



Housing (Freeholding of Land) Act 1957

Reprinted as in force on 1 July 2006

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Also see endnotes for information about—

- **when provisions commenced**
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- a correction
- a retrospective provision
- other relevant information.



Queensland

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Housing (Freeholding of Land) Act 1957

[as amended by all amendments that commenced on or before 1 July 2006]

An Act to provide for the freeholding of certain land in respect of which the *Housing Act 2003* applies

Part 1 Preliminary

1 Short title

This Act may be cited as the *Housing (Freeholding of Land) Act 1957*.

2 Dictionary

The dictionary in schedule 2 defines particular words used in this Act.

3 Act to be read with Housing Act 2003

This Act shall be read as one with the *Housing Act 2003*.

Part 2 Homes and home sites

Division 1 Preliminary

3A Declared percentage

- (1) The chief executive must declare, by publishing a notice in a newspaper circulating throughout the State, the percentage

(the *declared percentage*) of the unimproved value amount of a residential lease that must be used—

- (a) to work out the purchase price for converting a residential lease to freehold land under division 2, subdivision 1;¹ or
 - (b) to work out the conversion cost for an unconverted lease under division 3.²
- (2) The declared percentage—
- (a) must not be more than 100%; and
 - (b) must be worked out in accordance with the requirements for working out the declared percentage prescribed under a regulation.

Division 2 Voluntary conversion of residential leases to freehold land

Subdivision 1 Residential leases other than conversion in progress leases

3B Application of sdiv 1

Subject to subdivision 2, this subdivision does not apply to a conversion in progress lease.

3C Lessee's application to convert residential lease

The lessee of a residential lease may, at any time, make a written application (a *conversion application*) to the chief executive to convert the lease to freehold land.

1 See section 4A (Purchase price).

2 See section 6 (Definitions for div 3), definition *conversion cost*.

4 Chief executive's offer to convert

- (1) If the chief executive receives a conversion application, the chief executive must, as soon as practicable—
 - (a) work out the purchase price for converting the residential lease to freehold land; and
 - (b) give the lessee a written notice (an *offer to convert*) stating each of the following—
 - (i) the purchase price;
 - (ii) the period (the *availability period*) during which the lessee may accept the offer to convert;
 - (iii) the day (the *effective day*) the lessee's requirement to comply with the lease ends if the offer is accepted during the availability period;
 - (iv) if the offer is subject to conditions under subsection (3)—the conditions.
- (2) The offer to convert may state more than 1 purchase price for different effective days.
- (3) The chief executive may make an offer to convert subject to any relevant condition stated in the offer, including, for example, the following conditions—
 - (a) that fees for converting the lease to freehold land, including, for example, fees prescribed under the *Land Act 1994* or the *Land Title Act 1994*, be paid by the lessee;
 - (b) that any costs reasonably incurred by the chief executive in converting the lease to freehold land be paid by the lessee.
- (4) The chief executive may also give the lessee of a residential lease an offer to convert on the chief executive's own initiative if the lessee has not made a conversion application.

4A Purchase price

- (1) The purchase price for converting a residential lease to freehold land under this subdivision is the amount equal to the difference between—

- (a) the declared percentage of the unimproved value amount of the lease; and
 - (b) the amount of any concession prescribed under a regulation that applies for the conversion.
- (2) However, the chief executive may adjust the purchase price to account for arrears of rent, or credits for rent, payable by or to the lessee under the lease.
- (3) A regulation made under subsection (1)(b) may prescribe a concession that applies in different amounts for converting different residential leases, or different types of residential leases, to freehold land.

Example—

A concession might apply in different amounts depending on how long a lessee has held a residential lease.

4B Acceptance of offer to convert

- (1) The lessee of a residential lease may accept an offer to convert during the availability period for the offer.
- (2) The lessee must accept the offer to convert by—
- (a) paying the purchase price to the chief executive; and
 - (b) giving the chief executive all documents required to surrender the lease; and
 - (c) complying with the conditions stated in the offer.
- (3) If the lessee does not accept the offer to convert within the availability period—
- (a) the offer lapses at the end of the period; and
 - (b) subject to division 3, a subsequent conversion application or offer to convert may be made in relation to the lease.

4C How conversion takes effect

- (1) If the lessee of a residential lease accepts an offer to convert—
- (a) on the relevant effective day, the land is taken to be unallocated State land; and

- (b) the Governor in Council must issue a deed of grant to the lessee for the land contained in the lease.
- (2) The deed of grant issued under subsection (1)(b) is issued subject to all of the interests to which the lease was subject immediately before its surrender and in the same priorities.
- (3) In this section—
 - relevant effective day* means—
 - (a) if the offer to convert stated more than 1 purchase price for different effective days—the effective day to which the purchase price paid by the lessee applies; or
 - (b) otherwise—the effective day stated in the offer.

Subdivision 2 Conversion in progress leases

5 Application of sdiv 2

This subdivision applies for a conversion in progress lease.

5A Purchase price

- (1) This section applies if the lessee of the lease was not given notice of the purchasing price for the land contained in the lease under previous section 5(4) before 1 July 2006.
- (2) The purchase price for converting the lease to freehold land under this subdivision must be worked out by the chief executive under previous sections 5(1) and (1A) and 5A.³
- (3) For subsection (2)—
 - (a) previous sections 5(1), (1A) and (5) and 5A continue to apply, with any necessary changes, as if they had not been repealed; and
 - (b) a reference in previous section 5A to the notice given to the lessee under previous section 5(4) is taken to be a reference to the offer to convert given to the lessee under this section.

³ Previous sections 5 (Purchasing price) and 5A (Notification of rental credit)

- (4) As soon as practicable after the purchase price is worked out, the chief executive must give the lessee an offer to convert under section 4.
- (5) The availability period stated in the offer to convert must be 3 months from the day the offer is given to the lessee.

