



Queensland

Land Amendment Regulation (No. 1) 2013

Explanatory Notes for SL 2013 No. 144

made under the
Land Act 1994

General outline

Short title

Land Amendment Regulation (No. 1) 2013.

Authorising law

Section 448 of the *Land Act 1994*

Policy Objectives and the reasons for them

The objective of the Regulation is to:

- Amend the *Land Regulation 2009* by introducing a rental ceiling for residential permits to occupy being used as shacks .which are used for short term accommodation

The present method of assessing rentals for permits to occupy being used for residential purposes is very restrictive as it is based on the same percentage of the value of the land as more secure tenures issued under the *Land Act 1994*.

Permits to occupy are the most insecure tenure that can be issued under the *Land Act 1994* as they cannot be transferred, mortgaged or sublet. However

when assessing the value of the land for rental purposes under the *Land Valuation Act 2010* no allowances can be made for the insecurity of this tenure which has led to some high land valuations being applied to permits to occupy used for shack purposes.

The valuations and the restrictive conditions on these permits to occupy have led to many objections by permittees about the rate of rental charged for the use of these permits.

Achievement of policy objectives.

One of the main components to the *Land Regulation 2009* relates to financial matters including rentals for leases over state land.

As it is often hard to justify the high rental value placed on these parcels of land taking into account the insecure nature of these tenures, it is proposed that an amount of \$663 which is three times the current minimum rent of \$221 should become the highest rental that can apply to all those residential permits to occupy being used for shacks irrespective of land value. This amount will be adjusted annually in line with government policy

Under the principle of administration under the *Land Act 1994* the State is to apply a market approach in land dealings adjusted, when appropriate, for community benefits arising from the dealing. Taking this principle broadly into account it may be reasonable to consider reducing rentals for permits to occupy issued for non-business purposes.

Consistency with authorising law

The regulation is consistent with the objects of the *Land Act 1994* which requires land to be managed for the benefit of the people of Queensland.

Inconsistency with policy objectives of other legislation.

Not applicable.

Benefits and cost of implementation.

Implementation will be done within current departmental budget allocations. Almost 130 permittees will benefit from the new rental arrangements.

Consistency with Fundamental Legislative Principles

The amendments to the *Land Regulation 2009* will be made retrospective, with a commencement date of 1 July 2013 in line with the provisions of the *Land Act 1994* which requires that annual rental periods start on 1 July. By commencing the amendments on 1 July 2013 no one other than government will be adversely affected by these arrangements. By retrospectively introducing these amendments those permittees eligible for the rental reduction will be receiving this benefit for the whole year and not only for part of the year. These amendments are therefore in line with section 34 of the *Statutory Instruments Act 1992* which is consistent with fundamental legislative principles.

Consultation

The Department of the Premier and Cabinet (DPC) and Queensland Treasury were consulted regarding the proposed amendments.

As the new rental arrangements will benefit stakeholders no other consultation was undertaken.

The Office of Best Practice Regulation within the Queensland Competition Authority was consulted in relation to the need for a Regulatory Impact Statement (RIS) and advised that a RIS was not considered necessary.

Notes on Provisions

Part 1 Preliminary

Short title

Clause 1 provides the short title of the regulation.

Commencement

Clause 2 provides that the amendments will commence on 1 July 2013.

Regulation amended

Clause 3 of this regulation amends provisions in the *Land Regulation 2009*.

Amendment of s 26 (Definitions for div 1)

Clause 4 amends section 26. as a consequence of expanding the existing rental category for residential leases as shown in sections 27 and 29.

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

Clause 5 amends section 27 by including a new residential subcategory which deals specifically with permits to occupy that are used for short term accommodation

Amendment of s 29(Category 12 lease)

Clause 6 amends section 29 by expanding the existing residential category into two subcategories. Subcategory 12.1 includes all those leases within the former category 12 with the exception of permits to occupy being used for short term accommodation which are now included into subcategory 12.2.

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

Clause 7 amends section 36 by prescribing a maximum averaged valuation that can be applied when calculating rentals for permits to occupy within the new residential subcategory 12.2. This amendment is required to ensure that when applying the formula for assessing rentals for these permits to occupy the maximum rental will not be more than \$663 which is three times the minimum rental.

Amendment of s 37 (Matters for calculating rent—Act, s183)

Clause 8 amends section 37 as a consequence of the creation of the new rental subcategory 12.2

Amendment of s 38 (Minimum rent—Act, s 183)

Clause 9 amends section 38 as a consequence of the creation of the new rental subcategory 12.2

Amendment of s 39 (Percentage for protection against undue rental increases—Act, s 183AA)

Clause 10 amends section 39 as a consequence of the creation of the new rental subcategory 12.2

Schedule 6 (Averaged value)

Clause 11 amends this schedule as a consequence of the creation of the new rental subcategory 12.2

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Natural Resources and Mines.

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