



*Land Act 1994*

# Land Regulation 2020

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## Queensland

# Land Regulation 2020

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title .....	9
2	Commencement .....	9
3	Definitions .....	9
3A	Rounding of particular amounts expressed as numbers of fee units	9
<b>Part 2</b>	<b>Reserves and deeds of grant in trust</b>	
<b>Division 1</b>	<b>Adoption of model by-laws by trustee</b>	
4	Way of adopting model by-law—Act, s 56 .....	10
<b>Division 2</b>	<b>Trustee leases and trustee permits</b>	
<b>Subdivision 1</b>	<b>Requirements for trustee permits</b>	
5	Requirements for trustee permit—Act, s 60 .....	11
<b>Subdivision 2</b>	<b>Statutory bodies exemption</b>	
6	Statutory body to which rent expenditure limitation does not apply—Act, s 63 .....	12
<b>Subdivision 3</b>	<b>Requirements for trustee leases</b>	
7	Requirements for relevant lease—Act, s 64 .....	13
<b>Division 3</b>	<b>Other matters</b>	
8	Minimum amount of yearly income for trustee's accounting functions—Act, s 47 .....	14
<b>Part 3</b>	<b>Matters affecting land holdings</b>	
<b>Division 1</b>	<b>Purchase price and valuations for particular purposes</b>	
9	Deciding purchase price for particular purposes—Act, ss 109C, 122, 123A and 170 .....	14
10	Net present value .....	15
11	Deciding purchase price for land in operational reserve—Act, s 34IA	16
12	Deciding unimproved value of particular land—Act, ss 25, 69 and 127 16	
13	Working out unimproved value of land .....	16

Contents

---

14	Value of commercial timber on particular forest entitlement area—Act, s 26B . . . . .	17
15	Value of commercial timber—other land . . . . .	18
16	Value of quarry material . . . . .	18
17	Deciding cash premium for amalgamating closed road with particular lease land—Act, s 109C . . . . .	19
18	Deciding purchase price for particular grants of unallocated State land—Act, s 122 . . . . .	19
19	Appeal against decision on purchase price for conversion . . . . .	19
<b>Division 2</b>	<b>Regulated conditions of tenures</b>	
20	Regulated conditions of particular tenures—Act, s 212B . . . . .	20
<b>Part 4</b>	<b>Rents and instalments</b>	
<b>Division 1</b>	<b>Periods for which rents are payable</b>	
21	Rental period—Act, sch 6, definition rental period . . . . .	21
<b>Division 2</b>	<b>Categorisation of tenures for rental purposes</b>	
<b>Subdivision 1</b>	<b>Rental categories</b>	
22	Rental categories of tenures—Act, sch 6, definition rental category	21
23	References to category of tenure . . . . .	23
<b>Subdivision 2</b>	<b>Requirements for rental categories</b>	
24	Category 11.1 and 11.2 tenures . . . . .	23
25	Category 12.1 and 12.2 tenures . . . . .	23
26	Category 13 tenure . . . . .	24
27	Category 14.1 tenure . . . . .	25
28	Category 14.2 tenure . . . . .	26
29	Category 15.1, 15.2, 15.3, 15.4 and 15.5 tenures . . . . .	27
30	Category 16 tenure . . . . .	29
<b>Subdivision 3</b>	<b>Allocating particular tenures to rental categories</b>	
31	Allocating particular lease or licence to rental category . . . . .	30
32	Allocating particular permit to rental category . . . . .	30
<b>Division 3</b>	<b>Valuations for rental purposes</b>	
33	Rental valuation . . . . .	31
<b>Division 4</b>	<b>Amount of rent payable</b>	
<b>Subdivision 1</b>	<b>Calculating amount of rent for particular tenures</b>	
34	Minimum rent for tenures of particular categories . . . . .	32
35	Rent for tenures of particular categories based on rental valuation	32
<b>Subdivision 2</b>	<b>Fixing amount of rent for particular tenures</b>	
36	Rent for tenures of particular categories . . . . .	33

37	Rent for lease with particular title reference . . . . .	33
38	Designated set rent . . . . .	34
<b>Subdivision 3</b>	<b>Concessional rent</b>	
39	Charitable, recreational and sporting concessions . . . . .	34
40	Development and investigation concessions . . . . .	34
41	Residential hardship concession . . . . .	35
<b>Subdivision 4</b>	<b>Adjusting amount of rent payable</b>	
42	No rent payable once offer to convert lease is accepted . . . . .	35
43	Protection against undue rent increases . . . . .	36
44	Rent adjustments for change of rental valuation or category of tenure 37	
45	Rent adjustment for change of purpose and category of lease . .	38
46	Rent adjustment for change of area of lease or licence . . . . .	39
47	How rent adjustment must be made . . . . .	39
<b>Division 5</b>	<b>Payment of rent and instalments</b>	
48	Paying rent or instalments—general . . . . .	39
49	When rent is payable . . . . .	40
50	When instalments are payable . . . . .	41
51	Extension of period for paying rent or instalments . . . . .	41
52	Where rent or instalments must be paid . . . . .	42
53	How rent or instalments must be paid . . . . .	42
54	Overpayment of rent or instalments . . . . .	42
<b>Division 6</b>	<b>Deferral of rent and instalments</b>	
<b>Subdivision 1</b>	<b>Deferral by declaration</b>	
55	Definitions for subdivision . . . . .	43
56	Deferral of rent or instalments for declaration of hardship area .	44
57	Extending period of deferral for declared hardship area . . . . .	45
58	Fixing new payment day for declared hardship area . . . . .	45
59	Effect of hardship deferral declaration on penalty interest . . . . .	46
<b>Subdivision 2</b>	<b>Deferral by application</b>	
60	Hardship application for deferral of rent or instalments . . . . .	46
61	Deferral of rent or instalments for particular tenure . . . . .	47
<b>Subdivision 3</b>	<b>Ending of deferral</b>	
62	References to deferral . . . . .	48
63	Revocation of deferral for change of circumstances . . . . .	48
64	Cessation of deferral on transfer . . . . .	49

<b>Division 7</b>	<b>Action for non-payment of rent or instalments</b>	
65	Obligation to pay penalty interest on unpaid rent or instalments .	49
66	Calculation of penalty interest . . . . .	50
67	Relevant action for non-payment of rent or instalments or penalty interest . . . . .	50
68	Reinstatement of cancelled licence or permit . . . . .	52
<b>Part 5</b>	<b>Prescribed terms of particular interests</b>	
69	Prescribed terms of types of relevant interests—Act, s 255 . . . .	52
70	Transition period from commencement of prescribed term—Act, s 256 53	
71	Transition period from commencement of amended prescribed term— Act, s 257 . . . . .	53
<b>Part 6</b>	<b>Registration and dealings</b>	
72	Land for which register must be kept—Act, s 276 . . . . .	53
73	Persons who may witness execution of document—Act, s 310 .	53
74	Requirements for general authority to sublet—Act, s 333 . . . . .	54
<b>Part 7</b>	<b>Dispute resolution</b>	
75	Prescribed dispute resolution entities—Act, 339A . . . . .	54
76	Matters arbitrator must consider in deciding dispute—Act, s 339Q	54
77	Matters arbitrator must consider for deciding costs—Act, s 339U	55
<b>Part 8</b>	<b>General</b>	
<b>Division 1</b>	<b>Unlawful occupation</b>	
78	Minimum period for compliance with trespass notice—Act, s 406	55
<b>Division 2</b>	<b>Declared beach areas</b>	
<b>Subdivision 1</b>	<b>Declaration of declared beach areas</b>	
79	Continuation of declaration of declared beach area—Act, s 431Q	56
<b>Subdivision 2</b>	<b>Use conditions</b>	
80	Purpose of subdivision—Act, s 431T . . . . .	57
81	Camping on declared beach area . . . . .	57
82	Lighting fires on declared beach area . . . . .	57
83	Littering on declared beach area . . . . .	57
84	Taking dogs into declared beach area . . . . .	58
85	Accessing temporarily closed area . . . . .	58
<b>Division 3</b>	<b>Miscellaneous</b>	
86	Continuation of declaration of regulated islands—Act, s 434A . .	59
87	Fees . . . . .	59
<b>Part 9</b>	<b>Continued rights and tenures</b>	

<b>Division 1</b>	<b>Freeholding leases</b>	
<b>Subdivision 1</b>	<b>All freeholding leases</b>	
88	Minimum instalments—Act, ss 457, 462 and 466 . . . . .	59
<b>Subdivision 2</b>	<b>Pre-Wolfe freeholding leases</b>	
89	Discount for pre-Wolfe freeholding lease—Act, s 457 . . . . .	60
90	Criteria for residential hardship concession—Act, s 459 . . . . .	60
<b>Subdivision 3</b>	<b>Post-Wolfe freeholding leases</b>	
91	Rate of interest for instalments—Act, s 462 . . . . .	61
<b>Subdivision 4</b>	<b>Relevant grazing homestead freeholding leases</b>	
92	Definition for subdivision . . . . .	62
93	Rate of interest for instalments—Act, s 466 . . . . .	62
94	Discount for particular relevant grazing homestead freeholding leases— Act, s 466 . . . . .	62
<b>Division 2</b>	<b>Continued tenures generally</b>	
95	Threshold amount owing for subdivision of freeholding lease—Act, s 489 . . . . .	63
<b>Division 3</b>	<b>Other matters</b>	
96	Purchase price for freeholding of miner’s homestead lease—Act, s 499 63	
97	Interest rate for overpaid rent for current miners homestead application— Act, s 500 . . . . .	64
98	Interest rate for overpaid rent for freeholding perpetual town lease (non- competitive lease)—Act, s 503l . . . . .	64
<b>Part 10</b>	<b>Repeal and transitional provisions</b>	
<b>Division 1</b>	<b>Repeal provision</b>	
99	Repeal . . . . .	64
<b>Division 2</b>	<b>Transitional provisions</b>	
100	Definition for division . . . . .	64
101	Adoption of new model by-law . . . . .	64
102	Undecided application for limited rent discount . . . . .	65
103	Approved application for limited rent discount . . . . .	65
104	Undecided hardship application for deferral . . . . .	66
<b>Schedule 1</b>	<b>Regulated conditions for particular tenures</b> . . . . .	67
<b>Schedule 2</b>	<b>Averaged value</b> . . . . .	70
1	Definitions for schedule . . . . .	70
2	Working out averaged value of land for category 12.1, 12.2, 13 or 14.2 tenure . . . . .	70
3	Working out averaging factor 1 for averaged value of land . . . . .	71

Contents

---

4	Working out averaging factor 2 for averaged value of land . . . . .	72
<b>Schedule 3</b>	<b>Prescribed terms of particular trustee leases and subleases</b>	73
<b>Part 1</b>	<b>Preliminary</b>	
1	Purpose and application . . . . .	73
2	Definitions for schedule . . . . .	73
3	Application to trustee sublease . . . . .	74
<b>Part 2</b>	<b>Prescribed terms</b>	
4	Indemnity . . . . .	74
5	Insurance . . . . .	76
6	Use, development, access and services . . . . .	78
7	Duty of care . . . . .	78
8	No holding over or other dealings . . . . .	78
9	Power of attorney . . . . .	79
10	Trustee lessee’s obligations at end of trustee lease . . . . .	79
11	Additional obligation for removal of improvements at end of trustee sublease . . . . .	80
12	Jurisdiction . . . . .	80
13	Compliance with laws . . . . .	80
<b>Schedule 4</b>	<b>Prescribed terms of particular subleases</b> . . . . .	82
<b>Part 1</b>	<b>Preliminary</b>	
1	Purpose and application . . . . .	82
2	Definitions for schedule . . . . .	82
<b>Part 2</b>	<b>Prescribed terms</b>	
3	Indemnity . . . . .	83
4	Insurance . . . . .	84
5	Use and development . . . . .	86
6	Duty of care . . . . .	87
7	No holding over or other dealings . . . . .	87
8	Power of attorney . . . . .	88
9	Sublessee’s obligations at end of sublease . . . . .	89
10	Access . . . . .	90
11	Jurisdiction . . . . .	90
12	Compliance with laws . . . . .	90
<b>Schedule 5</b>	<b>Regulated islands</b> . . . . .	91
<b>Schedule 6</b>	<b>Fees</b> . . . . .	93
<b>Schedule 7</b>	<b>Discount for pre-Wolfe freeholding leases</b> . . . . .	96



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<b>Schedule 8</b>	<b>Discount for particular grazing homestead freeholding leases</b>	<b>98</b>
<b>Schedule 9</b>	<b>Dictionary .....</b>	<b>99</b>



# Land Regulation 2020

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Land Regulation 2020*.

### 2 Commencement

This regulation commences on 1 July 2020.

### 3 Definitions

The dictionary in schedule 9 defines particular words used in this regulation.

### 3A Rounding of particular amounts expressed as numbers of fee units

- (1) This section applies for working out the amount of a fee or other matter expressed in section 33, 34 or 36 as a number of fee units.
- (2) For the purpose of the *Acts Interpretation Act 1954*, section 48C(3), the amount is to be rounded to the nearest dollar (rounding one-half upwards).

*Example—*

Section 34(1) of this regulation provides for a minimum rent of 277 fee units. If the value of a fee unit for this regulation were \$1.015, the number of dollars obtained by multiplying \$1.015 by 277 would be \$281.155. After rounding, the amount of the minimum rent would be \$281.

