the rental category decision.
- (4) The following are the rental categories for rent assessment—
 - (a) category 11.1—primary production perpetual lease;
 - (b) category 11.2—primary production other tenures;
 - (c) category 12.1—residential;
 - (d) category 12.2—residential (permit to occupy for short term accommodation purpose);
 - (e) category 13—business and government core business;

- (f) category 14.1—charities and small sporting or recreational clubs;
- (g) category 14.2—large sporting or recreational clubs;
- (h) category 15.1—communication sites (community service activities);
- (i) category 15.2—communication sites (limited commercial service activities—rural);
- (j) category 15.3—communication sites (limited commercial service activities—urban);
- (k) category 15.4—communication sites (non-community service activities—rural);
- (l) category 15.5—communication sites (non-community service activities—urban);
- (m) category 16—divestment.

8 Replacement of s 28 (Category 11 lease)

Section 28—

omit, insert—

28 Category 11.1 or 11.2 lease

- (1) A category 11.1 lease is a perpetual lease that is or may be used primarily for grazing or primary production.
- (2) A category 11.2 lease is a term lease, licence or permit to occupy that is or may be used primarily for grazing or primary production.
- (3) In this section—
primary production includes—
 - (a) agriculture, including viticulture and the growing of cane, coffee, tea, tobacco, fruit,

[s 9]

vegetables, flowers and other horticultural products; and

- (b) aquaculture, including oyster farming; and
- (c) farming cattle in feedlots; and
- (d) farming pigs and poultry.

9 Omission of s 35 (Amount and sub-periods for payment of rent—Act, s 181)

Section 35—

omit.

10 Amendment of s 36 (Matters for calculating rent (valuations for rental purposes)—Act, s 183)

- (1) Section 36, heading, ‘—Act, s 183’—

omit.

- (2) Section 36(1), ‘For section 183(1)(b) of the Act, the prescribed’—

omit, insert—

The

- (3) Section 36(2), ‘prescribed’—

omit.

11 Replacement of ss 37–39

Sections 37 to 39—

omit, insert—

37 Minimum rent for leases of particular categories

The minimum rent for a lease for a rental period is—

- (a) for a category 11.1, 11.2, 12.1, 12.2, 13 or 16 lease—\$228; or

-
- (b) for a category 14.2 lease—\$112.

37A Rent for leases of particular categories

- (1) The rent for a rentable period for the following leases is the amount calculated by multiplying the rental valuation for the particular lease by the following percentage—
- (a) for a category 11.1 lease—1.5%;
 - (b) for a category 11.2 lease—0.75%;
 - (c) for a category 12.1 lease—6%;
 - (d) for a category 12.2 lease—6%;
 - (e) for a category 13 lease—6%;
 - (f) for a category 14.2 lease—
 - (i) 5% for the land on which the clubhouse and associated amenities are situated; and
 - (ii) 1% for the remainder of the land under the lease.
 - (g) for a category 16 lease—7%.
- (2) The rent for a rentable period for the following leases is—
- (a) for a category 14.1 or 15.1 lease—\$112;
 - (b) for a category 15.2 lease—\$5742;
 - (c) for a category 15.3 lease—\$8535;
 - (d) for a category 15.4 lease—\$11485;
 - (e) for a category 15.5 lease—\$17227.

37B Rent for leases with particular title references

- (1) The rent for the term of the lease with title reference 40058945 is \$1.

[s 11]

- (2) The rent for a rental period for each lease with a title reference stated in schedule 6A is the lesser of the following—
 - (a) the amount, in whole dollars, that is equal to 6% of the averaged value of the lease land for the rental period;
 - (b) the amount, in whole dollars, that is 10% more than the rent payable for the lease for the immediately preceding rental period.
- (3) However, if the rent worked out for a lease under subsection (2) is less than the minimum rent, the rent for the lease is the minimum rent.
- (4) Subsections (2), (3) and this subsection expire on 30 June 2015.

37C Designated set rent

The designated officer may set the rent (the *designated set rent*) for the following—

- (a) a term lease for a significant development;
- (b) a licence or permit for which a rental valuation has not been made;
- (c) a lease, licence or permit given or issued to the State, a government owned corporation or a rail government entity under the *Transport Infrastructure Act 1994*.