5B Acceptance and payment of purchase price

- (1) The lessee of the lease may accept the purchase price stated in the relevant price notice during the availability period by giving written notice (the *acceptance notice*) to the chief executive of the lessee's acceptance.
- (2) Immediately after the chief executive receives the acceptance notice, the chief executive must give the lessee a written acknowledgement stating the day the chief executive received the notice.
- (3) If the lessee accepts the purchase price during the availability period, the lessee must, within 30 days after the chief executive receives the lessee's acceptance notice—
 - (a) pay the purchase price to the chief executive; and
 - (b) give the chief executive all documents required to surrender the lease; and
 - (c) comply with the conditions stated in the relevant price notice.
- (4) If the lessee complies with subsection (3), section 4C applies in relation to the lease as if the lessee had accepted an offer to convert under subdivision 1.
- (5) For subsection (4), if the lessee is an existing notice lessee, a reference in section 4C to the relevant effective day is taken to be a reference to the first day of the first month starting after the 30 day period ends.

Example—

If the 30 day period ended on 5 March, the relevant effective day would be 1 April.

- (6) If the lessee does not accept the purchase price during the availability period, the lease—
 - (a) is no longer a conversion in progress lease; and

- (b) subject to division 3, may be converted to freehold land under subdivision 1.
- (7) If the lessee accepts the purchase price during the availability period but does not comply with subsection (3)—
 - (a) the purchase price lapses at the end of the 30 day period; and
 - (b) the lease—
 - (i) is no longer a conversion in progress lease; and
 - (ii) subject to division 3, may be converted to freehold land under subdivision 1.
- (8) In this section—

availability period means—

- (a) if the lessee is an existing notice lessee—3 months after the relevant price notice was given to the lessee; or
- (b) otherwise—the availability period stated in the offer to convert given to the lessee under section 5A.

existing notice lessee means a lessee who was given notice of the purchasing price for the land contained in the lease under previous section 5(4).

relevant price notice means—

- (a) if the lessee is an existing notice lessee—the notice given to the lessee under previous section 5(4); or
- (b) if the lessee was given an offer to convert under section 5A—the offer.

Division 3 Automatic conversion of residential leases to freehold land

Subdivision 1 Preliminary

5C Application of div 3

This division does not apply to a residential lease until 1 July 2009 (the *application day*).

6 Definitions for div 3

In this division—

beneficiary, in relation to a deceased lessee of an unconverted lease, means a person beneficially entitled to the lessee's ownership of the unconverted lease.

conversion cost, for an unconverted lease, means the total of the following amounts—

- (a) the amount equivalent to the declared percentage of the unimproved value amount of the lease;
- (b) any fees prescribed, at the time the lease is cancelled under this division, under the *Land Act 1994* or the *Land Title Act 1994* for the issue of a deed of grant for the land contained in the lease;
- (c) the costs reasonably incurred by the chief executive in converting the lease to freehold land.

register a document, an interest, land or something else, means to record the particulars of the thing in the appropriate register under the *Land Act 1994* or the *Land Title Act 1994*.

registered owner, of land in a deed of grant issued under this division, means the person recorded in the freehold land register as the registered owner of the land.

unconverted lease means a residential lease in force immediately before the application day.

6A Meaning of *prescribed change of ownership*

A ***prescribed change of ownership*** of an unconverted lease is a change in the lessee's ownership of the lease registered on or after the application day, other than any of the following—

- (a) for an unconverted lease held by joint tenants, if 1 or more of the joint tenants die—the recording of the surviving joint tenant or tenants as the lessee for the lease;
- (b) for an unconverted lease held by a lessee who dies—a transmission of the lease to the lessee's personal representative;

- (c) for an unconverted lease held by a person who becomes an insolvent under administration within the meaning of the Corporations Act, section 9—a transmission of the lease—
 - (i) to the person’s trustee; or
 - (ii) if the person ceases to be an insolvent under administration—from the person’s trustee to the person;
- (d) another change in the lessee’s ownership of a type prescribed under a regulation.

Subdivision 2 Process for automatic conversion of residential leases to freehold land

6B Cancellation of lease on registration of transfer

- (1) This section applies if a prescribed change of ownership of an unconverted lease is registered.
- (2) On registration of the change of ownership (the *converting change of ownership*), the lease is cancelled.
- (3) The Governor in Council must issue a deed of grant to the lessee for the land contained in the lease.
- (4) The deed of grant is issued subject to all the following interests—
 - (a) if section 7(2) applies to the deed—the chief executive’s charge;
 - (b) all of the interests to which the lease was subject.
- (5) The order of priority of the interests is—
 - (a) firstly, the chief executive’s charge; and
 - (b) secondly, the interests mentioned in subsection (4)(b) in the order in which they would have had priority had the lease not been cancelled.
- (6) If there is an unregistered document in relation to the cancelled lease, the document must be relodged by the

registrar, for the person who lodged the document, against the deed of grant.

- (7) As soon as practicable after the lease is cancelled, the registrar must—
 - (a) record the cancellation; and
 - (b) advise the chief executive of the cancellation.
- (8) No fee is payable for recording the cancellation of the lease.
- (9) In this section—

unregistered document means a document that—

- (a) has been lodged under the *Land Act 1994* but is not registered; and
- (b) has not been rejected.

6C Conversion cost may be paid before issue of deed of grant

The lessee of an unconverted lease may pay the conversion cost for the lease to the chief executive before a deed of grant is issued under section 6B(3) for the land contained in the lease.