## Part 2 Reserves and deeds of grant in trust

### Division 1 Adoption of model by-laws by trustee

#### 4 Way of adopting model by-law—Act, s 56

- (1) For section 56(7) of the Act, subsections (2) to (4) prescribe the way for a trustee to adopt a model by-law for trust land.
- (2) The trustee must decide to adopt the model by-law.
- (3) As soon as practicable after deciding to adopt the model by-law, the trustee must—

- (a) give notice of the decision (a *public notice*) by publishing the notice in a way the trustee considers is reasonably likely to come to the attention of members of the public who are likely to use the trust land; and

*Examples of ways a public notice may be given for paragraph (a)—*

- displaying the notice, for at least 7 days, in a conspicuous place on the trust land to which members of the public have ready access
  - publishing the notice on the trustee’s website
  - publishing the notice, at least once, in a newspaper circulating generally in the area in which the trust land is situated
- (b) notify the chief executive.
  - (4) The public notice must state the following matters—
    - (a) the name of the trustee;
    - (b) the property description of the trust land;
    - (c) the name of the model by-law;
    - (d) the purposes and general effect of the model by-law;
    - (e) where the model by-law may be inspected;

- (f) the day the notice is first published under subsection (3)(a);
  - (g) if the model by-law is to be adopted on a day later than the day mentioned in paragraph (f)—the later day.
- (5) The adoption of the model by-law has effect on—
- (a) the day the public notice is first published under subsection (3)(a); or
  - (b) if the public notice states a later day under subsection (4)(g)—the later day.
- (6) While the adoption of the model by-law has effect, the trustee must keep a copy of the public notice available for inspection, free of charge, by members of the public on request.

## **Division 2            Trustee leases and trustee permits**

### **Subdivision 1        Requirements for trustee permits**

#### **5            Requirements for trustee permit—Act, s 60**

- (1) For section 60(2) of the Act, this section prescribes the requirements for a trustee permit for the use of the permit land.
- (2) The trustee permit—
  - (a) must not be issued for a part of the trust land that is subject to a trustee lease; and
  - (b) if a management plan for the trust land has been approved under section 48 of the Act—must be consistent with the management plan; and
  - (c) must state the permittee’s permitted use of the permit land; and
  - (d) must not allow the construction of an improvement on the permit land, including the boundary of the land; and

- (e) must not give a right—
    - (i) to renew the permit; or
    - (ii) to be given a more secure tenure over the permit land; and
  - (f) must not allow the permittee to transfer, sublet or mortgage the permittee’s right to use the permit land; and
  - (g) must state any special conditions to which the permit is subject; and
  - (h) must provide for the trustee or the Minister to give the permittee at least 28 days notice of the trustee’s or Minister’s intention to cancel the permit; and
  - (i) must state a process for resolving disputes under the permit.
- (3) Subsection (2)(d) does not prevent or limit the trustee permit providing for the permittee to—
- (a) construct a fence on the boundary of the permit land; or
  - (b) use, maintain or modify an improvement that was on the permit land when the permit was issued.

## **Subdivision 2      Statutory bodies exemption**

### **6      Statutory body to which rent expenditure limitation does not apply—Act, s 63**

For section 63(4)(b) of the Act, a port authority is prescribed.

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## Subdivision 3 Requirements for trustee leases

### 7 Requirements for relevant lease—Act, s 64

- (1) For section 64(2) of the Act, this section prescribes the requirements for a relevant lease of trust land issued by a relevant person.
- (2) The relevant lease must state—
  - (a) a number identifying the written authority mentioned in section 64(1) of the Act given to the relevant person; and
  - (b) if the relevant person consists of 2 or more persons—
    - (i) whether the persons hold the relevant lease as joint tenants or tenants in common; and
    - (ii) if the persons hold the relevant lease as tenants in common—the share held by each person; and
  - (c) the name of each party to the relevant lease; and
  - (d) the lot on plan description of the trust land subject to the relevant lease; and
  - (e) if the relevant lease relates to only part of the trust land—the location of the land subject to the relevant lease in relation to the rest of the trust land; and
  - (f) the term of the relevant lease; and
  - (g) when the term of the relevant lease starts; and
  - (h) any special conditions to which the relevant lease is subject; and
  - (i) a process for resolving disputes under the relevant lease.
- (3) In this section—

***relevant lease*** see section 64(5) of the Act.

***relevant person*** see section 64(5) of the Act.

## **Division 3                    Other matters**

### **8                    Minimum amount of yearly income for trustee's accounting functions—Act, s 47**

For section 47(3) of the Act, the amount prescribed is \$5,000.

## **Part 3                    Matters affecting land holdings**

### **Division 1                    Purchase price and valuations for particular purposes**

#### **9                    Deciding purchase price for particular purposes—Act, ss 109C, 122, 123A and 170**

- (1) This section prescribes—
  - (a) for section 109C(4) of the Act, the way the Minister must decide the purchase price for a closed road for amalgamation with adjoining land; and
  - (b) for section 122(3) of the Act, the way the Minister must decide the purchase price for granting unallocated State land under section 122(1) of the Act, other than land mentioned in section 18; and
  - (c) for section 123A(3)(b) of the Act, the way the Minister must decide the purchase price for land granted under section 123A(2) of the Act; and
  - (d) for section 170(1) of the Act, the way the chief executive must, for converting a lease, decide the purchase price for land granted or leased under section 168(1) of the Act.
- (2) The purchase price for the land is an amount equal to the total of—
  - (a) the value of the land under subsection (3); and



- (b) for a forest entitlement area on which there is commercial timber being bought by the lessee or registered owner—the value of the commercial timber worked out under section 14; and
  - (c) for land, other than land mentioned in paragraph (b), on which there is commercial timber—the value of the commercial timber worked out under section 15; and
  - (d) for land to be amalgamated, under section 109(2)(b) of the Act, with land for which there is no reservation of quarry material to the State—the value of any quarry material in the land worked out under section 16; and
  - (e) for land to be amalgamated, by way of a deed of grant under section 122(1) of the Act, with land for which there is no reservation of quarry material to the State—the value of any quarry material in the land worked out under section 16.
- (3) For subsection (2)(a), the value of the land is—
- (a) for land that is lease land subject to a category 11.1 or 11.2 lease—the net present value of the land worked out under section 10; or
  - (b) for other land—the unimproved value of the land, as if it were fee simple, worked out under section 13.

## 10 Net present value

- (1) For section 9(3)(a), the net present value of land is the amount worked out using the following formula—

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

where—

*A* is the annual rent for the lease of the land worked out by multiplying the unimproved value of the lease land by the percentage rate for the lease as stated in section 35.

*i* is .050.

*g* is .020.

- (2) For land the subject of a conversion application, the net present value must be worked out as at the day the chief executive receives the application.

## **11 Deciding purchase price for land in operational reserve—Act, s 34IA**

- (1) For section 34IA(2) of the Act, this section prescribes the way the Minister must decide the purchase price for land in an operational reserve.
- (2) The purchase price of the land is—
  - (a) the unimproved value of the land, as if it were fee simple, worked out under section 13; or
  - (b) if the Minister considers it appropriate, having regard to the object of the Act, to decide the purchase price of the land other than under paragraph (a)—another amount the Minister considers is appropriate.

## **12 Deciding unimproved value of particular land—Act, ss 25, 69 and 127**

For sections 25(1), 69(1) and 127(6)(b) of the Act, the Minister must decide the unimproved value of land in the way provided for under section 13(1) to (3) and (5).

## **13 Working out unimproved value of land**

- (1) The unimproved value of land is—
  - (a) for land subject to a category 11.1 or 11.2 lease—the rental valuation of the land; or
  - (b) for other land—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 of land includes the value of any improvements and development work made by the State to the land, and for which the State has not been paid, before the tenure started or the deed of grant for the land was issued.
- (3) However, the unimproved value of land does not include the value of any commercial timber on the land.
- (4) For deciding the purchase price for land granted or leased under section 168(1) of the Act, the unimproved value of the land is the unimproved value as at the day the chief executive receives a conversion application relating to the land.
- (5) For deciding the purchase price of land in an operational reserve, the unimproved value of the land is the unimproved value as at the day the chief executive receives an application under section 34I(1) of the Act relating to the land.
- (6) To remove any doubt, it is declared that the *Land Valuation Act 2010* does not apply for deciding the unimproved value of land under this section.

#### **14 Value of commercial timber on particular forest entitlement area—Act, s 26B**

- (1) For section 26B(6) of the Act, this section prescribes the way the value of the commercial timber on a forest entitlement area must be decided by the Minister.
- (2) The value of the commercial timber is the market value of any of the timber that is the property of the State, other than timber that is a forest product to which a forest consent agreement relates.

## **15 Value of commercial timber—other land**

- (1) This section does not apply in relation to the lessee or registered owner of land buying a forest entitlement area in the land under section 24 of the Act.
- (2) The value of commercial timber on land is the market value of any of the timber that is the property of the State, other than timber that is a forest product to which a forest consent agreement relates, worked out as at the day provided for under subsection (3).
- (3) The market value of the commercial timber must be worked out—
  - (a) if an appeal about the value of the timber has not been made—as at the day the chief executive receives a conversion application relating to the land; or
  - (b) if an appeal about the value of the timber has been made—as at the day the appeal is decided; or
  - (c) if a person has applied to buy the timber—as at the day the person applied; or
  - (d) if the Minister made an offer to sell the timber before the day mentioned in paragraph (c)—as at the day the offer was made.

## **16 Value of quarry material**

- (1) The value of quarry material in land is the market value of any of the quarry material that is the property of the State and could be taken for commercial gain, worked out as at the day provided for under subsection (2).
- (2) The market value of the quarry material must be worked out—
  - (a) if the quarry material is in a road to be amalgamated under section 109(2)(b) of the Act—as at the day the Minister makes the decision about the road under section 109(1) of the Act; or

- (b) if the quarry material is in land to be amalgamated by way of a deed of grant under section 122(1) of the Act—as at the day the Minister makes the decision about the land under section 122(1) of the Act.

**17 Deciding cash premium for amalgamating closed road with particular lease land—Act, s 109C**

- (1) For section 109C(4) of the Act, this section prescribes the way the Minister must decide the cash premium for leasing a closed road for amalgamation with adjoining land subject to a category 11.1, 11.2, 12.1, 12.2, 13, 14.2 or 16 lease.
- (2) The amount of the cash premium is the amount equal to the minimum rent for the category of the lease for the adjoining lease land.

**18 Deciding purchase price for particular grants of unallocated State land—Act, s 122**

- (1) For section 122(3) of the Act, this section prescribes the way the Minister must decide the purchase price for granting unallocated State land to—
  - (a) MEDQ under section 122(1) of the Act; or
  - (b) a constructing authority under section 122(2) of the Act.
- (2) The Minister must decide the purchase price for the land in the way the Minister considers appropriate.

**19 Appeal against decision on purchase price for conversion**

- (1) This section applies if the chief executive—
  - (a) decides to convert a lease by offering a deed of grant to a lessee under section 168(1) of the Act; and
  - (b) decides the purchase price for the conversion of the lease under section 170(1) of the Act (the *purchase price decision*).

- (2) The lessee may appeal against the purchase price decision.

*Note—*

For appealing against a decision, see chapter 7, part 3 of the Act.

- (3) However, if the purchase price decision relates to an offer of a deed of grant for land that is subject to a category 11.1 or 11.2 lease, the appeal must not relate to the rental valuation of the land subject to the lease.

*Note—*

A rental valuation is decided by the valuer-general under the *Land Valuation Act 2010* and is used to calculate the unimproved value of lease land for a purchase price under sections 10(1) and 13(1)(a).

- (4) The chief executive must ensure the notice of conditions of the offer given under section 168(1) of the Act is accompanied by or includes an information notice about the purchase price decision.

## **Division 2                      Regulated conditions of tenures**

### **20            Regulated conditions of particular tenures—Act, s 212B**

For section 212B(1) of the Act, each condition stated in schedule 1 is a condition of the following tenures—

- (a) a lease, other than a trustee lease;
- (b) a licence;
- (c) a permit to occupy.

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## Part 4 Rents and instalments

### Division 1 Periods for which rents are payable

#### 21 Rental period—Act, sch 6, definition *rental period*

- (1) For schedule 6 of the Act, definition *rental period*, this section prescribes the rental period for a tenure.
- (2) Subject to subsections (3) to (5), the rental period for a tenure is 1 year starting on 1 July.
- (3) If a tenure starts on a day other than 1 July, the first rental period for the tenure is the period starting on the day the tenure starts and ending on the next 30 June.
- (4) If a tenure ends on a day other than 30 June, the last rental period for the tenure is the period starting on the last 1 July before the tenure ends and ending on the day the tenure ends.
- (5) Subsections (2) to (4) do not prevent the rental period for a tenure, for which the annual rent is more than \$2,000, from being divided into quarterly sub-periods starting on 1 July.

### Division 2 Categorisation of tenures for rental purposes

#### Subdivision 1 Rental categories

#### 22 Rental categories of tenures—Act, sch 6, definition *rental category*

- (1) For schedule 6 of the Act, definition *rental category*—
  - (a) the rental categories of tenures for rental purposes are the categories mentioned in subsection (2); and

- (b) a tenure is categorised as a tenure of a category mentioned in subsection (2) if it meets the requirements for the category stated in subdivision 2.
- (2) The rental categories of tenures for rental purposes are as follows—
- category 11.1—primary production perpetual lease
  - category 11.2—primary production other tenures
  - category 12.1—residential tenures
  - category 12.2—residential (permit to occupy for short term accommodation purpose)
  - category 13—business and government core business tenures
  - category 14.1—charities and small sporting or recreational clubs tenures
  - category 14.2—large sporting or recreational clubs tenures
  - category 15.1—communication sites (community service activities) tenures
  - category 15.2—communication sites (limited commercial service activities—rural) tenures
  - category 15.3—communication sites (limited commercial service activities—urban) tenures
  - category 15.4—communication sites (non-community service activities—rural) tenures
  - category 15.5—communication sites (non-community service activities—urban) tenures
  - category 16—divestment tenures.