38 Protection against undue rental increases

- (1) This section applies to a lease mentioned in section 37A(1), other than—
 - (a) a lease with a designated set rent; or
 - (b) a category 12.1 or 12.2 lease held by—
 - (i) a corporation that is not a charitable organisation, non-commercial

-
- community service organisation or body corporate; or
 - (ii) a government leasing entity that is not a local government; or
 - (c) a lease that did not exist, and had no former lease, during the previous rental year; or
 - (d) a freeholding lease.

Note—

For freeholding leases, see chapter 8, part 2 of the Act.

- (2) If the Minister considers that an increase of the lease's rent under section 37A(1) is excessive, the Minister may decide that the rent for the rental period is the rent worked out using the following formula—

RPY + (RPY x PP)

where—

RPY means—

- (a) if the lease existed during the previous rental year—that year's annual rent for the lease; or
- (b) if the lease did not exist during the previous rental year but had a corresponding lease for that year—that year's notional annual rent for the corresponding lease.

PP means—

- (a) for a category 11.1 or 11.2 lease—10%; and
- (b) for a category 12.1 or 12.2 lease is—
 - (i) 50% for the financial year ending 30 June 2013; and
 - (ii) 75% for the financial year ending 30 June 2014; and

[s 11]

- (iii) 100% for each financial year ending on or after 30 June 2015.
- (3) Subsection (2), definition of *PP*, paragraphs (b)(i) to (iii) and this subsection expire on 30 June 2015 as if repealed by another regulation.
- (4) In this section—
 - corresponding lease*, for a lease, means a former lease, licence or permit, whether or not of the same area as the lease, that—
 - (a) was ended for the purpose of changing its area, issuing a new lease or for a renewal or conversion under the Act; and
 - (b) because of which change, issuing renewal or conversion the lease was created.

notional annual rent, for the previous rental year of a corresponding lease of a lease, means the rent for each hectare of the corresponding lease's area multiplied by the area of the lease.

39 No rent payable once offer to convert lease is accepted

- (1) This section applies to a lease if—
 - (a) the lessee has applied to convert the lease to freehold land under section 166 of the Act; and
 - (b) the chief executive has made an offer to convert the lease.
- (2) Rent stops being payable for the lease when the offer to convert the lease is accepted.

Note—

For when an offer to convert a lease has been accepted see section 171 of the Act.

39A Rent adjustments

- (1) The rent payable for a lease, licence or permit must be adjusted from the first quarter day after the change is approved if—
 - (a) an application is approved to change the purpose for which a lease, licence or permit is used; and
 - (b) the approval results in a change of rental category.
- (2) If a new rental valuation is made in a rental period because of an action under the Act, the rent must be adjusted from the first quarter day after the action was taken.
- (3) If a rental valuation for a rental period is amended on appeal or objection under the Land Valuation Act, the rent payable for the rental period must be adjusted proportionally.
- (4) Interest, at the prescribed rate, on rent overpaid for the rental period because of an amendment under subsection (3) must be paid from the day the rent was paid until the day the overpayment is refunded.
- (5) If on appeal, a lease, licence or permit is allocated to a new category, the overpaid rent must be credited to the lessee, licensee or permittee, together with prescribed interest, on the amount credited from the time of payment until the appeal is decided.
- (6) If a lease, licence or permit has a designated set rent, and the area of land in the lease, licence or permit is changed, the rent must be adjusted—
 - (a) in accordance with the offer or the conditions of approval; or
 - (b) if a rent adjustment was not stated in the offer or approval—proportionally.

[s 12]

- (7) If the rent for a lease, license or permit is adjusted—
- (a) for an adjustment that is more than the prescribed amount—the adjustment must be paid to the department or credited to the lessee, licensee or permittee; or
 - (b) for an adjustment that is less than the prescribed amount—the adjustment must be credited or debited to the account of the lessee, licensee or permittee.
- (8) In this section—
- prescribed amount* means \$100.
- prescribed rate* means 2% compounding monthly.

12 Replacement of pt 4, div 2 (Concessional rents)

Part 4, division 2—

omit, insert—

Division 2 Concessional and deferred rents

Subdivision 1 Concessional rent

40 Charitable, recreational and sporting concessions

- (1) The Minister may set a rent less than the rent normally applying to a lease, if the lessee is a charitable, sporting or recreational organisation.
- (2) The Minister must not set a rent less than the minimum rent.