7 Creation of chief executive's charge

- (1) This section applies if the conversion cost for an unconverted lease is not paid to the chief executive before a deed of grant is issued under section 6B(3) for the land contained in the lease.
- (2) The deed of grant is subject to a charge (the ***chief executive's charge***) in favour of the chief executive securing payment of the conversion cost.
- (3) The charge is binding on the registered owner to whom the deed of grant is issued and the registered owner's successors in title.
- (4) The chief executive must, when the deed of grant is lodged with the registrar of titles, give written notice to the registrar stating—
 - (a) the conversion cost for the lease; and

- (b) the last day of the payment period for the deed of grant.
- (5) The registrar of titles must—
 - (a) record the chief executive's charge in the freehold land register; and
 - (b) while the charge is recorded in the freehold land register, keep a record of the information given to the registrar under subsection (4).
- (6) No fee is payable for recording the chief executive's charge in the freehold land register.
- (7) For the *Local Government Act 1993*, section 1057,⁴ the chief executive's charge is an encumbrance conferring rights on the State.

7A Requirement to pay conversion cost

- (1) If a deed of grant is issued subject to the chief executive's charge, the registered owner of the land in the deed of grant must pay the conversion cost for the unconverted lease to the chief executive within the period stated in subsection (2).
- (2) The period (the *payment period*) is—
 - (a) if the lessee of the unconverted lease died and the converting change of ownership was a transmission or transfer to a beneficiary in relation to the deceased lessee—the period provided for under section 7B; or
 - (b) otherwise—2 years from the day the converting change of ownership is registered.

7B Payment period—deceased lessee

- (1) For section 7A(2)(a), the payment period is 5 years from the day of the lessee's death.
- (2) However, if the beneficiary to whom the unconverted lease was transferred transfers the land in the deed of grant to a non-beneficiary during the 5 year period, the payment period is the earliest of the following periods to end—

⁴ *Local Government Act 1993*, section 1057 (Priority of State debts preserved)

- (a) 5 years from the day of the lessee's death;
 - (b) 2 years from the day the transfer from the beneficiary to the non-beneficiary is registered.
- (3) In this section—
- non-beneficiary*** means a person who is not a beneficiary in relation to the deceased lessee.

7C Enforcement of chief executive's charge—notice of intention to sell land

- (1) This section applies if—
- (a) a deed of grant is issued subject to the chief executive's charge; and
 - (b) the registered owner of the land in the deed of grant does not pay the total amount of the conversion cost to the chief executive during the payment period; and
 - (c) the chief executive decides to sell the land.
- (2) The chief executive must give written notice (a ***notice of intention to sell***) stating the matters mentioned in subsection (3) to—
- (a) the registered owner of the land; and
 - (b) each mortgagee of the land.
- (3) The matters are each of the following—
- (a) the day the payment period ended;
 - (b) the amount of the unpaid conversion cost;
 - (c) that the chief executive may sell the land if the registered owner does not pay to the chief executive within a stated period—
 - (i) the amount of the unpaid conversion cost; and
 - (ii) if the chief executive requires interest on the unpaid conversion cost to be paid by the registered owner—interest on the unpaid conversion cost.
- (4) The total amount payable by the registered owner under subsection (3)(c) is the ***demand amount***.

- (5) The period stated in the notice under subsection (3)(c) must be at least 14 days after the notice is given to the registered owner.
- (6) If the notice requires the registered owner to pay interest under subsection (3)(c)(ii), the interest is payable—
 - (a) at the standard variable interest rate that applies from time to time under the *Housing Act 2003*, section 92,⁵ for owner-occupied home loans or, if more than 1 standard variable interest rate applies, at the lowest applicable rate; and
 - (b) for the period starting on the day after the payment period ends and ending on the day the amount of the unpaid conversion cost is paid in full.
- (7) If the registered owner does not pay the demand amount within the period stated in the notice, the chief executive may—
 - (a) sell the land; or
 - (b) if a mortgagee agrees to sell the land—allow the mortgagee to sell the land.
- (8) If the chief executive allows a mortgagee to sell the land under subsection (7)(b), the lessee is taken to be in default under the mortgage.

8 Release of chief executive's charge on payment of conversion cost etc.

- (1) This section applies if—
 - (a) the chief executive receives payment of—
 - (i) the conversion cost during the payment period; or
 - (ii) the demand amount during the period stated in a notice of intention to sell; or
 - (b) the chief executive agrees to accept, and receives payment of, a lesser amount in payment of the chief executive's charge.

⁵ *Housing Act 2003*, section 92 (Standard interest rates)

- (2) The land in the deed of grant is released from the chief executive's charge.
- (3) The chief executive must, as soon as practicable, ask the registrar of titles to record the release of the charge in the freehold land register.
- (4) The registrar of titles must, on the chief executive's request, record the release of the charge in the freehold land register.
- (5) No fee is payable for recording the release of the chief executive's charge under this section.

8A Sale of land by chief executive

- (1) If the chief executive may sell the land in a deed of grant under section 7C(7)(a), the land may be sold by public auction or private contract.
- (2) The chief executive must apply the proceeds of sale as follows—
 - (a) firstly, in payment of all costs, charges and expenses properly incurred by the chief executive in the sale or a previous attempted sale of the land;
 - (b) secondly, in payment of the demand amount to the chief executive;
 - (c) thirdly, in payment of any amount owing to a mortgagee or, if there is more than 1 mortgagee, according to their priorities;
 - (d) lastly, in payment to the previous registered owner of the land.
- (3) On the sale of the land, the chief executive must give the registrar of titles a completed instrument of transfer, in the approved form under the *Land Title Act 1994*, in relation to the sale.
- (4) On receiving the instrument of transfer, the registrar of titles must register the purchaser stated in the instrument for the interest held in the land by the previous registered owner, free of all encumbrances.
- (5) The registrar of titles must comply with subsection (4) even if an instrument of title relating to the land is not produced.