## 23 References to category of tenure

A reference to a particular category of tenure by description is a reference to a tenure of the rental category with that description.

## Subdivision 2 Requirements for rental categories

### 24 Category 11.1 and 11.2 tenures

- (1) A lease is a category 11.1 tenure if it is a perpetual lease that is, or may be, used primarily for grazing or primary production.
- (2) A tenure is a category 11.2 tenure if it 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; and

*Examples—*

- growing of coffee, sugarcane, tea, tobacco
- growing of flowers, fruit, vegetables and other horticultural products
- viticulture

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

### 25 Category 12.1 and 12.2 tenures

- (1) A tenure is a category 12.1 tenure if—
  - (a) under its conditions—

- (i) the tenure is, or may be, used primarily for a single dwelling house; or
- (ii) the tenure is, or may be, used solely for a private purpose; and

*Examples of a private purpose—*

- storing a boat, equipment or motor vehicle, owned or leased by the tenure holder and for the holder's private use
- cultivating a garden or lawn for the tenure holder's private use

- (b) the tenure does not meet the requirements for another rental category.

(2) A permit is a category 12.2 tenure if—

- (a) it is a permit to occupy only; and
- (b) under its conditions the permit is, or may be, used solely for a short-term accommodation purpose.

*Example of a short-term accommodation purpose—*

staying at a fishing hut for a weekend or holiday period

## **26 Category 13 tenure**

(1) A tenure is a category 13 tenure if—

- (a) under its conditions the tenure is, or may be, used for a business, commercial or industrial purpose; and
- (b) the tenure does not meet the requirements for another rental category.

(2) Also, a tenure is a category 13 tenure if—

- (a) the tenure holder is a government leasing entity; and
- (b) the use of the tenure is essential for carrying on the holder's core business.

*Examples of a tenure holder's core business—*

operating hospitals, police stations, schools, offices and depots

(3) In this section—

***government company*** means a corporation, incorporated under the Corporations Law, for which all the stock or shares in the corporation's capital is or are beneficially owned by the State.

***government leasing entity*** means—

- (a) the State or the Commonwealth; or
- (b) a Commonwealth or State authority, instrumentality or body corporate; or
- (c) a government company; or
- (d) a GOC; or
- (e) a rail government entity; or
- (f) a local government.

## **27 Category 14.1 tenure**

(1) A tenure is a category 14.1 tenure if—

- (a) the tenure holder is—
  - (i) a charitable organisation or non-commercial community service organisation; and
  - (ii) an organisation whose constitution does not permit its profits to be distributed to its members; and
- (b) under its conditions the tenure is, or may be, used for providing—
  - (i) services that are charitable in nature; or
  - (ii) services aimed at improving community welfare or safety; and

*Examples of services for subparagraph (ii)—*

services provided by surf-lifesaving clubs, scouts and guides associations and volunteer emergency service organisations, including, for example, marine rescue and coast guard organisations

- (c) the tenure does not meet the requirements for another rental category.
- (2) Also, a tenure is a category 14.1 tenure if—
  - (a) under its conditions the tenure is, or may be, used for a sporting or recreational purpose; and
  - (b) the tenure holder is a sporting or recreational organisation—
    - (i) with fewer than 2,000 members; and
    - (ii) whose constitution does not permit its profits to be distributed to its members; and
  - (c) the tenure does not meet the requirements for another rental category.
- (3) Further, a tenure is a category 14.1 tenure if—
  - (a) the tenure is held by the State or a local government for a non-commercial community service organisation; and
  - (b) the tenure is being used by the organisation for providing community services, other than on a commercial basis, aimed at improving community welfare or safety; and
  - (c) the tenure does not meet the requirements for another rental category.

- (4) In this section—

***non-commercial community service organisation*** means an organisation that provides services to the community free of charge.

*Examples of a non-commercial community service organisation—*

a rural fire brigade, the SES

## 28 Category 14.2 tenure

A tenure is a category 14.2 tenure if—

- (a) under its conditions the tenure is, or may be, used for a sporting or recreational purpose; and
- (b) the tenure holder is a sporting or recreational organisation—
  - (i) with at least 2,000 members; and
  - (ii) whose constitution does not permit its profits to be distributed to its members.

## **29 Category 15.1, 15.2, 15.3, 15.4 and 15.5 tenures**

- (1) A tenure may not be categorised as a tenure of a category mentioned in any of subsections (2) to (6) if the tenure is held by a carrier under the *Telecommunications Act 1997* (Cwlth) for supplying a carriage service under that Act.
- (2) A tenure is a category 15.1 tenure if the tenure is, or may be, used for providing an electronic communication service for carrying out a community service activity.
- (3) A tenure is a category 15.2 tenure if—
  - (a) the tenure is, or may be, used for providing an electronic communication service for carrying out a limited commercial service activity; and
  - (b) the land subject to the tenure is in a rural area.
- (4) A tenure is a category 15.3 tenure if—
  - (a) the tenure is, or may be, used for providing an electronic communication service for carrying out a limited commercial service activity; and
  - (b) the land subject to the tenure is in an urban area.
- (5) A tenure is a category 15.4 tenure if—
  - (a) the tenure is, or may be, used for providing an electronic communication service for carrying out a non-community service activity; and
  - (b) the land subject to the tenure is in a rural area.

- (6) A tenure is a category 15.5 tenure if—
- (a) the tenure is, or may be, used for providing an electronic communication service for carrying out a non-community service activity; and
  - (b) the land subject to the tenure is in an urban area.

- (7) In this section—

**commercial service** means a service relating to communications carried out on a commercial basis.

*Examples of a service relating to communications—*

cable television service, mobile phone service

**community service activity** means an activity relating to the provision of an emergency or essential community service.

*Examples of an emergency or essential community service—*

ambulance, fire service, police service

**domestic service** means a service relating to communications carried out other than on a commercial basis.

**electronic communication service** includes services for the internet, radio, telephone and television.

**limited commercial service activity** means an activity relating to the provision of a commercial service or domestic service carried out by—

- (a) a radio broadcaster owned by the Commonwealth or the State; or
- (b) a television broadcaster owned by the Commonwealth or the State; or
- (c) a local service provider.

**local service provider** means an entity employing fewer than 200 employees, that provides a commercial service or domestic service—

- (a) within an urban area; or
- (b) only to a rural area.

*non-community service activity* means an activity relating to the provision of a commercial service or domestic service, other than a limited commercial service activity.

*providing*, an electronic communications service, includes relaying and transmitting the service.

*rural area* means a part of the State that is not an urban area.

*urban area* means any of the following local government areas—

- Brisbane
- Gold Coast
- Ipswich
- Logan
- Moreton Bay
- Noosa
- Redland
- Sunshine Coast.

### **30 Category 16 tenure**

Each of the following tenures is a category 16 tenure—

- (a) a tenure over land at a place known as an ‘Economic Development Queensland industrial estate’;
- (b) a lease for which the chief executive has, under section 16 of the Act, assessed the most appropriate tenure and use for the lease land as freehold.

### **Subdivision 3      Allocating particular tenures to rental categories**

#### **31      Allocating particular lease or licence to rental category**

- (1) Subsection (2) applies if—
  - (a) a lease is offered to a prospective lessee; or
  - (b) a licence is offered to a prospective licensee.
- (2) The Minister must—
  - (a) decide to allocate the lease or licence to a rental category (a *rental category decision*) for calculating the rent payable for the lease or licence; and
  - (b) give notice of the rental category decision to the prospective lessee or licensee.
- (3) If the prospective lessee or licensee enters into the lease or licence, the lessee or licensee may appeal against the rental category decision.
- (4) If, under section 154 of the Act, a lessee has applied to the Minister for approval to use a lease for an additional purpose and the Minister decides to change the rental category of the lease for approving the application (also a *rental category decision*), the lessee may appeal against the decision.

*Note—*

For appealing against a decision, see chapter 7, part 3 of the Act.

- (5) A notice of a rental category decision given under subsection (2)(b) or section 154(3) of the Act must be accompanied by or include an information notice about the decision.

#### **32      Allocating particular permit to rental category**

- (1) This section applies if a permit to occupy is offered to a prospective permittee.



- (2) The chief executive must—
  - (a) decide to allocate the permit to a rental category for calculating the rent payable for the permit; and
  - (b) give notice of the decision to the prospective permittee.
- (3) If the prospective permittee enters into the permit, the permittee may appeal against the decision.

*Note—*

For appealing against a decision, see chapter 7, part 3 of the Act.

- (4) A notice of a decision given under subsection (2)(b) must be accompanied by or include an information notice about the decision.

## Division 3                      Valuations for rental purposes

### 33            Rental valuation

- (1) Subject to subsections (2) and (3), the rental valuation of land for a rental period is the most recently made Land Act rental valuation of the land for the rental period.
- (2) The rental valuation of land subject to a category 12.1, 13 or 14.2 tenure for a rental period is the averaged value of the land for the rental period.
- (3) The rental valuation of land subject to a category 12.2 tenure for a rental period is—
  - (a) the averaged value of the land for the rental period; or
  - (b) if the averaged value of the land for the rental period is more than 13,850 fee units—13,850 fee units.
- (4) The *averaged value* of land is the value of the land worked out by averaging the Land Act valuation of the land under schedule 2.
- (5) In this section—

*Land Act rental valuation* see the *Land Valuation Act 2010*, section 6(4).

## **Division 4                    Amount of rent payable**

### **Subdivision 1                Calculating amount of rent for particular tenures**

#### **34            Minimum rent for tenures of particular categories**

- (1) The minimum rent payable for a category 11.1, 11.2, 12.1, 12.2, 13 or 16 tenure for a rental period is 277 fee units.
- (2) The minimum rent payable for a category 14.2 tenure is 134 fee units.

#### **35            Rent for tenures of particular categories based on rental valuation**

- (1) The rent payable for a rental period for land subject to a tenure of a category stated in column 1 of the following table is the amount calculated by multiplying the rental valuation of the land by the percentage mentioned opposite the category in column 2 of the table.

<b>Category of tenure column 1</b>	<b>Percentage column 2</b>
category 11.1	1.5%
category 11.2	0.75%
category 12.1	6%
category 12.2	6%
category 13	6%
category 14.2	

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<b>Category of tenure column 1</b>	<b>Percentage column 2</b>
(a) for the land subject to the tenure on which the clubhouse and associated amenities are situated	5%
(b) for the rest of the land subject to the tenure	1%
category 16	7%

(2) This section applies subject to section 34.

## **Subdivision 2      Fixing amount of rent for particular tenures**

### **36      Rent for tenures of particular categories**

The rent payable for a rental period for a tenure of a category stated in column 1 of the following table is the amount mentioned opposite the category in column 2 of the table—

<b>Category of tenure column 1</b>	<b>Amount of rent payable column 2</b>
category 14.1	134 fee units
category 15.1	134 fee units
category 15.2	6,973 fee units
category 15.3	10,366 fee units
category 15.4	13,952 fee units
category 15.5	20,926 fee units

### **37      Rent for lease with particular title reference**

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

### **38 Designated set rent**

- (1) The designated officer may set the rent payable (the *designated set rent*) for the following—
  - (a) a term lease for a significant development;
  - (b) a licence or permit to occupy for which a rental valuation has not been made;
  - (c) a tenure given or issued to the State, a government owned corporation or a rail government entity.
- (2) If the designated officer sets the rent payable for a tenure under subsection (1), the designated set rent is payable for the tenure despite section 35 or 36.

## **Subdivision 3 Concessional rent**

### **39 Charitable, recreational and sporting concessions**

- (1) The Minister may set a rent less than the rent that would otherwise be payable for a tenure if the tenure holder is a charitable, sporting or recreational organisation.
- (2) If the Minister sets a rent for a category 14.2 tenure under subsection (1), the Minister must not set an amount of rent less than the minimum rent for the tenure.

### **40 Development and investigation concessions**

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

- (3) If the permit is for investigation for a lease for development work, the designated officer may fix an annual rent for the permit, instead of the rent that would otherwise be payable, while the permit is in force.

#### **41 Residential hardship concession**

- (1) The Minister may allow a reduction of the rent that would otherwise be payable for a lease (a *concession*) if the Minister is satisfied—
  - (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, after allowing a concession for a lease under subsection (1), considers the financial circumstances of the lessee have changed to the extent the concession should be amended or cancelled, the Minister may change the amount of, or cancel, the concession for future rental periods.
- (3) If the Minister allows a concession for a lease under subsection (1) and the lease is transferred, the concession does not apply to the lease from the day of the transfer.

### **Subdivision 4 Adjusting amount of rent payable**

#### **42 No rent payable once offer to convert lease is accepted**

- (1) This section applies in relation 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 under section 171 of the Act.