40A Development and investigation concessions

- (1) This section applies to a lease or permit that does not have a designated set rent.
- (2) The designated officer may fix an annual rent, instead of the rent that would otherwise be payable—
 - (a) if the designated officer considers the lease needs investigation and development work by a lessee—while the lease is being investigated and developed; or
 - (b) if the permit is for investigation for a lease for development work—while the permit is in force.
- (3) Subsection (2)(a) only applies for the first 5 years of a lease.

40B Residential hardship concessions

- (1) The Minister may reduce a rent normally applying to a lease, if—
 - (a) the lease land is the lessee's principal place of residence; and
 - (b) the lessee is suffering hardship: and
 - (c) either—
 - (i) the lessee holds, or is entitled to hold, a Commonwealth concession card; or
 - (ii) the annual rent payable under the lease is a significant proportion of the lessee's taxable income.
- (2) If the Minister considers the financial circumstances of the lessee have changed to the extent that a concession should be amended or cancelled, the Minister may amend or cancel the amount of the concession for future rental periods.

[s 12]

- (3) If a lease is transferred, a concession applying to the lease does not apply from the day of the transfer.

40C Limited rent discount for particular leases

- (1) This section applies if a lessee's lease (the *relevant lease*) is—
 - (a) for rural leasehold land of 100ha or more; and
 - (b) for a term of 20 years or more.
- (2) The lessee for a relevant lease may apply to the Minister for a discount of 25% on the rent payable for the lease for a period of 5 years if—
 - (a) the application is made before 1 July 2018; and
 - (b) the discount has not previously been approved for the lease.
- (3) The Minister may approve the application if—
 - (a) the lease land is subject to an indigenous cultural interest; and
 - (b) the lessee has withdrawn from a native title claim made—
 - (i) by the indigenous party for the indigenous cultural interest; and
 - (ii) over the part of the lease land that is subject to the interest; and
 - (c) either—
 - (i) the lessee remains responsible for all costs associated with any public liability insurance the lessee requires the indigenous party for the indigenous cultural interest to hold; or

-
- (ii) the lessee has waived, in writing, any requirement mentioned in subparagraph (i).
 - (4) If the Minister decides to approve the application, the discount applies to the lease for 5 years starting on the later of the following days—
 - (a) 1 July 2014;
 - (b) the first day of the next full rental period after the day of approval.
 - (5) However, if any of the following happen during the 5 years, the discount ends when—
 - (a) the indigenous cultural interest to which the lease land is subject ends;
 - (b) the lessee becomes a respondent to a native title claim made—
 - (i) by the indigenous party for the indigenous cultural interest; and
 - (ii) over the part of the lease land that is subject to the interest;
 - (c) the lessee remains responsible for all costs associated with any public liability insurance the lessee requires the indigenous party for the indigenous cultural interest to hold.

Subdivision 2 Deferred rent

40D Governor in Council may defer rent or instalment

- (1) The Governor in Council may, by gazette notice, declare an area or particular tenures as a hardship area only if the Governor in Council is satisfied that the area or tenure has been severely affected by—

[s 12]

- (a) natural disaster; or
 - (b) adverse economic conditions.
- (2) The declaration must state the following—
- (a) the area or particular tenures;
 - (b) that the rent or instalment payable by a lessee or licensee in the area or of the tenure is, either wholly or partly, deferred;
 - (c) the period for which the deferral applies.

40E Minister may defer rent or instalment

- (1) The Minister may defer, wholly or partly, the payment of rent or instalments for the lessee's lease or licensee's licence if—
- (a) the lessee or licensee applies for a deferral; and
 - (b) the Minister considers the lessee or licensee is suffering hardship because of—
 - (i) natural disaster; or
 - (ii) adverse economic conditions related to the purpose of the lease.
- (2) The Minister may defer payment only if the applicant gives the Minister—
- (a) the returns and financial statements that the Minister asks for to help decide the application; or
 - (b) evidence that the applicant is receiving, for the hardship mentioned in subsection (1)(b)(i), financial assistance under a State or Commonwealth scheme.