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- (6) Subsection (4) applies subject to section 8B.
- (7) If the demand amount has not been paid in full after the proceeds of sale are applied, the unpaid part of the amount may be recovered from the previous registered owner of the land as a debt owing to the State.
- (8) The *Property Law Act 1974* does not apply to the exercise of the chief executive's powers under this section.
- (9) In this section—
- encumbrance***—
- (a) includes any of the following affecting land—
- (i) a mortgage, lien or charge;
 - (ii) a caveat;
 - (iii) an agreement;
 - (iv) a judgment, writ or process;
 - (v) an interest adverse to the interest of the land's owner; but
- (b) does not include an easement.

previous registered owner, of land sold under this section, means the person who was the registered owner of the land immediately before its sale.

8B Priority of local government charge preserved

- (1) This section applies if—
- (a) the chief executive intends to sell land under section 8A; and
 - (b) the land is subject to a charge for an overdue rate under the *Local Government Act 1993*, section 1037A.⁶
- (2) The chief executive must, before selling the land, give written notice to the local government to which the rate is payable stating the chief executive's intention to sell the land.
- (3) The chief executive may sell the land only—

6 *Local Government Act 1993*, section 1037A (Registering charge over land)

- (a) subject to the charge; or
- (b) free of the charge to the extent, and subject to any conditions, agreed by the local government to which the rate is payable.

9 Chief executive's charge not affected by mortgagee sale

- (1) This section applies if—
 - (a) a deed of grant is issued subject to the chief executive's charge; and
 - (b) a mortgagee exercising the power of sale under the *Land Title Act 1994* sells the land in the deed of grant before the chief executive's charge is released under this division.
- (2) The chief executive's charge is not released by the sale and the land is transferred to the purchaser subject to the charge.
- (3) This section applies despite the *Property Law Act 1974*, section 86.⁷

Subdivision 3 Miscellaneous provisions

9A Condition of unconverted lease

On the application day, an unconverted lease is subject to the condition that if a prescribed change of ownership for the lease is registered, the lease is cancelled under this division.

9B Notification about application of div 3 to unconverted leases to be kept with register

- (1) On the application day, the chief executive must notify the chief executive (land) that, from the application day, this division applies to an unconverted lease.
- (2) The chief executive (land) must, on receiving a notification under subsection (1), enter the notification, in relation to each

⁷ *Property Law Act 1974*, section 86 (Effect of conveyance on sale)

unconverted lease, in the file attached to the appropriate register kept under the *Land Act 1994*.

- (3) The notification in relation to an unconverted lease must not be removed from the file until the lease is forfeited or surrendered, or cancelled under this division.

- (4) In this section—

chief executive (land) means the chief executive of the department in which the *Land Act 1994* is administered.

10 Disclosure requirement—contract for sale of unconverted lease

- (1) This section applies to a contract for the sale of an unconverted lease entered into on or after the application day.

- (2) The contract must include a clause stating the following matters—

(a) under this Act, the lease will be cancelled on registration of the transfer and a deed of grant for the land contained in the lease will be issued;

(b) unless the conversion cost is paid to the chief executive before the transfer is registered, the deed of grant will be subject to a charge in favour of the chief executive securing payment of the conversion cost;

(c) if the conversion cost is not paid to the chief executive during the payment period, the chief executive may sell the land.

- (3) If the contract does not comply with subsection (2), the buyer may cancel the contract by giving written notice to the seller.

- (4) The notice must be given to the seller before settlement is completed under the contract.

- (5) If the buyer gives a notice under subsection (3)—

(a) the contract, and any related contract, ends; and

(b) the seller, or the seller's agent, must immediately return to the buyer any consideration paid under the contract.

- (6) In this section—

related contract includes—

- (a) a contract about the provision of finance to purchase the unconverted lease; or
- (b) a contract of insurance relating to premises on the land contained in the unconverted lease.

10A No compensation

Compensation is not payable for any action taken by the chief executive or the registrar of titles under this division.

Part 3 Industrial, trading and business sites

10B Application for conversion of certain leases in perpetuity to leases for term of years with freeholding covenant

- (1) A lessee of a lease in perpetuity of land held by the lessee under the provisions of the *Housing Act 2003*, section 112 may apply to the chief executive to have the lease deemed a lease for a term not exceeding 10 years and subject to a covenant entitling the lessee to a deed of grant in fee simple of the land comprised in the lease.
- (1A) In this part such lease for a term is referred to as a *freeholding lease*.
- (2) The provisions of this part do not apply to any lease in perpetuity of land within the parcels of land specified in schedule 1.
- (3) An application shall not be proceeded with until the chief executive has been satisfied that the covenants, if any, under the *Housing Act 2003*, section 112(2B)(d) to which the lease in perpetuity is subject have been reasonably fulfilled.

10C Purchasing price

- (1) The purchasing price of the land comprised in a lease deemed, pursuant to this part, to be a freeholding lease shall be the amount of the unimproved value, as at the date of the receipt

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by the Minister of the application referred to in section 10B, of that land.

- (1A) For the purposes of this section, the unimproved value of land shall be the amount which experienced persons would be willing to pay for the fee simple of the land, assuming that it were unimproved and were offered for sale on such reasonable terms and conditions as a bona fide seller would require.
- (2) At the option of the lessee, the unimproved value of the land comprised in the lease in question shall be determined by—
 - (a) the chief executive; or
 - (b) the chief executive (valuations); or
 - (c) the Land Court.
- (2A) In every case, the lessee shall exercise the lessee's option under subsection (2) by stating in the application referred to in section 10B or in a separate writing given to the Minister the manner in which the lessee desires the unimproved value of the land comprised in the lease in question to be determined.
- (2B) In every case where the lessee requires the chief executive (valuations) to determine the unimproved value of the land comprised in the lease in question, the chief executive shall request the chief executive (valuations) to determine and the chief executive (valuations) shall determine that value.
- (2C) In every case where the lessee requires the Land Court to determine the unimproved value of the land comprised in the lease in question, the chief executive shall refer, or cause to be referred, to that court for hearing and determination the matter of the amount of the unimproved value of that land and thereupon that court shall hear and determine that matter.
- (2D) Where pursuant to subsection (2) the chief executive (valuations) or the Land Court determines the unimproved value of the land comprised in the lease in question, the chief executive may require the lessee to pay the whole or such part of the costs incurred by it thereby as it may determine and if the lessee fails to pay the whole of the amount which pursuant to this subsection the lessee is required to pay, the chief executive may recover from the lessee in any court of

competent jurisdiction, by action as for a debt, the unpaid balance of any such amount.