### 43 Protection against undue rent increases

- (1) This section applies in relation to a category 11.1 or 11.2 tenure (the *current tenure*) for land (the *subject land*), but does not apply if—
- (a) immediately before the current rental period for the current tenure—
    - (i) the current tenure was not in force; and
    - (ii) there was no corresponding tenure to the current tenure; or
  - (b) a designated set rent has been set for the tenure; or
  - (c) the tenure is a freeholding lease.
- (2) If the Minister considers that an increase of the rent under section 35 for the current tenure is excessive, the Minister may decide that the rent for the tenure for the current rental period is the rent worked out using the following formula—

$$RPY + (RPY \times 10\%)$$

where—

**RPY** means—

- (a) if the current tenure was in force immediately before the current rental period for the tenure—the rent for the tenure for the previous rental period; or

- (b) if, immediately before the current rental period for the current tenure, the current tenure was not in force, but a corresponding tenure to the current tenure was in force—the notional rent for the corresponding tenure for the previous rental period.
- (3) For this section, a tenure is a *corresponding tenure* to a current tenure if—
  - (a) the tenure was a former tenure of the current tenure for the subject land, whether or not of the same area as the subject land; and
  - (b) the tenure was ended for the purpose of changing its area, issuing a new tenure or for renewal or conversion under the Act (each a *relevant action*); and
  - (c) the current tenure was created as a result of taking a relevant action.

- (4) In this section—

*notional rent*, for a corresponding tenure to a current tenure, means the rent for each hectare of the area subject to the corresponding tenure multiplied by the total area in hectares subject to the current tenure.

*previous rental period* means—

- (a) in relation to a current tenure that was in force immediately before the current rental period—the rental period for the tenure that ended immediately before the current rental period started; or
- (b) in relation to a corresponding tenure to a current tenure—the last rental period for which the corresponding tenure was in force.

#### **44 Rent adjustments for change of rental valuation or category of tenure**

- (1) If a new rental valuation of land subject to a tenure is made in a rental period because of an action under the Act, the amount

of rent payable for the tenure must be adjusted from the first quarter day after the action was taken.

*Examples of actions for subsection (1)—*

- changing a rental category under section 154 of the Act
  - subdividing a lease under chapter 4, part 3, division 4 of the Act
- (2) If the rental valuation of land for a rental period is amended on an appeal or objection under the *Land Valuation Act 2010*—
- (a) the amount of rent payable for the rental period must be adjusted proportionately; and
- (b) interest, at the prescribed rate, on rent overpaid for the rental period because of the amendment must be paid from the day the rent was paid until the day the overpaid rent is refunded.
- (3) If, on appeal, a tenure is allocated to a new rental category, the tenure holder must be credited with—
- (a) the rent for the tenure that, because of the decision on the appeal, has been overpaid; and
- (b) interest, at the prescribed rate, on the overpaid rent from when the rent was paid until the appeal was decided.
- (4) In this section—
- prescribed rate*** means 2% compounding monthly.

#### **45 Rent adjustment for change of purpose and category of lease**

- (1) This section applies if—
- (a) an application is approved under section 154 of the Act to change the purpose for which a lease is used; and
- (b) the approval results in a change of rental category of the lease.
- (2) The amount of rent payable for the lease must be adjusted from the first quarter day after the change is approved.



#### **46 Rent adjustment for change of area of lease or licence**

- (1) This section applies if a designated set rent has been set for a lease or licence, and the area of land subject to the lease or licence is changed.
- (2) The amount of the rent payable for the lease or licence must be adjusted—
  - (a) in accordance with the offer, or the conditions of approval, for the lease or licence; or
  - (b) if a rent adjustment was not stated in the offer or approval—proportionately.

#### **47 How rent adjustment must be made**

- (1) This section applies if the rent for a tenure is adjusted under section 44, 45 or 46.
- (2) If the rent is adjusted by \$100 or less, the adjustment must be credited or debited to the account of the tenure holder, as applicable.
- (3) If the rent is adjusted by more than \$100, the adjustment must be paid to the department or credited to the account of the tenure holder, as applicable.

### **Division 5 Payment of rent and instalments**

#### **48 Paying rent or instalments—general**

- (1) A tenure holder must pay rent or instalments for the tenure when and where required under this division.
- (2) Subsection (1) applies to a tenure holder even if the holder has—
  - (a) objected to or appealed against—
    - (i) a rental valuation of the land subject to the tenure; or

- (ii) the allocation of the tenure to a rental category; or
  - (b) made an application for a matter under the Act relevant to the tenure.
- (3) However, rent or instalments are not required to be paid at a time or place otherwise required under this division if the chief executive is satisfied the payment can not be made by the time or at the place because of exceptional circumstances.

*Examples of possible exceptional circumstances—*

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

## **49 When rent is payable**

- (1) Rent for a development lease issued under the repealed *Land Act 1962*, part 9, division 1, must be paid on or before 1 January of the calendar year for which the rent is payable.
- (2) Rent for a category 12.1, 12.2, 13 or 14.2 tenure for which a rental period is divided into quarterly sub-periods under section 21(5), must be paid—
  - (a) for the sub-period starting on 1 July—on or before 1 September of the sub-period for which the rent is payable; or
  - (b) for the sub-period starting on 1 October—on or before 1 December of the sub-period for which the rent is payable; or
  - (c) for the sub-period starting on 1 January—on or before 1 March of the sub-period for which the rent is payable; or
  - (d) for the sub-period starting on 1 April—on or before 1 June of the sub-period for which the rent is payable.
- (3) Rent for a tenure, other than a tenure mentioned in subsection (1) or (2), must be paid—
  - (a) for rent payable for a rental period that is a financial year—on or before 1 September of the financial year; or

- (b) for rent payable for another rental period—on or before the day stated in the account given to the tenure holder setting out the rent or instalments payable.
- (4) This section applies subject to section 51.

## **50 When instalments are payable**

- (1) An instalment for a pre-Wolfe freeholding lease mentioned in schedule 6 of the Act, definition *pre-Wolfe freeholding lease*, paragraph (a), (c), (d) or (e) must be paid on or before 31 March in each calendar year for which the instalment is payable.
- (2) An instalment for a pre-Wolfe freeholding lease mentioned in schedule 6 of the Act, definition *pre-Wolfe freeholding lease*, paragraph (b)—
  - (a) must be paid on or before each quarter day that is an anniversary of the day on which the lease started; and
  - (b) is payable for the year ending on the day immediately before the quarter day.
- (3) An instalment for a mining titles freeholding lease must be paid on or before 31 December in each year for the calendar year beginning on the next 1 January.
- (4) An instalment for a freeholding lease, other than a lease mentioned in subsection (1), (2) or (3)—
  - (a) must be paid on or before each anniversary of the day on which the lease started; and
  - (b) is payable for the year ending on the day immediately before the anniversary.
- (5) This section applies subject to section 51.

## **51 Extension of period for paying rent or instalments**

The designated officer may, by notice given to a tenure holder, extend the period for paying an amount of rent or instalments

for the tenure to a day that is later than the day the payment would otherwise have been required under section 49 or 50.

## **52 Where rent or instalments must be paid**

Rent or instalments must be paid at—

- (a) an office of the department; or
- (b) a place mentioned on the account setting out the rent or instalments payable.

## **53 How rent or instalments must be paid**

Rent or instalments must be paid in the way mentioned on the account setting out the rent or instalments payable.

## **54 Overpayment of rent or instalments**

- (1) This section applies if a tenure holder overpays rent or instalments for the tenure.
- (2) The overpayment must be refunded to, or credited to the account of, the tenure holder.
- (3) Interest is payable on overpaid rent or instalments only if the overpayment happened because of—
  - (a) a change in valuation on objection or appeal under the *Land Valuation Act 2010*; or
  - (b) a change to the category of a tenure because of an appeal.

## Division 6                    Deferral of rent and instalments

### Subdivision 1            Deferral by declaration

#### 55            Definitions for subdivision

In this subdivision—

*affected tenure* see section 56(1).

*deferral period*, for the payment of rent or instalments, means—

- (a) generally—the period stated in a hardship deferral declaration for which the payment of the rent or instalments is deferred; or
- (b) subject to paragraph (c), if the period is extended under section 57(2)—the extended period stated in the hardship deferral declaration; or
- (c) for a particular tenure, if the period is extended under section 57(3)—the notified extended period for the tenure under section 57(3) or (5).

*hardship deferral declaration* see section 56(2).

*payment day*, for deferred rent or instalments, means—

- (a) generally—the day stated in a hardship deferral declaration by which the deferred rent or instalments must be paid; or
- (b) subject to paragraph (c), if a later day for payment of the deferred rent or instalments is fixed under section 58(2)—the later day stated in the hardship deferral declaration; or
- (c) for a particular tenure, if a later day is fixed under section 58(3)—the notified payment day for the tenure under section 58(3) or (5).

## **56 Deferral of rent or instalments for declaration of hardship area**

- (1) This section applies if the Minister is satisfied a tenure (an *affected tenure*) has been severely affected by—
  - (a) a natural disaster; or
  - (b) adverse economic conditions.
- (2) The Minister may, by notice published on a Queensland Government website (a *hardship deferral declaration*), declare an area comprising, or including, the affected tenure as a hardship area.
- (3) The hardship deferral declaration must state—
  - (a) the affected tenures to which it relates; and
  - (b) each area declared as a hardship area; and
  - (c) that the payment of all or part of the rent or instalments that, but for the declaration, would have been payable by the holder of each affected tenure, is deferred; and
  - (d) if the payment of only part of the rent or instalments is deferred—the proportion of the rent or instalments that is deferred; and
  - (e) the period for which the payment of the rent or instalments is deferred; and
  - (f) the terms of payment of the deferred rent or instalments, including the day by which the deferred rent or instalments must be paid.
- (4) For subsection (3)(a) and (b), an area may be declared as a hardship area by reference to either, or a combination of both, of the following—
  - (a) an area comprising or including an affected tenure;
  - (b) an area in a local government area.
- (5) In this section—

*Queensland Government website* means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government.

## **57 Extending period of deferral for declared hardship area**

- (1) This section applies if the Minister considers it appropriate to extend the period of deferral for payment of rent or instalments for an affected tenure, whether or not the period has previously been extended for the tenure under this section.
- (2) The Minister may, by amending the hardship deferral declaration, extend the period of deferral for the payment of rent or instalments for all of the affected tenures for a further period starting immediately after the end of the last deferral period stated in the declaration (the *declared extended period*).
- (3) The Minister may, by notice given to the holder of a particular affected tenure, extend the period of deferral for the payment of rent or instalments for the tenure for a period stated in the notice (a *notified extended period*).
- (4) A notified extended period must end after the end of the deferral period stated in the hardship deferral declaration.
- (5) If the period of deferral is extended for all affected tenures under subsection (2) and, but for this subsection, the declared extended period would end after a notified extended period for a particular tenure, the notified extended period is taken to have been further extended until the end of the declared extended period.

## **58 Fixing new payment day for declared hardship area**

- (1) This section applies if the Minister considers it appropriate to fix a later day for the payment of deferred rent or instalments for an affected tenure, whether or not a later payment day for the rent or instalments has previously been fixed under this section.

- (2) The Minister may, by amending the hardship deferral declaration, fix a day (the *declared payment day*), that is within 5 years after the last payment day stated in the declaration, by which the deferred rent or instalments for all of the affected tenures must be paid.
- (3) The Minister may, by notice given to the holder of a particular affected tenure, fix a day (a *notified payment day*), that is within 5 years after the last payment day fixed for the tenure under this subsection, by which the deferred rent or instalments for the tenure must be paid.
- (4) A notified payment day must be later than the declared payment day stated in the hardship deferral declaration.
- (5) If a later day for the payment of deferred rent or instalments is fixed for all affected tenures under subsection (2) and, but for this subsection, the declared payment day would be later than a notified payment day for a particular tenure, the notified payment day is taken to be the declared payment day.

## **59 Effect of hardship deferral declaration on penalty interest**

If the payment of rent or instalments for a tenure is deferred under this subdivision, penalty interest does not accrue in relation to the rent or instalments until the day after the payment day.

## **Subdivision 2 Deferral by application**

### **60 Hardship application for deferral of rent or instalments**

- (1) This section applies if a tenure holder is suffering hardship because of—
  - (a) a natural disaster; or
  - (b) adverse economic conditions related to the purpose of the tenure.



- (2) The tenure holder may apply to the Minister for a deferral of all or part of the rent or instalments payable for the tenure.
- (3) The application must—
  - (a) be in writing; and
  - (b) for an application relating to hardship because of a natural disaster—be accompanied by evidence that the tenure holder has received, or is entitled to receive, financial assistance for the natural disaster under a State or Commonwealth scheme.
- (4) The Minister may ask the tenure holder to give the Minister any further information the Minister needs to help to decide the application.

*Examples of types of information the Minister may ask for—*

financial statements, tax returns

## **61 Deferral of rent or instalments for particular tenure**

- (1) This section applies if the Minister—
  - (a) receives an application from a tenure holder under section 60; and
  - (b) considers the tenure holder has given the Minister the information needed to decide the application; and
  - (c) is satisfied the tenure holder is suffering hardship because of—
    - (i) a natural disaster; or
    - (ii) adverse economic conditions related to the purpose of the tenure.
- (2) The Minister may, by notice given to the tenure holder, defer the payment of all or part of the rent or instalments for the tenure.
- (3) The notice must state—

- (a) the period for which payment of the rent or instalments is deferred; and
  - (b) the terms of payment of the deferred rent or instalments, including the day by which the deferred rent or instalments must be paid.
- (4) If the payment of rent or instalments for a tenure is deferred by notice under subsection (2), penalty interest does not accrue in relation to the rent or instalments until the day after the day by which the payment is required under the notice.

