

Valuers Registration Regulation 2013

Explanatory notes for SL 2013 No. 167

made under the

Valuation Registration Act 1992

General Outline

Short title

Valuers Registration Regulation 2013

Authorising law

Section 66 of the *Valuers Registration Act 1992*

Policy objectives and the reasons for them

The objective of the *Valuers Registration Regulation 2013* (the Regulation) is to continue the effect under the *Valuers Registration Act 1992* (the Act) of the provisions of the expiring *Valuers Registration Regulation 2003* (the VRR Regulation), subject to the following minor changes:

- moving provisions relating to the code of conduct to a schedule (Schedule 1)
- including an amendment to ensure the provisions in Schedule 1 prevail if there was an inconsistency between an approved code or the Australian Property Institute code
- strengthening provisions relating to continued professional development
- updating information and modernising terminology.

Achievement of policy objectives

The Regulation achieves the policy objectives by repealing the expiring VRR Regulation and continuing the existence of its provisions in the Regulation without significant change. The

Regulation will provide for the responsibilities and obligations of registered valuers and specialist retail valuers with regard to:

- Code of professional conduct
- Prescribed institutes and continued professional development
- Fees
- Repeal of the VRR Regulation
- Schedule 1 – Code of Professional Conduct
- Schedule 2 – Fees

Any other approach would leave the administrative requirements for the activities of the Valuers Registration Board of Queensland (the Board) and the requirements of registered valuers and specialist retail valuers only partly described in the principal Act, thereby limiting the effective implementation of the Act.

Consistency with policy objectives of authorising law

The Regulation is consistent with the main objectives of the Act and enshrines the necessary operational framework for the achievement of those objectives to provide for the responsibilities and obligations of registered valuers and specialist retail valuers.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

Three options were considered. These were:

- Option 1: No regulation. Under this option, the VRR Regulation would expire without replacement. Valuers would not be required to hold specific qualifications, adhere to a code of conduct or be subject disciplinary process or other regulated requirements. The Board would no longer exist.
- Option 2: Make a new regulation. This option proposed to make a replacement regulation. Under this option changes would be made to the existing provisions such as strengthening the complaints and disciplinary processes, changing the fee structure, and changing the composition and functions of the Board.
- Option 3: Remake the current regulation. This option proposed to remake the VRR Regulation without significant change.

Under option 1, the administration of the Act would become ineffective since many parts of the Act would be difficult to implement.

The *Valuers Registration Act 1965* was introduced “to afford a measure of protection in the public interest of the State of Queensland by providing for a Valuers Registration Board, its powers and functions, the registration of valuers of land, qualifications for such registration

and for other incidental purposes.” (Hansard Vol.242 p.2138). This Act was designed to improve the standard of valuation practice for statutory and other purposes, by regulating the requisite qualifications for registration, and to afford a measure of protection to the public through an improved valuation service.

Of key concern would be the difficulty of enforcing the code of professional conduct and continued professional development of valuers in a dynamic market environment. This would leave users of valuation services vulnerable to substandard practice with significant variations in their ability to manage the financial and social risks associated with a drop in the quality of valuation services. Key stakeholders that rely on property valuations such as banks and other financial institutions, members of the community, local governments (as a basis to calculate rates), the Office of State Revenue (to calculate land tax) and the Department of Natural Resources and Mines (to calculate state land rental for leasehold land), would have less confidence in the accuracy of the valuations that underpin these investment or revenue gathering processes.

In addition, this option would leave the administrative requirements in the activities of the Board and the requirements of registered valuers and specialist retail valuers only partly described in the principal Act. The inclusion of necessary machinery (that is, operational issues) in the principal Act is not a reasonable solution to the policy problem being addressed, given the complex administrative and procedural costs as well as legal requirements involved with amending principal Acts.

Consequently, Option 1 was rejected.

Option 2 proposes to make a replacement regulation with minor changes to existing provisions, such as strengthening the complaints and disciplinary processes, changing the fee structure and changing the composition and functions of the Board.

The existing regulation has been successfully operating for the past 10 years and there have been no drivers to significantly change it from government or key stakeholders.

Queensland is currently part of a national occupational licensing system introduced in 2009, when the Council of Australian Governments (COAG) signed an Intergovernmental Agreement to establish the system. Valuers are included in the National Occupational Licensing System and consequently there may be a requirement to amend the regulation as part of this process in future. The Board would still provide the regulating mechanism for the overarching national framework. Therefore, any amendments made now, may be redundant.

Consequently, Option 2 was rejected.