- (3) No appeal shall lie against a determination pursuant to subsection (2) of the unimproved value of land by the chief executive, the chief executive (valuations) or, as the case may be, the Land Court.
- (4) The valuation of the unimproved value of any land determined by the chief executive, the chief executive (valuations) or the Land Court pursuant to this section shall have no force or effect save for the purpose for which that valuation is so determined or made.

10D Matters to be determined by Minister

- (1) After determination of the purchasing price of land pursuant to section 10C, the Minister shall, upon the recommendation of the chief executive, determine—
 - (a) the term (not exceeding 10 years) of the freeholding lease; and
 - (b) the amount of the deposit that is to accompany the notice of election to proceed with the application; and
 - (c) the terms and conditions (if any) in addition to the terms and conditions specified in section 10G to which the freeholding lease shall be subject.
- (2) The chief executive shall give to the lessee notice in writing of—
 - (a) the amount of the purchasing price; and
 - (b) the term of the freeholding lease; and
 - (c) the amount of the deposit that is to accompany the notice of election to proceed with the application; and
 - (d) the terms and conditions determined by the Minister pursuant to subsection (1)(c).

10E Lessee to elect whether to proceed with application

- (1) The lessee shall, within 30 days from the date when the lessee receives from the chief executive the notice referred to in

section 10D(2), notify the chief executive in writing where the lessee elects to proceed with the application under this part.

- (2) An application under this part shall lapse at the expiration of 30 days after the date when the chief executive gives to the lessee the notice referred to in section 10D(2) unless the lessee has sooner notified the chief executive in writing that the lessee elects to proceed therewith.
- (2A) However, a lessee may, with the prior approval of the Minister, make a second or any subsequent application under this part notwithstanding that a prior application made by the lessee has lapsed.
- (3) A notice under this section in respect of a lease shall not affect or prejudice howsoever any mortgage or other encumbrance, estate or interest then subsisting over, upon or in the land comprised in the lease.
- (4) A lessee who elects to proceed with an application under this part shall be deemed to comply with the requirements of the perpetual lease with respect to the payment of rent if the lessee pays rent until and including the day preceding the quarter day when the term of the freeholding lease commences at the rate thereof actually payable at the date when the Minister receives the application referred to in section 10B.

10F Conversion to freeholding lease

Upon and from the quarter day next following the receipt by the chief executive pursuant to section 10E of notice from a lessee that the lessee elects to proceed with an application under this part, the perpetual lease, the subject of the application, shall be deemed to be a freeholding lease—

- (a) for the term of years determined pursuant to section 10D commencing on the quarter day next following the date when the chief executive receives the notice; and
 - (b) subject in every respect to the provisions of this part;
- and the chief executive shall cause the lease to be appropriately endorsed.

10G Terms and conditions of freeholding lease

A lease deemed pursuant to this part to be a freeholding lease shall be subject to the following provisions, terms and conditions—

- (a) the purchasing price of the land comprised in the lease shall be the amount of the unimproved value, as determined pursuant to section 10C;
- (b) the term of the lease shall commence on the quarter day next following the date when the chief executive receives from the lessee, pursuant to section 10E, notice of the lessee's election to proceed with the application;
- (c) the lessee shall pay, as prescribed by section 10H the purchasing price of the land;
- (d) the lessee shall pay, as prescribed by section 10H interest on the outstanding balance of the purchasing price;
- (e) moneys paid as rent under the perpetual lease in respect of any time before the commencement of the term of the freeholding lease shall not be credited to the purchasing price;
- (f) subject to paragraphs (a) to (e), all such terms and conditions as, pursuant to the *Housing Act 2003* or the repealed *State Housing Act 1945*, applied with respect to the lease in question as a perpetual lease.

10H Payment of purchasing price including interest thereon

- (1) The deposit determined pursuant to section 10D(1)(b) shall accompany and be paid with the notice by the lessee that the lessee elects to proceed with the application under this part.
- (2) The balance of the purchasing price, together with interest on the amount thereof outstanding at the beginning of each month of the term of the lease at the rate determined by the chief executive, shall be liquidated by such monthly instalments as shall be determined by the chief executive from time to time which instalments are payable respectively on or before the last day of each month of the term of the lease

commencing on the quarter day next following the date when the deposit is paid.

- (3) Notwithstanding any term or condition of the freeholding lease, the lessee may at any time complete payment in full of the purchasing price of the land paying the unpaid amount of the purchasing price of the land together with the interest payable thereon up to the date of the payment thereof.
- (4) Without prejudice to any other remedy had by it, the chief executive may recover, by action as for a debt in any court of competent jurisdiction, any moneys due and not paid to it in respect of the purchasing price (including interest thereon) of the land comprised in a freeholding lease.