### **Subdivision 3      Ending of deferral**

#### **62      References to deferral**

A reference in this subdivision to the deferral of the payment of rent or instalments under subdivision 1 or 2 includes a reference to the authorisation under either of those subdivisions of the payment of the deferred rent or instalments by a stated day.

#### **63      Revocation of deferral for change of circumstances**

- (1) This section applies if—
- (a) the payment of the rent or instalments for a tenure is deferred under subdivision 1 or 2; and
  - (b) the Minister considers the tenure holder's financial circumstances have changed to the extent the deferral should no longer apply.
- (2) The Minister may, by notice given to the tenure holder, revoke—
- (a) for payment of rent—the deferral of the payment of the rent for the tenure that is payable from the next rental period after the notice is given; or

- (b) for payment of instalments—the deferral of the payment of the instalments for the tenure that are payable after the notice is given.

#### **64 Cessation of deferral on transfer**

- (1) This section applies if—
  - (a) the payment of the rent or instalments for a lease or licence is deferred under subdivision 1 or 2; and
  - (b) the lease or licence is transferred.
- (2) The deferral of the payment of the rent or instalments stops applying in relation to the lease or licence from the day of the settlement of the transfer.

### **Division 7                      Action for non-payment of rent or instalments**

#### **65 Obligation to pay penalty interest on unpaid rent or instalments**

- (1) This section applies to a tenure holder if the holder does not pay an amount of rent or instalments for the tenure when required under section 49 or 50, whether or not the period for paying the amount has been extended under section 51.
- (2) This section also applies to a tenure holder if—
  - (a) the payment of the rent or instalments for the tenure has been deferred under division 6; and
  - (b) the holder does not pay an amount of the rent or instalments—
    - (i) for payment deferred under a hardship deferral declaration—on or before the payment day for the deferred amount; or

- (ii) for payment deferred by a notice given under section 61—on or before the day by which the payment is required under the notice.
- (3) The tenure holder must pay the penalty interest that has accrued on the amount of the rent or instalments owing from when the amount first became payable until the day it is paid.

*Note—*

Under sections 59 and 61(4), penalty interest does not accrue in relation to deferred rent or instalments until the days provided for under the provisions respectively.

- (4) The tenure holder must pay the penalty interest when the tenure holder pays the amount of rent or instalments owing.
- (5) However, penalty interest does not accrue on the amount of the rent or instalments owing if the designated officer—
  - (a) considers the tenure holder had a reasonable excuse for not paying the amount; and
  - (b) gives the tenure holder a notice stating that under this subsection penalty interest has not accrued, and will not accrue, on the amount.

## **66 Calculation of penalty interest**

Penalty interest on unpaid rent or instalments—

- (a) is payable at the rate that is 2% above the Suncorp-Metway business variable lending rate; and
- (b) accrues daily; and
- (c) compounds monthly.

## **67 Relevant action for non-payment of rent or instalments or penalty interest**

- (1) This section applies if a tenure holder—
  - (a) does not pay an amount of rent or instalments for the tenure—

- (i) when required under section 49 or 50; or
    - (ii) if the period for paying the amount has been extended to a later day under section 51—on or before the later day; or
  - (b) for payment of an amount of rent or instalments deferred for the tenure under division 6—does not pay the amount on or before the relevant day mentioned in section 65(2)(b)(i) or (ii); or
  - (c) does not pay the penalty interest owing on an amount mentioned in paragraph (a) or (b) as required under section 65(3) and (4).
- (2) The designated officer may do either or both of the following (each a *relevant action*)—
- (a) take action to recover the amount of the rent or instalments or penalty interest owing in a court of competent jurisdiction;
  - (b) for a tenure that is a licence or permit to occupy—cancel the licence or permit.

*Note—*

Forfeiture of leases for non-payment is provided for under chapter 5, part 4, divisions 1 and 2 of the Act.

- (3) If the designated officer proposes to take a relevant action, the designated officer must give the tenure holder a notice stating—
- (a) the relevant action; and
  - (b) the ground for giving the notice; and
  - (c) the amount of—
    - (i) the rent or instalments owing; and
    - (ii) the penalty interest accruing each day; and
  - (d) that the designated officer may take the relevant action after the stated reasonable period of at least 28 days after giving the notice.

## **68 Reinstatement of cancelled licence or permit**

- (1) This section applies if—
  - (a) a designated officer cancels a licence or permit to occupy under section 67 because the person who held the licence or permit (the *former holder*) had not paid—
    - (i) an amount of rent or instalments for the licence or permit; or
    - (ii) penalty interest on the amount; and
  - (b) the designated officer considers the former holder had a reasonable excuse for not paying the rent, instalments or penalty interest; and
  - (c) the former holder pays the full amount of the rent, instalments or penalty interest owing in relation to the licence or permit.
- (2) The designated officer may reinstate the licence or permit to occupy.

## **Part 5 Prescribed terms of particular interests**

### **69 Prescribed terms of types of relevant interests—Act, s 255**

For section 255 of the Act—

- (a) each term stated in schedule 3 is a prescribed term of a trustee lease or trustee sublease of the type stated in the schedule; and
- (b) each term stated in schedule 4 is a prescribed term of a sublease of the type stated in the schedule.

**70 Transition period from commencement of prescribed term—Act, s 256**

For section 256(6) of the Act, definition *transition period*, the period prescribed is 1 year.

**71 Transition period from commencement of amended prescribed term—Act, s 257**

For section 257(4) of the Act, definition *transition period*, the period prescribed is 1 year.

## **Part 6 Registration and dealings**

**72 Land for which register must be kept—Act, s 276**

- (1) For section 276(j) of the Act, harbours corporation land is prescribed.
- (2) In this section—

*continuing powers* means powers mentioned in the repealed *Harbours Act 1955*, section 64 or 196 as in force immediately before the commencement of the *Transport Infrastructure Act 1994*, expired section 232.

*Note—*

The *Transport Infrastructure Act 1994*, expired section 232 commenced on 1 July 1994.

*harbours corporation land* means the land for which, under the *Transport Infrastructure Act 1994*, expired section 232(3) (including under a decision of the Governor in Council), the Minister may exercise continuing powers for the State.

**73 Persons who may witness execution of document—Act, s 310**

For section 310(2)(b) of the Act, a person mentioned in the *Land Title Act 1994*, schedule 1 is prescribed.

#### **74 Requirements for general authority to sublet—Act, s 333**

For section 333(3) of the Act, each of the following requirements is prescribed for an authority under section 333(1) of the Act for a sublease of a lease—

- (a) the areas of the lease and the sublease must be clearly identified in the sublease;
- (b) for a lease that is mortgaged, the mortgagee's written consent to the sublease must be endorsed on the sublease;
- (c) the purpose for which the sublease is granted must not be inconsistent with the purpose for which the lease was granted;
- (d) the term of the sublease must be less than the balance of the term of the lease.

## **Part 7 Dispute resolution**

#### **75 Prescribed dispute resolution entities—Act, 339A**

For section 339A of the Act, definition *prescribed dispute resolution entity*, the following entities are prescribed—

- (a) the Queensland Law Society Incorporated;
- (b) the Resolution Institute ABN 69 008 651 232.

#### **76 Matters arbitrator must consider in deciding dispute—Act, s 339Q**

- (1) For section 339Q(4) of the Act, this section prescribes the matters the arbitrator must consider in deciding a dispute.
- (2) The arbitrator must consider any evidence relating to the dispute given to the arbitrator.



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**77 Matters arbitrator must consider for deciding costs—Act, s 339U**

For section 339U(4) of the Act, the following matters are prescribed—

- (a) whether or not a party to the dispute has complied with chapter 6, part 4, division 3A of the Act in relation to the dispute;
- (b) whether a party to the dispute has made a frivolous or vexatious claim in the arbitration;
- (c) whether a party to the dispute has complied with an order or direction of the arbitrator;
- (d) whether a party to the dispute has participated in the arbitration in good faith;
- (e) the amount of any fees incurred because of the appointment of experts under section 339R of the Act.

## **Part 8 General**

### **Division 1 Unlawful occupation**

**78 Minimum period for compliance with trespass notice—Act, s 406**

- (1) For section 406(6) of the Act, the period prescribed is—
  - (a) for a trespass notice for camping—4 hours; or
  - (b) for a trespass notice for building, placing or maintaining a relevant improvement on land—28 days; or
  - (c) for a trespass notice related to another trespass act—7 days.
- (2) In this section—

*relevant improvement* means an improvement, other than—

- (a) a fence; or
- (b) an outbuilding; or  
*Examples—*  
carport, shed, toilet
- (c) an apparatus for raising, holding or conveying water; or
- (d) a cultivation, garden, orchard or plantation.

## **Division 2            Declared beach areas**

### **Subdivision 1        Declaration of declared beach areas**

#### **79        Continuation of declaration of declared beach area—Act, s 431Q**

- (1) For section 431Q(1) of the Act, the continuing area continues to be declared as a declared beach area.
- (2) The declaration of the continuing area as a declared beach area under the repealed *Land Regulation 2009*, section 49A continues under subsection (1).
- (3) In this section—

***continuing area*** means the proposed easements A, B and C on SP143259 situated in lots 69, 71 and 72 on plan FD395.

*Note—*

The continuing area is a road under the *Transport Operations (Road Use Management) Act 1995*.

## **Subdivision 2      Use conditions**

### **80      Purpose of subdivision—Act, s 431T**

For section 431T(3) of the Act, each section in this subdivision states use conditions for the declared beach area to which the section applies.

### **81      Camping on declared beach area**

- (1) A person must not camp on a declared beach area.

Maximum penalty—20 penalty units.

- (2) In this section—

*camp* includes camping in a vehicle.

### **82      Lighting fires on declared beach area**

- (1) A person must not light, keep or use a fire on a declared beach area.

Maximum penalty—20 penalty units.

- (2) This section does not apply to a person who is—

- (a) lighting or smoking a smoking product; or  
(b) authorised under an Act to light, keep or use a fire.

- (3) In this section—

*smoking product* see the *Tobacco and Other Smoking Products Act 1998*, schedule.

### **83      Littering on declared beach area**

- (1) A person must not put, or allow to be put, litter on a declared beach area, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) A person does not commit an offence under subsection (1) merely because the person puts litter on the declared beach area as an incident of the person's use of the area and for no longer than is reasonably necessary for the use.

## **84 Taking dogs into declared beach area**

- (1) This section applies if a person has a dog, other than a prescribed dog, in the person's charge on a declared beach area.
- (2) The person must, unless the person has a reasonable excuse, restrain the dog by a lead or leash at all times the dog is on the declared beach area.

Maximum penalty—20 penalty units.

- (3) In this section—

*prescribed dog* means any of the following dogs under the *Guide, Hearing and Assistance Dogs Act 2009*—

- (a) an assistance dog;
- (b) a guide dog;
- (c) a hearing dog;
- (d) a trainee support dog.

## **85 Accessing temporarily closed area**

- (1) The manager of a declared beach area may temporarily close the declared beach area or a part of the declared beach area (each the *closed area*) if the manager reasonably believes the closure is necessary to—
  - (a) protect the health or safety of a person; or
  - (b) minimise any danger to a person or damage to property caused by fire or another natural disaster.
- (2) The manager may authorise a person to access the closed area.

- (3) A person must not access the closed area unless the person is authorised by the manager.

Maximum penalty—20 penalty units.

## **Division 3                      Miscellaneous**

### **86                      Continuation of declaration of regulated islands—Act, s 434A**

- (1) For section 434A(1) of the Act, each island mentioned in schedule 5 continues to be declared as a regulated island.
- (2) The declaration, under the repealed *Land Regulation 2009* section 61A, of each island mentioned in schedule 10B of that regulation continues under subsection (1).

### **87                      Fees**

The fees, other than titles registry fees, payable under the Act are stated in schedule 6.

## **Part 9                              Continued rights and tenures**

### **Division 1                      Freeholding leases**

#### **Subdivision 1                      All freeholding leases**

### **88                      Minimum instalments—Act, ss 457, 462 and 466**

- (1) This section prescribes—
- (a) for section 457(1)(e) of the Act—the minimum instalments for a pre-Wolfe freeholding lease; and

- (b) for section 462(1)(d) of the Act—the minimum instalments for a post-Wolfe freeholding lease; and
  - (c) for section 466(1)(d) of the Act—the minimum instalments for a grazing homestead freeholding lease.
- (2) The minimum instalments are—
- (a) for a residential lease—379 fee units; or
  - (b) for another lease—
    - (i) for instalments that pay out the purchase price of the land—940 fee units; and
    - (ii) for instalments that pay out the purchase price of commercial timber on the land—940 fee units.

## **Subdivision 2 Pre-Wolfe freeholding leases**

### **89 Discount for pre-Wolfe freeholding lease—Act, s 457**

- (1) For section 457(1)(d) of the Act, this section prescribes the discount for a pre-Wolfe freeholding lease if the remaining purchase price is paid in cash during the lease.
- (2) The discount is the percentage of the remaining purchase price stated in schedule 7, column 2 opposite the balance of the term of the pre-Wolfe freeholding lease provided for in column 1 of the schedule.

### **90 Criteria for residential hardship concession—Act, s 459**

For section 459(1)(b) of the Act, the criteria prescribed are—

- (a) the lease land is the lessee's principal place of residence; and
- (b) either—
  - (i) the lessee holds, or is entitled to hold, a Commonwealth concession card; or

- (ii) the annual instalment payable under the lease is a significant proportion of the lessee's taxable income.