Example of a scheme—

the exceptional circumstances scheme under the
Rural and Regional Adjustment Act 1994

-
- (3) If the Minister defers payment the Minister must give the applicant a written notice stating—
 - (a) the period for which the deferral applies; and
 - (b) the terms of repayment of the deferred rent or instalments.
 - (4) If rent or instalments are deferred, the penalty interest does not apply for the period of the deferral.

40F Change of circumstances

- (1) If the Minister considers the financial circumstances of a lessee who has been granted a deferral for hardship under section 40E have changed to the extent that the deferral should no longer apply, the Minister may revoke the deferral for future rental periods or instalment payments.
- (2) If a lease or licence is transferred, a deferral applying to the lease or licence ceases to apply from the day of the settlement of the transfer.
- (3) It is a condition of the approval to a transfer of a lease or licence that the deferred rent or instalments must be paid to the State at settlement.

13 Insertion of new s 40G

Part 4, division 3—

insert—

40G Rent and instalments are payable—general

- (1) All rent and instalments must be paid at the times and places stated in this division unless the chief executive is satisfied that the payment can not be

[s 14]

made by the time or at the place because of exceptional circumstances.

Examples of possible exceptional circumstances—

civil disturbance, computer failure, extreme climatic conditions and industrial action

- (2) Subsection (1) applies even if a lessee, licensee or permittee has—
- (a) objected to or appealed against—
 - (i) a rental valuation of the lease, licence or permit; or
 - (ii) a categorisation of the lease, licence or permit.
 - (b) made an application for a matter under the Act, the lessee, licensee or permittee must still pay rent and instalments when they are owing.

14 Amendment of s 41 (When rent is payable—Act, s 190)

- (1) Section 41, heading, ‘—Act, s 190’—

omit.

- (2) Section 41, ‘For section 190(1) of the Act, the’—

omit, insert—

The

- (3) Section 41(b), ‘section 35’—

omit, insert—

section 26A(4)

15 Amendment of s 42 (When instalments are payable—Act, s 190)

Section 42(1), ‘For section 190(1) of the Act, this’—

omit, insert—

This

16 Amendment of s 43 (Places for payment of rent and instalments—Act, s 190)

(1) Section 43, heading, ‘—Act, s 190’—

omit.

(2) Section 43, ‘For section 190(1) of the Act, the following places are prescribed’—

omit, insert—

All rent and instalments must be paid at the following places

17 Insertion of new ss 43A and 43B

Part 4, division 3—

insert—

43A Method of paying rent and instalments

All rent and instalments may be paid by the electronic means mentioned on the account setting out the rent or instalment payable.

43B Overpayment of rent

- (1) If a lessee, licensee or permittee overpays rent or instalments, and the excess rent or instalments is—
 - (a) greater than the rental amount—the overpayment must be refunded to the lessee, licensee or permittee; or
 - (b) less than the rental amount—the overpayment must be credited to the account of the lessee, licensee or permittee.

[s 18]

- (2) To remove any doubt, it is declared that interest is payable on overpaid rent or instalments only if the overpayment is because of—
 - (a) a change in valuation on objection or appeal under the Land Valuation Act; or
 - (b) a change of category of a lease, licence or permit because of an appeal.
- (3) In this section—
rental amount means \$100.

18 Insertion of new pt 4, div 4

Part 4—

insert—

Division 4 Action for non-payment of rent or instalments

43C When this division applies

This division applies if a lessee, licensee or permittee does not pay the rent or instalment within the time required under—

- (a) for a rent payment—section 41; or
- (b) for a instalment payment—section 42.

43D Penalty interest on outstanding rent and instalments

- (1) The lessee, licensee or permittee must pay—
 - (a) the rent and instalment outstanding; and
 - (b) penalty interest on the rent or instalment outstanding until the day the rent or instalment is paid.
- (2) The designated officer may extend the time for the payment of rent or instalment.

-
- (3) However, penalty interest still runs from the time payment was owing, unless the lessee, licensee or permittee had a reasonable excuse for not paying the rent or instalment.
 - (4) If a lessee, licensee or permittee does not pay the rent, instalments or penalty interest within time, or the extended time, the designated officer may do 1 or more of the following—
 - (a) take action in a court of competent jurisdiction to recover the rent, instalments or penalty interest owing;
 - (b) forfeit the lease under chapter 5, part 4, division 2 of the Act;
 - (c) cancel the licence or permit.