10I Freeholding covenant

- (1) Every lease, deemed pursuant to this part to be a freeholding lease, shall be deemed to contain a covenant that the Governor in Council shall, in the name of Her Majesty, grant in fee simple to the lessee the land comprised in the lease—
 - (a) upon payment of all moneys, including interest thereon, payable in respect of the purchasing price of the land comprised in the freeholding lease and any other moneys unpaid on any account in respect of the lease; and
 - (b) upon the due performance by the lessee of the terms and conditions binding upon the lessee of the lease.
- (2) Upon a lessee becoming entitled to performance of the covenant referred to in subsection (1), the chief executive shall surrender to the Crown any estate or interest of the chief executive in the land concerned.
- (3) The Governor in Council shall, in the name of Her Majesty, grant in fee simple any land to a person thereunto entitled under this part.
- (4) Section 285 of the *Land Act 1962* applies to a deed of grant issued under this division.
- (5) Every grant in fee simple by the Governor in Council pursuant to this part and every deed of grant issued accordingly shall be deemed to have been granted and issued under the *Land Act*

1994 the provisions whereof relating to deeds of grant apply thereto.

10J Application of Land Act 1994 to freeholding leases

Subject to the provisions of this Act, the *Land Act 1994* applies to a freeholding lease and for that purpose—

- (a) a reference to the Minister in that Act shall be read and construed as a reference to the Minister charged with the administration of this Act;
- (b) a reference to the Department of Lands or to the department in that Act shall be read and construed as a reference to the department in which this Act is administered.

Part 4 Transitional provision for Housing Legislation Amendment Act 2005

11 Continued application of previous pt 2, div 1 for residential freeholding leases

- (1) Previous part 2, division 1 continues to apply, as if it had not been repealed, for the conversion of a residential freeholding lease to freehold land.
- (2) In this section—

residential freeholding lease means a lease that—

- (a) was in force immediately before 1 July 2006; and
- (b) was deemed to be a freeholding lease under previous part 2, division 1.⁸

⁸ Previous part 2 (Provision for the freeholding of certain leaseholds held under the Housing Act 2003), division 1 (Homes and home sites)

Schedule 1 Lands to which part 3 does not apply

section 10B(2)

- (a) The parcel of land situated at Inala Brisbane in the State and bounded by Inala Avenue, Kittyhawk Avenue, Wirraway Parade and Corsair Avenue;
- (b) The parcel of land situated at Acacia Ridge Brisbane in the State and described as lots 1 to 11 on registered plan 105875, portion 875 on survey plan Sl. 6411 and portions 876 and 990 on survey plan Sl. 8482 in the county of Stanley, parish of Yeerongpilly.

Schedule 2 Dictionary

section 2

application day see section 5C.

availability period see section 4(1)(b)(ii).

beneficiary, for part 2, division 3, see section 6.

chief executive's charge see section 7(2).

conversion application see section 3C.

conversion cost, for part 2, division 3, see section 6.

conversion in progress lease means a residential lease in relation to which the lessee applied before 1 July 2006 under previous section 4⁹ for the lease to be deemed a freeholding lease, if—

- (a) the lessee was not given notice of the purchasing price for the land in the lease under previous section 5(4) before 1 July 2006; or
- (b) each of the following applies—
 - (i) before 1 July 2006, the lessee was given notice of the purchasing price for the land in the lease under previous section 5(4);
 - (ii) on 30 June 2006, the lessee had not yet elected to proceed with the application under previous section 6;¹⁰
 - (iii) the application did not lapse before 1 July 2006.

converting change of ownership see section 6B(2).

declared percentage see section 3A(1).

9 Previous section 4 (Conversion of certain tenures from perpetual leases to leases for term of years with freeholding covenant)

10 Previous section 6 (Lessee to elect whether to proceed with application)

Schedule 2 (continued)

deed of grant means a document evidencing the grant of land in fee simple under the *Land Act 1994*, including an indefeasible title under the *Land Title Act 1994*.

demand amount see section 7C(4).

effective day see section 4(1)(b)(iii).

freeholding lease, for part 3, see section 10B(1A).

notice of intention to sell see section 7C(2).

offer to convert see section 4(1)(b).

payment period see section 7A(2).

prescribed change of ownership see section 6A.

previous, for a provision of this Act, means the provision as in force before 1 July 2006.

purchase price, for converting a residential lease to freehold land under part 2, division 2, means—

- (a) for a residential lease other than a conversion in progress lease—the purchase price worked out by the chief executive under section 4A; or
- (b) for a conversion in progress lease—
 - (i) if section 5A(2) applies in relation to the lease—the purchase price worked out by the chief executive under section 5A; or
 - (ii) otherwise—the purchasing price for the land contained in the lease stated in a notice given to the lessee before 1 July 2006 under previous section 5(4).

register, for part 2, division 3, see section 6.

registered owner, for part 2, division 3, see section 6.

registrar of titles means the registrar of titles under the *Land Title Act 1994*.

Schedule 2 (continued)

residential lease means a perpetual lease for residential purposes—

- (a) granted and held, or taken to be held, under the *Housing Act 2003*, section 113 or the repealed *State Housing Act 1945*, section 24A;¹¹ and
- (b) that is in force immediately before 1 July 2006.

unconverted lease, for part 2, division 3, see section 6.

unimproved value amount, of a residential lease, means the amount of the valuation of the unimproved value of the land contained in the lease in force under the *Valuation of Land Act 1944*—

- (a) for an offer to convert given to the lessee of the lease under part 2, division 2, subdivision 1—when the chief executive decides the purchase price under the subdivision; or
- (b) for a lease cancelled under part 2, division 3—immediately before the lease is cancelled.