### **Subdivision 3 Post-Wolfe freeholding leases**

#### **91 Rate of interest for instalments—Act, s 462**

- (1) For section 462(1)(b) of the Act, the rate of interest prescribed for instalments is—
  - (a) for a relevant post-Wolfe freeholding lease—the fixed rate of interest, compounding annually, applying to instalments when the lease was issued; or
  - (b) for another post-Wolfe freeholding lease—the Suncorp-Metway business variable lending rate accruing daily and compounding annually.

- (2) In this section—

*relevant post-Wolfe freeholding lease* means a post-Wolfe freeholding lease that is—

- (a) an auction purchase freehold issued under the repealed Act on or before 31 December 1991; or
- (b) a special lease purchase freehold issued under the repealed Act because of an application for conversion of tenure received before 3 October 1991 for a special lease issued—
  - (i) under the repealed Act and the repealed *Industrial Development Act 1963*, section 9; or
  - (ii) before the commencement of the repealed *Industrial Development Act 1963* under a recommendation of the Minister administering industrial development; or
  - (iii) subject to a condition about the freeholding of the lease; or

- (c) a special lease purchase freehold issued under the repealed Act because of an application for conversion of tenure received before 5 February 1990, other than a special lease purchase freehold mentioned in paragraph (b).

## **Subdivision 4 Relevant grazing homestead freeholding leases**

### **92 Definition for subdivision**

In this subdivision—

*relevant grazing homestead freeholding lease* means a grazing homestead freeholding lease, other than an existing grazing homestead freeholding lease, used for grazing or agricultural purposes.

### **93 Rate of interest for instalments—Act, s 466**

For section 466(1)(b) of the Act, the rate of interest prescribed for instalments under a relevant grazing homestead freeholding lease is the Suncorp-Metway business variable lending rate accruing daily and compounding annually.

### **94 Discount for particular relevant grazing homestead freeholding leases—Act, s 466**

- (1) For section 466(1)(c) of the Act, this section prescribes the discount for a relevant grazing homestead freeholding lease if the remaining purchase price for the lease is paid in cash during the lease.
- (2) However, this section does not apply in relation to a relevant grazing homestead freeholding lease if—
  - (a) the lease was issued on or after 1 July 2014; or



- (b) in the Minister's opinion, the lease land would have a higher value than grazing or agriculture if it were not used for grazing or agriculture.
- (3) The discount is the percentage of the purchase price stated in schedule 8, column 2 opposite the balance of the term of the relevant grazing homestead freeholding lease provided for in column 1 of the schedule.

## **Division 2                      Continued tenures generally**

### **95            Threshold amount owing for subdivision of freeholding lease—Act, s 489**

For section 489(3)(d) of the Act, the amount prescribed for a freeholding lease is—

- (a) if the Minister has reduced an instalment for the lease under section 459(1) of the Act—the minimum instalment payable under the lease; or
- (b) if the lease (the *original lease*) were to be subdivided and each new lease created by the subdivision would be held only by a member of the family of the lessee of the original lease—the minimum instalment payable under the original lease; or
- (c) otherwise—\$6,750.

## **Division 3                      Other matters**

### **96            Purchase price for freeholding of miner's homestead lease—Act, s 499**

For section 499(2)(e) of the Act, the amount prescribed is \$110.

**97 Interest rate for overpaid rent for current miners homestead application—Act, s 500**

For section 500(1) of the Act, the rate of interest prescribed is 2% compounding monthly.

**98 Interest rate for overpaid rent for freeholding perpetual town lease (non-competitive lease)—Act, s 503I**

For section 503I(2) of the Act, the rate of interest prescribed is 2% compounding monthly.

## **Part 10 Repeal and transitional provisions**

### **Division 1 Repeal provision**

**99 Repeal**

The Land Regulation 2009, SL No. 282 is repealed.

### **Division 2 Transitional provisions**

**100 Definition for division**

In this division—

*repealed regulation* means the repealed *Land Regulation 2009*.

**101 Adoption of new model by-law**

(1) This section applies if—

(a) before the commencement, a trustee adopted an existing model by-law for trust land; and

- (b) immediately before the commencement, the existing model by-law had effect as an adopted model by-law for the trust land; and
  - (c) on the commencement, the Minister has, under section 56(1) of the Act, made a model by-law for trust land (the *new model by-law*) that is substantially the same as the existing model by-law.
- (2) On the commencement, the trustee is taken to have adopted the new model by-law for the trust land under section 4 of this regulation.
- (3) In this section—
- existing model by-law* means a model by-law made under the repealed regulation.

## **102 Undecided application for limited rent discount**

- (1) This section applies if—
- (a) before 1 July 2018, a lessee for a lease applied to the Minister for a discount on the rent payable for the lease under the repealed regulation, section 40C(2); and
  - (b) immediately before the commencement, the Minister had not decided the application.
- (2) The repealed regulation, section 40C continues to apply for deciding the application as if this regulation had not been made and the repealed regulation had continued in force.

## **103 Approved application for limited rent discount**

- (1) This section applies if—
- (a) before the commencement, the Minister approved, under the repealed regulation, section 40C(3), a former discount application for a lease; and
  - (b) immediately before the commencement—

- (i) the 5 years for which the discount applied under the repealed regulation, section 40C(4), had not ended; and
  - (ii) the discount had not ended under the repealed regulation, section 40C(5).
- (2) This section also applies if, on or after the commencement, the Minister decides to approve a former discount application for a lease under the repealed regulation, section 40C(3), as applied under section 102(2) of this regulation.
- (3) The repealed regulation, section 40C continues to apply in relation to the approval and the discount as if this regulation had not been made and the repealed regulation had continued in force.
- (4) In this section—  
*former discount application* means an application for a discount on the rent payable for a lease under the repealed regulation, section 40C(2).

#### **104 Undecided hardship application for deferral**

- (1) This section applies if—
  - (a) before the commencement, a lessee or licensee applied to the Minister for a deferral of the payment of rent or instalments for a lease or licence under the repealed regulation, section 40E(1)(a); and
  - (b) immediately before the commencement, the Minister had not decided the application.
- (2) On the commencement, the application is taken to have been made under section 60 of this regulation.
- (3) Subsection (2) does not limit or otherwise affect the operation of section 60(4) of this regulation.

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# Schedule 1      Regulated conditions for particular tenures

## section 20

### 1. Indemnity

The holder of this tenure (the *holder*) indemnifies and agrees to keep indemnified the State, the Minister, and their representatives (all 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 an indemnity basis) arising from or incurred in connection with:

- (a) the granting of the tenure to the holder; or
- (b) the holder's use and occupation of the land subject to the tenure; 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 tenure or a breach of the tenure by the holder.

The holder 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 tenure.

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

### 2. Public Liability

The holder must take out a public liability insurance policy with a general insurer authorised under the *Insurance Act 1973* (Cwlth) 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 holder 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).

The policy must:

- (a) be for an amount of at least \$20m or a higher amount as the Minister may reasonably require; and
- (b) have no sublimit for each event; and
- (c) be effected on a 'claims occurring' basis; and
- (d) be maintained at all times during the currency of the tenure.

On receipt of any notice of cancellation, the holder must immediately take out another public insurance policy in accordance with the terms of the tenure.

The holder must, as soon as practicable, inform the Minister, in writing, of the occurrence of any event that the holder 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 holder must renew the policy, at the holder's expense, each year during the currency of the tenure.

This condition will be satisfied if the holder is the State or a statutory authority eligible for insurance from 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 holder is the Commonwealth or a statutory authority eligible for insurance from Comcover and is insured, and continues to be insured, by Comcover.

### **3. Access**

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

### **4. Survey Costs**

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

### **5. Jurisdiction**

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

### **6. Compliance with Laws**

The holder must comply with all lawful requirements of:

- (a) the local government for each local government area in which the land subject to the tenure is situated; and
- (b) any department of the State or Commonwealth, or 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.

## Schedule 2 Averaged value

section 33(4)

### 1 Definitions for schedule

In this schedule—

*averaging factor 1*, for a tenure of a particular category, see section 3.

*averaging factor 2*, for a tenure of a particular category, see section 4.

*relevant rental period*, for a tenure, means the rental period for the tenure for which the rental valuation is being worked out.

*rental period 1*, for a tenure, means the rental period immediately before the relevant rental period.

*rental period 2*, for a tenure, means the rental period immediately before rental period 1.

### 2 Working out averaged value of land for category 12.1, 12.2, 13 or 14.2 tenure

The averaged value of land subject to a category 12.1, 12.2, 13 or 14.2 tenure for the relevant rental period is worked out using the formula—

$$\frac{V_R + V_1 + V_2}{3}$$

where—

$V_R$  means the value of the land for the relevant rental period.

$V_I$  means—

(a) if the land has a value for rental period 1—that value; or



- (b) if the land does not have a value for rental period 1—the value of the land for the relevant rental period multiplied by averaging factor 1 for the tenure (*calculated value 1*).

$V_2$  means—

- (a) if the land has a value for rental period 2—that value; or
- (b) if the land does not have a value for rental period 2 and has a value for rental period 1—the value of the land for rental period 1 multiplied by averaging factor 2 for the tenure; or
- (c) if the land does not have a value for rental period 1 or rental period 2—calculated value 1 multiplied by averaging factor 2 for the tenure.

*Note—*

For the rental valuation of land subject to a category 12.2 tenure, see section 33(3).

### 3 Working out averaging factor 1 for averaged value of land

*Averaging factor 1*, for a tenure of a particular category, is the factor, expressed as a percentage, worked out using the following formula—

$$\frac{T_1 \times 100}{T_R}$$

where—

$T_1$  means the total of the values of all land in the State subject to a tenure of that category for rental period 1.

$T_R$  means the total of the values of all land in the State subject to a tenure of that category for the relevant rental period.

*Example—*

Assume the total of the values of all land in the State subject to a category 12.1 tenure for the relevant rental period starting on 1 July 2021 is \$10m. Further assume that the total of the values of all land in the State subject to a category 12.1 tenure for rental period 1 starting on 1 July 2020 is \$8m. Averaging factor 1 for a category 12.1 tenure is 80%.

#### **4 Working out averaging factor 2 for averaged value of land**

*Averaging factor 2*, for a tenure of a particular category, is the factor, expressed as a percentage, worked out using the following formula—

$$\frac{T_2 \times 100}{T_1}$$

where—

*T*<sub>2</sub> means the total of the values of all land in the State subject to a tenure of that category for rental period 2.

*T*<sub>1</sub> means the total of the values of all land in the State subject to a tenure of that category for rental period 1.

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## Schedule 3 Prescribed terms of particular trustee leases and subleases

section 69(a)

### Part 1 Preliminary

#### 1 Purpose and application

This schedule states the prescribed terms of—

- (a) a trustee lease, other than—
  - (i) a trustee lease (construction); or
  - (ii) a trustee lease, the granting of which, under a provision of another Act, did not require the Minister's approval; and
- (b) a trustee sublease of a trustee lease to which paragraph (a) applies.

#### 2 Definitions for schedule

In this schedule—

*trustee* means the trustee of trustee lease land.

*trustee lease land*—

- (a) for a provision about a trustee lease—means, generally, the trust land the subject of the trustee lease; and
- (b) for sections 4 to 6—includes any area of trust land, of which the land mentioned in paragraph (a) is a part, used by the trustee lessee of the trustee lease.

*trustee lessee*, of a trustee lease, means the lessee under the trustee lease.

*trustee sublease* means—

- (a) a sublease of a trustee lease approved by the Minister under section 58(1)(a) of the Act; or

- (b) a sublease of a trustee lease for which the Minister has given the trustee lessee an authority under section 64(1) of the Act.

*trustee sublease land*, for a provision about a trustee sublease, means the trust land the subject of the trustee sublease.

*trustee sublessee*, in relation to a trustee sublease, means the sublessee under the trustee sublease.

### 3 Application to trustee sublease

This schedule applies in relation to a trustee sublease as if—

- (a) a reference in part 2, other than in section 8(2), to a trustee lease were a reference to the trustee sublease; and
- (b) a reference in part 2, other than in section 4(4), 8(2) or 11, to a trustee lessee were a reference to the trustee sublessee; and
- (c) a reference in part 2 to trustee lease land were a reference to trustee sublease land; and
- (d) a reference in section 9 to the trustee were a reference to the trustee lessee.

## Part 2 Prescribed terms

### 4 Indemnity

- (1) The trustee lessee of the trustee lease indemnifies and agrees to keep indemnified the State, the Minister, the trustee and their representatives (all the *indemnified parties*) against all liability, costs, loss, charges and expenses including claims in negligence (including any actions, claims, proceedings or demands brought by any third party, and any legal fees, costs and disbursements on an indemnity basis) arising from, or incurred in connection with—
  - (a) the granting of the trustee lease to the trustee lessee; or

- 
- (b) the trustee lessee's use and occupation of the trustee lease land; or
  - (c) personal injury (including sickness and death), or property damage or loss, in connection with the following—
    - (i) the performance of the trustee lease by the trustee lessee;
    - (ii) the attempted or purported performance of the trustee lease by the trustee lessee;
    - (iii) the non-performance of the trustee lease by the trustee lessee;
    - (iv) a breach of the trustee lease by the trustee lessee.
- (2) The trustee lessee releases and discharges, to the maximum extent permitted by law, the indemnified parties—
- (a) from all actions, claims, proceedings or demands; and
  - (b) in respect of any loss, death, injury, illness or damage arising out of the use and occupation of the trustee lease land, whether or not—
    - (i) the damage is personal or property damage; or
    - (ii) the loss is consequential loss.
- (3) To the maximum extent permitted by law, the State, the Minister, the trustee and their representatives are not liable to the trustee lessee for any consequential loss arising out of the use and occupation of the trustee lease land.
- (4) If the trustee lessee has granted a trustee sublease, the trustee lessee is liable for the trustee sublessee's use and occupation of the trustee sublease land.
- (5) In this section—
- consequential loss*** means the following—
- (a) loss of revenue;
  - (b) loss of profit;
  - (c) loss of anticipated savings or business;

- (d) loss of opportunity (including opportunity to enter into or complete arrangements with third parties);
- (e) loss of data or goodwill;
- (f) loss of reputation;
- (g) any special, indirect or consequential loss whether arising in contract, tort (including negligence) or otherwise.