43E Notice of intention to cancel

- (1) The designated officer must give written notice to the lessee, licensee or permittee of the designated officer's intention to take action to do either or both of the following—
 - (a) recover the rent, instalments, deferred rent or penalty interest;
 - (b) cancel the licence or permit.

Note—

See section 235 of the Act for notice of intention to forfeit a lease.

- (2) The notice must state—
 - (a) a reasonable time in which the designated officer will not take action in a court of competent jurisdiction to recover the rent, instalments or penalty interest owing; and
 - (b) the amount of—

[s 19]

- (i) rent, or instalments payable by the lessee, licensee or permittee; and
 - (ii) penalty interest accruing each day.
- (3) The time stated in the notice must not be less than 28 days after the day of the notice.

43F Designated officer may reinstate licence or permit

If a licence or permit is cancelled because the rent, instalments or penalty interest was not paid, the designated officer may reinstate the licence or permit if—

- (a) the licensee or permittee pays all outstanding amounts; and
- (b) the designated officer is satisfied the licensee or permittee had a reasonable excuse for not paying the outstanding amounts.

19 Amendment of s 55 (Discount applying to grazing homestead freeholding lease—Act, s 466)

Section 55—

insert—

- (2) However, subsection (1) does not apply to a grazing homestead freeholding lease issued on or after 1 July 2014.

20 Insertion of new pt 7A

After section 58—

insert—

Part 7A Review of rental category decisions and appeals

Division 1 Right of appeal

58A Notice of right of appeal to be given

- (1) A person who has a right to appeal a rental category decision under this part must be given notice of the person's right to appeal against the decision and how the appeal is started.
- (2) The notice must be given when notice of the rental category decision and the reasons for the decision are given to the person.

Division 2 Internal review of rental category decisions

58B Appeal process starts with internal review

Every appeal against a rental category decision must be, in the first instance, by way of an application for internal review.

58C Who may apply for review etc.

A person who has a right to appeal against a rental category decision may apply to the relevant decision maker for a review of the decision.

58D Applying for review

- (1) An application by a person for review of a rental category decision must be made within 42 days

[s 20]

after notice of the decision was given to the person.

- (2) The relevant decision maker may extend the period for making an application for review.
- (3) An application for review must be written and state in detail the grounds on which the applicant seeks review of the decision.

58E Stay of operation of decision etc.

- (1) If an application is made under this part for review of a rental category decision, the applicant may immediately apply for a stay of the decision to the court.
- (2) The court may stay the rental category decision, to secure the effectiveness of the review and any later appeal to the court.
- (3) A stay—
 - (a) may be given on conditions; and
 - (b) operates for the period stated by the court; and
 - (c) may be revoked or amended by the court.
- (4) The period of a stay under this section must not extend past the time when—
 - (a) the relevant decision maker reviews the rental category decision; and
 - (b) any later period the court allows the applicant to enable the applicant to appeal against the decision.
- (5) The making of an application under this part for review of a rental category decision, affects the decision, or the carrying out of the decision, only if the decision is stayed.

58F Decision on reconsideration

- (1) After reviewing the rental category decision the relevant decision maker must make a further decision (the *review decision*) to confirm the original decision, amend the original decision or substitute a new decision.
- (2) The chief executive must immediately give the applicant notice of the review decision.
- (3) The notice must state—
 - (a) the day (the *review notice day*) the notice is given to the applicant; and
 - (b) if the review decision is not the decision sought by the applicant—
 - (i) the reasons for the decision; and
 - (ii) that the applicant may appeal against the decision to the court within 42 days after the review notice day.

Division 3 Appeals

58G Who may appeal

A person who has applied for the review of a rental category decision and is dissatisfied with the review decision, may appeal to the court against the decision.

58H Procedure for an appeal to the court

- (1) An appeal to the court is started by filing notice of appeal with the registrar of the court.
- (2) A copy of the notice must be served on the chief executive.

[s 20]

- (3) The notice of appeal must be filed within 42 days after the review notice day (see section 58F(3)(a)).
- (4) However, a regulation may provide a different period for particular decisions.
- (5) The court may, whether before or after the time for filing the notice of appeal ends, extend the period for filing the notice of appeal.
- (6) The notice of appeal must state fully the grounds of the appeal.