¹¹ *Housing Act 2003*, section 113 (Chief executive's power to sell houses to eligible persons) or the repealed *State Housing Act 1945*, section 24A (Power of commission to provide home sites)

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2006. Future amendments of the Housing (Freeholding of Land) Act 1957 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

5 Tables in earlier reprints

Name of table	Reprint No.
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Housing (Freeholding of Land) Act 1957 (prev State Housing (Freeholding of Land) Act 1957 6 Eliz 2 No. 40; orig State Housing Acts and Another Act Amendment Act 1957)

date of assent 20 December 1957

commenced 9 January 1958 (proc pubd gaz 11 January 1958 p 119)

amending legislation—

Commonwealth and State Housing Agreement and State Housing Act and Another Act Amendment Act 1978 No. 58 pt 4

date of assent 22 August 1978

commenced on date of assent (see s 2(1))

State Housing Act and Another Act Amendment Act 1979 No. 5 pt 3

date of assent 20 April 1979

commenced on date of assent

State Housing (Amendment of Freeholding Provisions) Act 1980 No. 49

date of assent 22 September 1980

commenced on date of assent

State Housing Act and Another Act Amendment Act 1983 No. 9 pt 3

date of assent 31 March 1983

commenced on date of assent

State Housing Act and Another Act Amendment Act 1984 No. 89 pt 3

date of assent 12 November 1984

commenced on date of assent

Lands Legislation Amendment Act 1992 No. 64 ss 1–3 sch 1

date of assent 7 December 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 26 March 1993 (1993 SL No. 88)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1993 No. 76 ss 1–3 sch 1

date of assent 14 December 1993

commenced on date of assent

Land Court Act 2000 No. 1 ss 1–2, 86 sch 1

date of assent 8 March 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (2000 SL No. 165)

Housing Act 2003 No. 52 ss 1–2, 153 sch 2 (this Act is amended, see amending legislation below)

date of assent 15 September 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2004 (2003 SL No. 332)

amending legislation—

Housing and Other Acts Amendment Act 2005 No. 33 ss 1–2(1), 11 (amends 2003 No. 52 above)

date of assent 18 August 2005

ss 1–2 commenced on date of assent

remaining provision commenced 31 December 2003 (see s 2(1))

Housing Legislation Amendment Act 2005 No. 46 pts 1, 3, s 9 sch

date of assent 14 October 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2006 (see s 2)

Inala Shopping Centre Freeholding Act 2006 No. 7 ss 1–2, pt 6 div 2

date of assent 15 March 2006

pt 6 div 2 commences 1 year after pt 2 commences (see s 2(2))

remaining provisions commenced on date of assent

7 List of annotations**Title** amd 1980 No. 49 s 2; R1 (see RA s 40); 2003 No. 52 s 153 sch 2**PART 1—PRELIMINARY****pt hdg** sub 1993 No. 76 s 3 sch 1**Short title****s 1** sub 1993 No. 76 s 3 sch 1
amd 2003 No. 52 s 153 sch 2**Dictionary****s 2** prev s 2 amd 1980 No. 49 s 3; 1983 No. 9 s 19
om 1993 No. 76 s 3 sch 1
pres s 2 ins 2005 No. 46 s 10**Act to be read with Housing Act 2003****prov hdg** sub 2005 No. 46 s 12(1)**s 3** amd 2003 No. 52 s 153 sch 2; 2006 No. 46 s 12(2)**PART 2—HOMES AND HOME SITES****pt hdg** amd 2003 No. 52 s 153 sch 2
sub 2005 No. 46 ss 11, 14**Division 1—Preliminary****div hdg** ins 1980 No. 49 s 4
sub 2005 No. 46 ss 13–14**Declared percentage****s 3A** prev s 3A ins 2003 No. 52 s 153 sch 2 (om 2005 No. 33 s 11 (retro))
pres s 3A ins 2005 No. 46 s 14**Division 2—Voluntary conversion of residential leases to freehold land****div hdg** sub 2005 No. 46 ss 13–14**Subdivision 1—Residential leases other than conversion in progress leases****sdiv hdg** ins 2005 No. 46 s 14**Application of sdiv 1****s 3B** ins 2005 No. 46 s 14**Lessee's application to convert residential lease****s 3C** ins 2005 No. 46 s 14**Chief executive's offer to convert****s 4** amd 1979 No. 5 s 19; 1980 No. 49 s 5; 1983 No. 9 s 20
sub 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro)); 2005 No. 46 ss
13–14

Purchase price

s 4A ins 2005 No. 46 s 14

Acceptance of offer to convert

s 4B ins 2005 No. 46 s 14

How conversion takes effect

s 4C ins 2005 No. 46 s 14

Subdivision 2—Conversion in progress leases

sdiv hdg ins 2005 No. 46 s 14

Application of sdiv 2

s 5 sub 1978 No. 58 s 14; 1980 No. 49 s 6; 1992 No. 64 s 3 sch 1
amd 2000 No. 1 s 86 sch 1; 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11
(retro))
sub 2005 No. 46 ss 13–14

Purchase price

s 5A ins 1984 No. 89 s 10
amd 2003 No. 52 s 153 sch 2 (om 2005 No. 33 s 11 (retro))
sub 2005 No. 46 s 14

Acceptance and payment of purchase price

s 5B ins 2005 No. 46 s 14

Division 3—Automatic conversion of residential leases to freehold land

div hdg ins 2005 No. 46 s 14

Subdivision 1—Preliminary

sdiv hdg ins 2005 No. 46 s 14

Application of div 3

s 5C ins 2005 No. 46 s 14

Definitions for div 3

s 6 amd 1978 No. 58 s 15; 1980 No. 49 s 7; 2003 No. 52 s 153 sch 2 (amd 2005
No. 33 s 11 (retro))
sub 2005 No. 46 ss 13–14