**representative**, of a party, means an employee, agent, officer, director, contractor, subcontractor or other authorised representative of the party.

## 5 Insurance

- (1) The trustee lessee of the trustee lease must take out a public liability insurance policy (the **insurance policy**), complying with subsection (2), with—
  - (a) a general insurer authorised under the *Insurance Act 1973* (Cwlth); or
  - (b) another insurer approved by the Minister.
- (2) The insurance policy must—
  - (a) name the trustee lessee as the person insured under the policy; and
  - (b) insure the trustee lessee against—
    - (i) legal liability for any loss of, or damage to, any property, and for injury (including death) to any person, arising out of anything done or omitted to be done on or about the trustee lease land or any improvements on the trustee lease land; and
    - (ii) all actions, claims, demands, proceedings, costs, charges and expenses, including claims in negligence; and
  - (c) insure the trustee lessee for at least \$20m, or a higher amount reasonably required by the Minister, for each event; and

- 
- (d) insure the trustee lessee on a 'claims occurring' basis; and
  - (e) be maintained by the trustee lessee at all times during the term of the trustee lease.
- (3) If an event occurs that the trustee lessee considers is likely to give rise to a claim under the insurance policy, the trustee lessee must—
- (a) give the Minister written notice of the event as soon as practicable after the event occurs; and
  - (b) ensure the trustee and the Minister are kept fully informed of subsequent actions and developments concerning the claim.
- (4) The trustee lessee must—
- (a) renew the insurance policy, at the trustee lessee's expense, each year during the term of the trustee lease; and
  - (b) if the trustee lessee receives a notice of cancellation in relation to the policy—immediately take out another public liability insurance policy complying with subsection (2).
- (5) This section does not apply if the trustee lessee—
- (a) is the State, or a statutory authority eligible for insurance from the Queensland Government Insurance Fund; and
  - (b) is insured, and continues to be insured, by the Queensland Government Insurance Fund.
- (6) Also, this section does not apply if the trustee lessee is—
- (a) the Commonwealth, or a statutory authority eligible for insurance from Comcover; and
  - (b) is insured, and continues to be insured, by Comcover.

## **6 Use, development, access and services**

- (1) The trustee lessee of the trustee lease may only use or develop the trustee lease land in accordance with—
  - (a) the terms and conditions of the trustee lease; and
  - (b) any management plan for the trust land approved under section 48 of the Act.
- (2) The trustee lessee must not do anything that prevents the trust land, of which the trustee lease land is a part, from being used for the purpose for which the trust land was dedicated or granted.
- (3) If the trustee lease land does not adjoin a road, or have another legal access, the trustee lessee may access, and provide services to, the trustee lease land through the trust land—
  - (a) at a place, or on a route, the trustee considers is the most convenient place or route; and
  - (b) on the conditions decided by the trustee.
- (4) In this section—

*develop*, trustee lease land, includes construct improvements on the land.

*services* includes a telephone connection, electricity and water.

## **7 Duty of care**

The trustee lessee of the trustee lease must manage and use the trustee lease land consistently with the objects of the Act.

## **8 No holding over or other dealings**

- (1) The trustee lessee of the trustee lease must not hold over, possess or occupy the trustee lease land after the expiry of the trustee lease.
- (2) If the trustee lessee has granted a trustee sublease, the term of the trustee sublease must end not later than 1 day before the day the trustee lease expires.



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## 9 Power of attorney

- (1) The trustee lessee of the trustee lease—
  - (a) appoints the trustee to act as the trustee lessee’s attorney; and
  - (b) authorises the trustee to execute all documents, and to perform acts, on the trustee lessee’s behalf that are necessary for the registration of a surrender of the trustee lease to the trustee.
- (2) The trustee may use the power under subsection (1) only if—
  - (a) the trustee lessee has breached a term or condition of the trustee lease; and
  - (b) the trustee has—
    - (i) given the trustee lessee written notice of the breach; and
    - (ii) allowed the trustee lessee a reasonable period, of at least 20 business days after giving the notice, to remedy the breach; and
  - (c) the trustee lessee has not remedied the breach within the period; and
  - (d) the trustee is entitled to end the trustee lease and take possession of the trustee lease land.
- (3) This section does not apply if the trustee lessee is the Commonwealth or the State.

## 10 Trustee lessee’s obligations at end of trustee lease

- (1) At the end of the trustee lease, the trustee lessee must—
  - (a) if the trustee lessee is entitled to remove improvements from the trustee lease land—maintain any insurance the trustee lessee is required to take out under section 5 during the period in which the improvements are removed (the *removal period*); and
  - (b) if the trustee lessee removes improvements from the trustee lease land—restore and otherwise make good the land—

- (i) to a condition similar to the condition it was in before the start of the trustee lease; and
    - (ii) to the satisfaction of the trustee; and
  - (c) leave the trustee lease land in a clean and tidy condition to the satisfaction of the trustee.
- (2) Section 4 continues to apply to the trustee lessee during the removal period.

## **11 Additional obligation for removal of improvements at end of trustee sublease**

- (1) This section applies to a trustee sublessee of a trustee sublease for removing improvements it is entitled to remove from the trustee sublease land at the end of the trustee sublease.
- (2) The trustee sublessee must remove the improvements from the trustee sublease land—
- (a) if a period for removal of the improvements is agreed between the trustee sublessee and the trustee lessee—within the agreed period; or
  - (b) otherwise—within 3 months after the trustee sublease ends.
- (3) If the trustee sublessee does not remove the improvements it is entitled to remove from the trustee sublease land under subsection (2), the improvements become the property of the trustee lessee.

## **12 Jurisdiction**

The trustee lease is governed by the law of Queensland and relevant Commonwealth laws.

## **13 Compliance with laws**

The trustee lessee of the trustee lease must comply with all lawful requirements of—

- (a) the local government for the local government area in which the trustee lease land is situated; or
- (b) any department of the State or the Commonwealth; or
- (c) another entity with jurisdiction over the trustee lease land, or the development, use or occupation of the trustee lease land.

## Schedule 4 Prescribed terms of particular subleases

section 69(b)

### Part 1 Preliminary

#### 1 Purpose and application

This schedule states the prescribed terms of a sublease of lease land, other than—

- (a) a sublease of a trustee lease; or
- (b) a sublease, the granting of which, under section 390A(2) of the Act, did not require the Minister's approval; or
- (c) a sublease, the granting of which, under a provision of another Act, did not require the Minister's approval.

*Examples of subleases for paragraph (c)—*

- a sublease for which the Minister's approval is not required under the *Queen's Wharf Brisbane Act 2016*, section 53
- a sublease for which the Minister's approval is not required under the *Water Act 2000*, section 730

#### 2 Definitions for schedule

In this schedule—

**head lease** means the lease that has been subleased under a sublease.

**sublease land**—

- (a) for a provision about a sublease—means, generally, the land the subject of the sublease; and
- (b) for sections 3 to 5—includes any area of lease land, of which the land mentioned in paragraph (a) is a part, used by the sublessee of the sublease.

*sublessee*, of a sublease, means the sublessee under the sublease.

*sublessor*, for a provision about a sublease, means the sublessor under the sublease.

## Part 2 Prescribed terms

### 3 Indemnity

- (1) The sublessee of the sublease indemnifies, and agrees to keep indemnified, the State, the Minister and their representatives (all the *indemnified parties*) against all liability, costs, loss, charges and expenses including claims in negligence (including any actions, claims, proceedings or demands brought by any third party, and any legal fees, costs and disbursements on an indemnity basis) arising from, or incurred in connection with—
  - (a) the granting of the sublease to the sublessee; or
  - (b) the sublessee's use and occupation of the sublease land; or
  - (c) personal injury (including sickness and death), or property damage or loss, in connection with the following—
    - (i) the performance of the sublease by the sublessee;
    - (ii) the attempted or purported performance of the sublease by the sublessee;
    - (iii) the non-performance of the sublease by the sublessee;
    - (iv) a breach of the sublease by the sublessee.
- (2) The sublessee releases and discharges, to the maximum extent permitted by law, the indemnified parties—
  - (a) from all actions, claims, proceedings or demands; and

- (b) in respect of any loss, death, injury, illness or damage arising out of the use and occupation of the sublease land, whether or not—
  - (i) the damage is personal or property damage; and
  - (ii) the loss is consequential loss.
- (3) To the maximum extent permitted by law, the State, the Minister and their representatives are not liable to the sublessee for any consequential loss arising out of the use or occupation of the sublease land.
- (4) In this section—

***consequential loss*** means the following—

- (a) loss of revenue;
- (b) loss of profit;
- (c) loss of anticipated savings or business;
- (d) loss of opportunity (including opportunity to enter into or complete arrangements with third parties);
- (e) loss of data or goodwill;
- (f) loss of reputation;
- (g) any special, indirect or consequential loss whether arising in contract, tort (including negligence) or otherwise.

***representative***, of a party, means an employee, agent, officer, director, contractor, subcontractor or other authorised representative of the party.

## 4 Insurance

- (1) The sublessee of the sublease must take out a public liability insurance policy (the ***insurance policy***), complying with subsection (2), with—
  - (a) a general insurer authorised under the *Insurance Act 1973* (Cwlth); or
  - (b) another insurer approved by the Minister.

- 
- (2) The insurance policy must—
- (a) name the sublessee as the person insured under the policy; and
  - (b) insure the sublessee against—
    - (i) legal liability for any loss of, or damage to, any property, and for injury (including death) to any person, arising out of anything done or omitted to be done on or about the sublease land or any improvements on the sublease land; and
    - (ii) all actions, claims, demands, proceedings, costs, charges and expenses, including claims in negligence; and
  - (c) insure the sublessee for at least \$20m, or a higher amount reasonably required by the Minister, for each event; and
  - (d) insure the sublessee on a ‘claims occurring’ basis; and
  - (e) be maintained by the sublessee at all times during the term of the sublease.
- (3) If an event occurs that the sublessee considers is likely to give rise to a claim under the insurance policy, the sublessee must—
- (a) give the Minister written notice of the event as soon as practicable after the event occurs; and
  - (b) ensure the sublessor and the Minister are kept fully informed of subsequent actions and developments concerning the claim.
- (4) The sublessee must—
- (a) renew the insurance policy, at the sublessee’s expense, each year during the term of the sublease; and
  - (b) if the sublessee receives a notice of cancellation in relation to the policy—immediately take out another public liability insurance policy complying with subsection (2).
- (5) This section does not apply if the sublessee—

- (a) is the State, or a statutory authority eligible for insurance from the Queensland Government Insurance Fund; and
  - (b) is insured, and continues to be insured, by the Queensland Government Insurance Fund.
- (6) Also, this section does not apply if the sublessee—
- (a) is the Commonwealth, or a statutory authority eligible for insurance from Comcover; and
  - (b) is insured, and continues to be insured, by Comcover.

## 5 Use and development

- (1) The sublessee of the sublease may only use or develop the sublease land—
- (a) under the Act and any other relevant law; and
  - (b) in accordance with—
    - (i) the purpose, terms and conditions of the head lease; and
    - (ii) the purpose of the sublease; and
  - (c) in a way that would not be a breach of the head lease if it were carried out by the sublessor; and
  - (d) for a use or development for which the sublessee requires an approval—if the sublessee obtains the approval and carries out the use or development under the conditions of the approval.
- (2) Subsection (3) applies if—
- (a) the head lease is a term lease for pastoral purposes; and
  - (b) the sublease is current at any time during the final 2 years of the term of the head lease (the *end period*).
- (3) The sublessee must not construct improvements or carry out development work on the sublease land during the end period without the Minister's written approval.
- (4) In this section—



*develop*, sublease land, includes construct improvements on the land.

*law* includes a law of the Commonwealth or a local law.

*purpose*, of a head lease, means—

- (a) the purpose for which the lease was originally issued; or
- (b) if the purpose is changed under section 154 of the Act—the purpose of the lease as changed.

## 6 Duty of care

The sublessee of the sublease must manage and use the sublease land consistently with the objects of the Act.