58I Powers of court on appeal

- (1) In deciding an appeal, the court has the same powers as the decision maker.
- (2) An appeal is by way of rehearing.
- (3) The court may—
 - (a) confirm the review decision; or
 - (b) set aside the review decision and substitute another decision; or
 - (c) set aside the review decision and return the issue to the Minister with directions the court considers appropriate.

58J Effect of decision of court on appeal

If the court substitutes another decision, the substituted decision is, for the relevant provision of this Act, taken to be the decision maker's decision.

58K Jurisdiction of the court

The court has jurisdiction to hear and decide matters referred to the court by the Minister.

21 Amendment of s 59 hdg (Amount prescribed—Act, ss 47, 184, 191 and 499)

Section 59, heading, ‘,184, 191’—

omit.

22 Amendment of s 60 hdg (Interest rate prescribed—Act, ss 184, 192, 500 and 503I)

Section 60, heading, ‘,184, 192’—

omit.

23 Replacement of s 61 (Penalty interest on rent and instalments—Act, s 195)

Section 61—

omit, insert—

61 Regulated conditions—Act, s 212B(1)

Each condition stated in schedule 10A is a condition of a lease, licence or permit for section 212B(1) of the Act.

24 Insertion of new s 61A

After section 61—

insert—

61A Regulated islands—Act, s 434A(1)

Each island mentioned in schedule 10B is declared to be a regulated island for section 434A(1) of the Act.

25 Amendment of sch 6 (Averaged value)

(1) Schedule 6, section 1, definition *averaging factor 1*, example, ‘category 11’—

omit, insert—

category 12

[s 26]

- (2) Schedule 6, section 1, definitions *averaging factor 3* and *averaging factor 4*—
omit.
- (3) Schedule 6, section 2—
omit.
- (4) Schedule 6, section 3—
renumber as schedule 6, section 2.

26 Amendment of sch 9 (Amount prescribed)

Schedule 9, columns 1 and 2—

omit, insert—

Column 1	Column 2
Act provision	Amount prescribed
section 47(3)	\$5000
section 499(2)(e)	\$110

27 Amendment of sch 10 (Interest rate prescribed)

Schedule 10, columns 1 and 2—

omit, insert—

Column 1	Column 2
Act provision	Annual interest rate prescribed
section 500(1)	2% compounding monthly
section 503I(2)	2% compounding monthly

28 Insertion of new schs 10A and 10B

After schedule 10—

insert—

Schedule 10A Regulated conditions

section 61

Part 1 Regulated conditions for leases

1. Indemnity

The Lessee indemnifies and agrees to keep indemnified the Minister, and the State of Queensland and its Representatives (the “Indemnified parties”) against all liability, costs, loss and expenses including claims in negligence (including any claims, proceedings or demands brought by any third party, and any legal fees, costs and disbursements on a solicitor and client basis) (“Claim”) arising from or incurred in connection with:

- (a) the granting of this Lease to the Lessee;
- (b) the Lessee’s use and occupation of the land;
or
- (c) personal injury (including sickness and death) or property damage or loss in connection with the performance (or attempted or purported performance or non-performance) of the lease or a breach of the lease by the Lessee.

The Lessee hereby releases and discharges to the full extent permitted by law, the Indemnified parties from all actions, claims, proceedings or demands and in respect of any loss, death, injury illness or damage (whether personal or property, and whether special, direct, indirect or consequential, including consequential financial loss) arising out of the use and occupation of the Lease.

[s 28]

To the full extent permitted by law, the Minister, the State of Queensland and their Representatives will not be liable to the Lessee for any special, indirect or consequential damages, including consequential financial loss arising out of the use and occupation of the Lease.

2. Public Liability

The Lessee must effect a public liability insurance policy with an insurer authorised under the *Insurance Act 1973* (Commonwealth) or, if not so authorised then only with the Minister's approval, which can be given or withheld in the Minister's sole discretion, naming the Lessee as the insured covering legal liability for any loss of, or damage to any property and for the injury (including death) to any person arising out of anything done or omitted on or about the land or any improvements thereon and against all claims, demands, proceedings, costs, charges and expenses whatsoever (including claims in negligence). Such policy must:

- (a) be for an amount of not less than \$20 Million and have no per event sublimit or such higher amounts as the Minister may reasonably require.
- (b) be effected on a "claims occurring" basis; and
- (c) be maintained at all times during the currency of the lease, and upon receipt of any notice of cancellation, the lessee must immediately effect another public insurance policy in accordance with the terms of the lease.