Meaning of “prescribed change of ownership”

s 6A ins 2005 No. 46 s 14

Subdivision 2—Process for automatic conversion of residential leases to freehold land

sdiv hdg ins 2005 No. 46 s 14

Cancellation of lease on registration of transfer

s 6B ins 2005 No. 46 s 14

Conversion cost may be paid before issue of deed of grant

s 6C ins 2005 No. 46 s 14

Creation of chief executive’s charge

s 7 amd 1979 No. 5 s 20; 1980 No. 49 s 8; 2003 No. 52 s 153 sch 2 (amd 2005
No. 33 s 11 (retro))
sub 2005 No. 46 ss 13–14

Requirement to pay conversion cost

s 7A ins 2005 No. 46 s 14

Payment period—deceased lessee

s 7B ins 2005 No. 46 s 14

Enforcement of chief executive's charge—notice of intention to sell land

s 7C ins 2005 No. 46 s 14

Release of chief executive's charge on payment of conversion cost etc.s 8 amd 1980 No. 49 s 9; 1984 No. 89 s 11; 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro))
sub 2005 No. 46 ss 13–14**Sale of land by chief executive**

s 8A ins 2005 No. 46 s 14

Priority of local government charge preserved

s 8B ins 2005 No. 46 s 14

Chief executive's charge not affected by mortgagee sales 9 amd 1978 No. 58 s 16; 1979 No. 5 s 21; 1980 No. 49 s 10; 1983 No. 9 s 21; 1993 No. 76 s 3 sch 1; 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro))
sub 2005 No. 46 ss 13–14**Subdivision 3—Miscellaneous provisions**

sdiv hdg ins 2005 No. 46 s 14

Condition of unconverted lease

s 9A ins 2005 No. 46 s 14

Notification about application of div 3 to unconverted leases to be kept with register

s 9B ins 2005 No. 46 s 14

Disclosure requirement—contract for sale of unconverted leases 10 amd 1978 No. 58 s 17; 1979 No. 5 s 22; 1980 No. 49 s 11; 1992 No. 64 s 3 sch 1; 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro))
sub 2005 No. 46 ss 13–14**No compensation**

prov hdg amd 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro))

s 10A ins 1979 No. 5 s 23

amd 1980 No. 49 s 12; 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro))

sub 2005 No. 46 ss 13–14

Division 2—Industrial, trading and business sites

div hdg ins 1980 No. 49 s 13

om 2005 No. 46 s 13

Definitions for div 2

s 10AA ins 2003 No. 52 s 153 sch 2 (om 2005 No. 33 s 11 (retro))

PART 3—INDUSTRIAL, TRADING AND BUSINESS SITES

pt hdg prev pt 3 hdg om 1983 No. 9 s 22

pres pt 3 hdg ins 2005 No. 46 s 14

Application for conversion of certain leases in perpetuity to leases for term of years with freeholding covenant

- s 10B** ins 1980 No. 49 s 13
sub 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro))
amd 2005 No. 46 s 9 sch

Purchasing price

- s 10C** ins 1980 No. 49 s 13
amd 1992 No. 64 s 3 sch 1; 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro)); 2005 No. 46 s 9 sch

Matters to be determined by Minister

- s 10D** ins 1980 No. 49 s 13
amd 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro))

Lessee to elect whether to proceed with application

- s 10E** ins 1980 No. 49 s 13
amd 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro)); 2005 No. 46 s 9 sch

Conversion to freeholding lease

- s 10F** ins 1980 No. 49 s 13
amd 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro)); 2005 No. 46 s 9 sch

Terms and conditions of freeholding lease

- s 10G** ins 1980 No. 49 s 13
amd 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro)); 2005 No. 46 s 9 sch

Payment of purchasing price including interest thereon

- s 10H** ins 1980 No. 49 s 13
amd 1993 No. 76 s 3 sch 1; 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro)); 2005 No. 46 s 9 sch

Freeholding covenant

- s 10I** ins 1980 No. 49 s 13
amd 1992 No. 64 s 3 sch 1; 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro)); 2005 No. 46 s 9 sch

Application of Land Act 1994 to freeholding leases

- prov hdg** amd 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro))
10J ins 1980 No. 49 s 13
amd 2003 No. 52 s 153 sch 2 (amd 2005 No. 33 s 11 (retro))

PART 4—TRANSITIONAL PROVISION FOR HOUSING LEGISLATION AMENDMENT ACT 2005

- pt hdg** prev pt 4 hdg om R1 (see RA s 40)
pres pt 4 hdg ins 2005 No. 46 s 15

Continued application of previous pt 2, div 1 for residential freeholding leases

- s 11** prev s 11 om 1983 No. 9 s 22
pres s 11 ins 2005 No. 46 s 15

Conversion of certain tenures from Perpetual Leases to leases for term of years with freeholding covenant

s 12 om 1983 No. 9 s 22

Purchasing price

s 13 om 1983 No. 9 s 22

Lessee to elect whether to proceed with application

s 14 om 1983 No. 9 s 22

Term of the freeholding lease

s 15 om 1983 No. 9 s 22

Terms and conditions of freeholding lease

s 16 om 1983 No. 9 s 22

Payment of purchasing price including interest thereon

s 17 om 1983 No. 9 s 22

Freeholding covenant

s 18 om 1983 No. 9 s 22

Interpretation of Part IV

s 19 om R1 (see RA s 40)

Amendment of s. 4

s 20 om R1 (see RA s 40)

Amendment of s. 24

s 21 om R1 (see RA s 40)

PART V—AMENDMENTS OF “THE WORKERS’ HOMES ACTS, 1919 TO 1953”

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SCHEDULE 1—LANDS TO WHICH PART 3 DOES NOT APPLY

sch hdg sub 2005 No. 46 s 9 sch

sch 1 ins 1980 No. 49 s 14

om 2003 No. 52 s 153 sch 2 (om 2005 No. 33 s 11 (retro))

SCHEDULE 2—DICTIONARY

sch 2 ins 2005 No. 46 s 16

8 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in footnotes to the text.