## 7 No holding over or other dealings

- (1) The sublessee of the sublease (the *current sublease*) must not hold over, possess or occupy the sublease land after the expiry of the term of the sublease.
- (2) However, the sublessee and sublessor may enter into a new sublease for the sublease land if—
  - (a) the current sublease contains a clause (the *renewal clause*) that gives the sublessee the option to enter into a new sublease with the sublessor for the sublease land; and
  - (b) all requirements stated in the renewal clause are satisfied; and
  - (c) either—
    - (i) the sublessor applies, at least 3 months before the expiry of the current sublease, for an approval to sublease under section 332 of the Act (a *subleasing approval*) and the Minister grants the approval under that section; or
    - (ii) the Minister has issued the sublessor with a general authority to sublease under section 333(1)(a) of the Act (a *general subleasing authority*); and

- (d) the relevant subleasing conditions have been complied with; and
  - (e) the term of the new sublease will expire not later than 1 day before the day the head lease expires.
- (3) If the sublessee and sublessor enter, or purport to enter, into a new sublease other than under subsection (2)—
- (a) the new sublease is of no force or effect; and
  - (b) the sublessee—
    - (i) may, if allowed under a term of the current sublease, remove any improvements as allowed under the current sublease after it expires; but
    - (ii) otherwise has no right to possession, occupation or use of the sublease land after the current sublease expires.
- (4) In this section—
- relevant subleasing conditions* means—
- (a) for a subleasing approval—any conditions, mentioned in section 332(3)(b)(i) of the Act, on which the approval is given; or
  - (b) for a general subleasing authority—
    - (i) the requirements prescribed for the authority under section 74; and
    - (ii) any conditions mentioned in section 333(4) of the Act included in the authority.

## 8 Power of attorney

- (1) The sublessee of the sublease—
- (a) appoints the sublessor to act as the sublessee's attorney; and
  - (b) authorises the sublessor to execute all documents, and to perform acts, on the sublessee's behalf that are necessary for the registration of a surrender of the sublease to the sublessor.

- 
- (2) The sublessor may use the power under subsection (1) only if—
    - (a) the sublessee has breached a term or condition of the sublease; and
    - (b) the sublessor has—
      - (i) given the sublessee written notice of the breach; and
      - (ii) allowed the sublessee a reasonable period, of at least 20 business days after giving the notice, to remedy the breach; and
    - (c) the sublessee has not remedied the breach within the period; and
    - (d) the sublessor is entitled to end the sublease and take possession of the sublease land.
  - (3) This section does not apply if the sublessee is the Commonwealth or the State.

## **9 Sublessee's obligations at end of sublease**

- (1) At the end of the sublease, the sublessee must—
  - (a) if the sublessee is entitled to remove improvements from the sublease land—maintain any insurance the sublessee is required to take out under section 4 during the period in which the improvements are removed (the *removal period*); and
  - (b) if the sublessee removes improvements from the sublease land—restore and otherwise make good the land to a condition similar to the condition it was in before the start of the sublease; and
  - (c) leave the sublease land in a clean and tidy condition.
- (2) Section 3 continues to apply to the sublessee during the removal period.
- (3) The sublessee must remove any improvements from the sublease land it is entitled to remove—

- (a) if a period for removal of the improvements is agreed between the sublessee and the sublessor—within the agreed period; or
  - (b) otherwise—within 3 months after the sublease ends.
- (4) If the sublessee does not remove the improvements it is entitled to remove from the sublease land under subsection (3), the improvements become the property of the sublessor.

## **10 Access**

The State is not responsible for the provision of access or services to the sublease land.

## **11 Jurisdiction**

The sublease is governed by the law of Queensland and relevant Commonwealth laws.

## **12 Compliance with laws**

The sublessee of the sublease must comply with all lawful requirements of—

- (a) the local government for the local government area in which the sublease land is situated; or
- (b) any department of the State or the Commonwealth; or
- (c) another entity with jurisdiction over the sublease land, or the development, use or occupation of the sublease land.

## **Schedule 5      Regulated islands**

section 86(1)

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

## Schedule 6 Fees

### section 87

	<b>Fee units</b>
1 Request for an agreement under section 18 of the Act about a proposed exchange of land (Act, s 18(5))	296.90
2 Application (Act, s 420C(1)(d))—	
(a) for the allocation of a floating reservation under section 23A(1) of the Act	296.90
(b) to buy land in a reservation under section 24(3) of the Act	296.90
(c) for the dedication of land as a road for public use under section 94(2) of the Act	296.90
(d) for a road closure—	
(i) if the closure is the permanent closure of the road under section 99(1) of the Act	296.90
(ii) if the closure is the temporary closure of the road under section 99(3) of the Act (including issuing a road licence over the road applied for with the application)	296.90
(e) for the issue of a road licence over a road under section 103(1) of the Act, other than the road licence mentioned in paragraph (d)(ii)	296.90
(f) for the simultaneous opening and closing of roads under section 109A(1) or 109B(1) of the Act	296.90
(g) for the grant of an interest in land under section 120A(1) of the Act	296.90
(h) for the grant of a lease of unallocated State land under section 121(1) of the Act	296.90
(i) for the grant of a deed of grant of unallocated State land under section 122 of the Act	296.90

	<b>Fee units</b>
(j) for a change to a lease—	
(i) if the change is for the lease to be used for additional or fewer purposes mentioned in section 154(1) of the Act	148.30
(ii) if the change is a change of an imposed condition of the lease mentioned in section 210(2) of the Act	148.30
(k) to extend a lease under section 155A(2) or 155B(2) of the Act	296.90
(l) for an offer of a new lease that is a renewal application under section 158(1) of the Act	296.90
(m) that is an extension application under section 164C(1) of the Act	296.90
(n) that is a conversion application under section 166(1) of the Act	296.90
(o) for approval to subdivide a lease under section 176(1) of the Act	296.90
(p) for approval to amalgamate leases under section 176K(1) of the Act	296.90
(q) for a permit to occupy unallocated State land, a reserve or a road under section 177A(1) of the Act	296.90
(r) for approval to transfer a lease, licence or sublease under section 322(3) of the Act	148.30
(s) for approval to sublease a lease under section 332(1)(a)(i) of the Act	148.30
(t) to amend the description in a lease under section 360C of the Act	148.30
(u) for approval of an easement to be created over land under section 362(1) of the Act	296.90
(v) for approval of a public utility easement to continue over unallocated State land under section 372(2) of the Act	148.30



	<b>Fee units</b>
(w) for approval of a public utility easement that burdens a State lease to continue over a reserve under section 372(3) of the Act	148.30
(x) for approval to make a lease the subject of a profit a prendre under section 373G(1) of the Act	296.90
(y) for a review under section 423 of the Act of an original decision	148.30
<b>3 Issuing—</b>	
(a) a deed of grant (other than a deed of grant issued under section 18A of the Act because of a surrender of native title, a deed of grant issued to the State or a deed of grant issued under section 358(3)(b) of the Act)	76.85
(b) a lease (other than a lease issued to the State or issued under section 18A of the Act because of a surrender of native title) or licence	76.85
(c) a permit to occupy, other than a permit for a term of less than 3 months issued to a non-profit community organisation	76.85
<b>4 Order in council, under section 216 of the Act, resuming a lease or part of a lease or taking an easement over a lease—</b>	
(a) for 1 lease or easement or part of a lease or easement	203.70
(b) for each additional lease or easement	99.25
<b>5 Preparing and serving a notice resuming a lease or part of a lease under section 224 of the Act</b>	99.25
<b>6 Document amending an instrument resuming a lease or an easement over a lease</b>	99.25

## Schedule 7      Discount for pre-Wolfe freeholding leases

section 89(2)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 1</b>	<b>Column 2</b>
<b>Balance of term of lease (years, rounded down to nearest whole year)</b>	<b>Percentage of remaining purchase price</b>	<b>Balance of term of lease (years, rounded down to nearest whole year)</b>	<b>Percentage of remaining purchase price</b>
1	4.76	17	33.68
2	7.03	18	35.06
3	9.23	19	36.39
4	11.35	20	37.69
5	13.41	21	38.95
6	15.41	22	40.17
7	17.34	23	41.35
8	19.21	24	42.51
9	21.02	25	43.62
10	22.78	26	44.71
11	24.49	27	45.77
12	26.14	28	46.79
13	27.74	29	47.79
14	29.30	30	48.76
15	30.80	31	49.70
16	32.26	32	50.62

<b>Column 1</b>	<b>Column 2</b>	<b>Column 1</b>	<b>Column 2</b>
<b>Balance of term of lease (years, rounded down to nearest whole year)</b>	<b>Percentage of remaining purchase price</b>	<b>Balance of term of lease (years, rounded down to nearest whole year)</b>	<b>Percentage of remaining purchase price</b>
33	51.51	47	61.74
34	52.37	48	62.34
35	53.22	49	62.92
36	54.04	50	63.49
37	54.83	51	64.04
38	55.61	52	64.58
39	56.37	53	65.11
40	57.10	54	65.62
41	57.82	55	66.12
42	58.52	56	66.61
43	59.20	57	67.09
44	59.86	58	67.55
45	60.50	59	68.01
46	61.13	60	68.45

## Schedule 8 Discount for particular grazing homestead freeholding leases

section 94(3)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 1</b>	<b>Column 2</b>
<b>Balance of term of lease (years, rounded down to nearest whole year)</b>	<b>Percentage of remaining purchase price</b>	<b>Balance of term of lease (years, rounded down to nearest whole year)</b>	<b>Percentage of remaining purchase price</b>
1	2.75	16	17.74
2	4.05	17	18.45
3	5.30	18	19.14
4	6.50	19	19.79
5	7.66	20	20.41
6	8.77	21	21.01
7	9.84	22	21.58
8	10.87	23	22.13
9	11.86	24	22.66
10	12.80	25	23.16
11	13.71	26	23.64
12	14.59	27	24.10
13	15.43	28	24.54
14	16.23	29	24.96
15	17.00	30	25.36

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## Schedule 9 Dictionary

### section 3

*affected tenure*, for part 4, division 6, subdivision 1, see section 56(1).

*averaged value*, of land, see section 33(4).

*averaging factor 1*, for a tenure of a particular category, for schedule 2, see schedule 2, section 3.

*averaging factor 2*, for a tenure of a particular category, for schedule 2, see schedule 2, section 4.

*Comcover* means the Australian Government's insurance fund of that name.

*Commonwealth concession card* means—

- (a) a safety net concession card issued under the *National Health Act 1953* (Cwlth), part VII, division 1A; or
- (b) any of the following cards issued by the Commonwealth department in which the *Social Security Act 1991* (Cwlth) or the *Veterans' Entitlements Act 1986* (Cwlth) is administered—
  - (i) a repatriation health card for specific conditions;
  - (ii) a repatriation health card for all conditions;
  - (iii) a repatriation pharmaceutical benefits card;
  - (iv) a health care card;
  - (v) a pensioner concession card;
  - (vi) a Commonwealth seniors health card.

*conveyancing transaction* see the Electronic Conveyancing National Law (Queensland), section 3.

*deferral period*, for part 4, division 6, subdivision 1, see section 55.

*designated set rent* see section 38(1).

**hardship deferral declaration** see section 56(2).

**head lease**, for schedule 4, see schedule 4, section 2.

**minimum rent** means—

- (a) for a category 11.1, 11.2, 12.1, 12.2, 13 or 16 tenure—the amount of rent mentioned in section 34(1); or
- (b) for a category 14.2 tenure—the amount of rent mentioned in section 34(2).

**payment day**, for deferred rent or instalments, see section 55.

**penalty interest** means interest calculated under section 66.

**permit to occupy** means a permit to occupy unallocated State land, a reserve or a road issued under section 177 of the Act.

**quarter day** means 1 January, 1 April, 1 July or 1 October.

**rail government entity** see the *Transport Infrastructure Act 1994*, schedule 6.

**relevant grazing homestead freeholding lease**, for part 9, division 1, subdivision 4, see section 92.

**relevant rental period**, for a tenure, for schedule 2, see schedule 2, section 1.

**rental period 1**, for a tenure, for schedule 2, see schedule 2, section 1.

**rental period 2**, for a tenure, for schedule 2, see schedule 2, section 1.

**rental valuation**, of land, means the rental valuation of the land under section 33.

**sublease land**, for schedule 4, see schedule 4, section 2.

**sublessee**, of a sublease, for schedule 4, see schedule 4, section 2.

**sublessor**, for a provision about a sublease, for schedule 4, see schedule 4, section 2.

**Suncorp-Metway Bank** means Suncorp-Metway Limited ACN 010 831 722.

***Suncorp-Metway business variable lending rate*** means the variable base interest rate set by the Suncorp-Metway Bank for the loan type called the Small Business Mortgage Rate that is effective as at 31 March immediately before the current financial year.

***taxable income*** means taxable income under the *Income Tax Assessment Act 1997* (Cwlth).

***tenure***, unless the context otherwise requires, means—

- (a) a lease; or
- (b) a licence; or
- (c) a permit to occupy.

***tenure holder*** means—

- (a) for a tenure that is a lease—the lessee under the lease; or
- (b) for a tenure that is a licence—the licensee under the licence; or
- (c) for a tenure that is a permit to occupy—the permittee under the permit.

***trustee***, for schedule 3, see schedule 3, section 2.

***trustee lease land***, for schedule 3, see schedule 3, section 2.

***trustee lessee***, of a trustee lease, for schedule 3, see schedule 3, section 2.

***trustee sublease*** see schedule 3, section 2.

***trustee sublease land***, for a provision about a trustee sublease, for schedule 3, see schedule 3, section 2.

***trustee sublessee***, in relation to a trustee sublease, for schedule 3, see schedule 3, section 2.

***unimproved value*** means unimproved value worked out under section 13.

***value***, of land subject to a category 12.1, 12.2, 13 or 14.2 tenure, unless otherwise provided, means the value of the land under the *Land Valuation Act 2010*, section 7.