The preferred option was Option 3, to remake the regulation with minor changes. Regulating the valuation profession reduces the risk to users of valuations and is the most effective way of ensuring continued consumer protection, confidence, certainty and transparency in valuation services.

Consumers of valuation services in a regulated environment can select valuers from a list of registered valuers; have confidence that valuers are abiding by a code of conduct governing their behaviour and the determination of their fees; have an avenue to raise complaints and

know that unscrupulous and incompetent valuers can be deregistered and publically listed on the Board's website; have greater confidence that their property valuations are accurate and fair and in line with the market; and that valuers are up to date with contemporary practice through continued professional development.

Government and the community can be more confident that statutory valuations which are used to calculate local government rates, land tax and State land leasehold land are fair and accurate.

It is important for the public to have confidence in the valuation profession for the protection of consumers who seek advice for example on purchasing, selling or investing in property portfolios. Any possible erosion of the standards of valuers would seem to work against the desire to have a better informed public when dealing with possible property fraud.

Benefits and costs of implementation

A qualitative assessment of the benefits and costs of implementing the Regulation under Option 3, compared with no regulation under Option 1, is outlined below.

1. Benefits to government through –

- a. Confidence in the accuracy and reliability of valuations and reduced exposure to financial risks associated with calculating land tax, local government rates, leasehold rents, asset valuations and assessment of pension eligibility (social security) in addition to calculating the amount of disbursement of funds to the State under the Commonwealth Grants Commission.
- b. Assurance that valuers are qualified, experienced and up to date with contemporary practice provides public confidence in valuers and reduced risk of financial decisions being based on inaccurate valuations.
- c. Reduced cost to government as the Board is self-funded from valuer's registration fees. Provision of a one stop shop for the registration of valuers in Queensland through the Board.
- d. Effective implementation of the Act with an effective framework for providing a code of conduct for valuers and dealing with complaints against valuers and related disciplinary processes.
- e. Savings for government in the reduction of complaints and in handling complaints – no other policy or regulatory instruments are required.
- f. Less expense to government for advertising and education campaigns to ensure the public are aware of how to select reputable valuers and identify property fraud.

2. Costs to government through –

- a. Advertising and reprinting the Regulation.
- b. Recurrent administrative processes including the appointment of Board members and annual report tabling requirements.

3. Benefits to business through –

- a. Valuation firms, banks and financial institutions can have greater confidence in the accuracy of valuations on which to base business decisions.
 - b. Reduced risk of property fraud and subsequent adverse financial impacts.
 - c. Business can be confident that valuers are qualified and experienced and undergoing continuing professional development.
 - d. Established disciplinary and complaints process and requirement for valuers to adhere to a code of conduct.
4. Costs to business through –
- a. Valuers/valuation firms required to pay registration fees.
 - b. Valuers being required to pay for continued professional development.
5. Benefits to the community through:
- a. Public confidence in the valuation profession and protection of consumers who seek advice for example on purchasing, selling or investing in property.
 - b. Publicly accessible list of registered valuers for consumers to select from and reduced costs to evaluate service providers.
 - c. Confidence that valuers are qualified, experienced and up-to-date with contemporary valuation practice.
 - d. A prescribed code of conduct for property valuers
 - e. Complaints process for consumers against disreputable and incompetent valuers.
 - f. Reduced financial risks through more certainty on professional charges by valuers.
6. Costs to the community through:
- a. Registration fee charges and continued professional development costs being passed on to the consumer.

Qualitative cost benefit analysis confirms that remaking the regulation is the best alternative. The overall impact of remaking the regulation outweighs the minor benefits to some stakeholders. The negative impacts from the reduction in the standards and quality of valuation services together with the uncertainty associated with the level of competency of valuers and professional fees and an increased risk of property fraud significantly outweigh the positive impacts of remaking the regulation.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

Stakeholder consultation was undertaken with the Australian Property Institute (API) and Board. The Board and the API were asked by letter to provide their views and comments on the three policy options considered.

State Government consultation was undertaken with Queensland Treasury and Trade, the Office of Best Practice Regulation, Queensland Competition Authority and the Office of the Parliamentary Counsel.

Results of Consultation

Both the API and the Board supported remaking the VRR Regulation with minor changes under Option 3.

The Office of Best Practice Regulation, Queensland Competition Authority has confirmed that a Regulatory Impact Statement is not required for the making of the VRR Regulation at this time, in consideration of the forthcoming Commonwealth review regarding national licensing of the profession of valuers.

The Office of the Parliamentary Counsel drafted the Regulation.