The Lessee must, as soon as practicable, inform the Minister, in writing, of the occurrence of any event that the Lessee considers is likely to give rise to a claim under the policy of insurance effected and must ensure that the Minister is kept fully informed of

subsequent actions and developments concerning the claim.

The Lessee must renew such policy, at the Lessee's expense, each year during the currency of this Lease.

This condition will be satisfied if the Lessee is the State of Queensland or a statutory authority eligible for cover under the Queensland Government Insurance Fund and is insured and continues to be insured by the Queensland Government Insurance Fund.

This condition will be satisfied if the lessee is the Commonwealth of Australia or a statutory authority eligible for cover under the Comcover Insurance Fund and is insured and continues to be insured by Comcover.

3. Access

The provision of access, further access or services to the land will not be the responsibility of the State.

4. Survey Costs

If the land needs to be surveyed or re-surveyed the Lessee must do this at its own cost under the *Survey and Mapping Infrastructure Act 2003*. This survey plan must be lodged in the land registry within the specified time.

5. Jurisdiction

The Lease is subject to the *Land Act 1994* and all other relevant Queensland and Commonwealth legislation.

6. Compliance with Laws

The Lessee must comply with all lawful requirements of the:

- (a) Local Government; and
- (b) any department within the Queensland or Commonwealth governments (including the department administering the *Land Act*

[s 28]

1994), local authority or statutory instrumentality having jurisdiction over the land, or the development, use and occupation of the land, in regard to its use, occupation and development of the land.

Part 2 Additional regulated condition for rolling term leases

7. Extension

The lease is subject to the extensions of rolling term leases provision of the *Land Act 1994* and the Minister must grant an extension of the term of a rolling term lease if the lessee makes an application in the approved form. The extension will be for the original term of the lease and may be given subject to condition changes.

Schedule 10B Regulated islands

section 61A

Brampton Island
Camp Island, Coral Sea
Curtis Island
Daydream Island
Dent Island
Double Island

Fitzroy Island
Fraser Island
Great Keppel Island
Green Island
Haggerston Island
Hamilton Island
Hayman Island
Heron Island
Hinchinbrook Island
Hook Island
Lindeman Island
Lizard Island
Long Island
Moreton Island
Orpheus Island
Pumpkin Island
Restoration Island
South Molle Island
South Stradbroke Island
Stone Island
Sweers Island
Wild Duck Island
Wilson Island

29 Amendment of sch 11 (Fees)

Schedule 11, item 1, paragraphs (m) and (n)—

[s 30]

omit, insert—

(m) for an extension application (Act, s 164C) 244.40

30 Amendment of sch 12 (Dictionary)

(1) Schedule 12, definitions *averaging factor 3*, *averaging factor 4*, *rental period 3* and *rental period 4—*

omit.

(2) Schedule 12—

insert—

body corporate see the *Body Corporate and Community Management Act 1997*.

designated set rent see section 37C.

instalment includes any interest that is a component of the instalment.

Land Valuation Act means the *Land Valuation Act 2010*.

minimum rent see section 37.

penalty interest is the rate, accruing daily and compounding monthly, that is 2% above the Suncorp-Metway business banking variable lending base rate.

relevant decision maker means, for a rental category decision—

(a) made by the Minister—the Minister; or

(b) made by the chief executive—the chief executive.

rental category decision see section 27.

rental valuation means a Land Act rental valuation under the Land Valuation Act.

unimproved value see section 25D.

Part 3 **Amendment of Petroleum and Gas (Production and Safety) Regulation 2004**

31 **Regulation amended**

This part amends the *Petroleum and Gas (Production and Safety) Regulation 2004*.

32 **Insertion of new sdiv 3**

Chapter 2, part 1, division 1—

insert—

Subdivision 3 Change to production commencement day

15 Shorter period to change production commencement day—Act, s175AA(c)

For section 175AA(c) of the Act, the shorter period is 3 months.

ENDNOTES

- 1 Made by the Governor in Council on 19 June 2014.
- 2 Notified on the Queensland legislation website on 20 June 2014.
- 3 The administering agency is the Department of Natural Resources and Mines.

© State of Queensland 2014
Authorised by the Parliamentary Counsel