

Revenue Legislation Amendment Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 123

made under the

Duties Act 2001

First Home Owner Grant Act 2000

Land Tax Act 2010

Mineral Resources Act 1989

Petroleum and Gas (Production and Safety) Act 2004

State Penalties Enforcement Act 1999

General Outline

Short title

Revenue Legislation Amendment Regulation (No. 1) 2014

Authorising law

Sections 495(3), 508(1) and (2)(a) of the *Duties Act 2001*

Section 71(1) and the Schedule, definition “prescribed completion requirements” of the *First Home Owner Grant Act 2000*

Sections 63(2)(a), 85(1) and (2)(a) of the *Land Tax Act 2010*

Sections 320(4), (6) and (7), 417(1), (2)(a) and (2)(l) of the *Mineral Resources Act 1989*

Sections 590(2), 595(3), 859(1) and (2)(a) of the *Petroleum and Gas (Production and Safety) Act 2004*

Sections 10C, 119(5), 165(1), (6) and (9), and Schedule 2, definitions “civil enforcement fee”, “cut-out rate”, “minimum instalment” and “registration fee” of the *State Penalties Enforcement Act 1999*.

Policy objectives and the reasons for them

The policy objective of the Regulation is to amend various laws administered by the Office of State Revenue (OSR). The amendments are generally administrative in nature and are matters that are required to be prescribed by regulation, including increases to fees, charges and related amounts in accordance with Government policy, prescription of a completion requirement for the purpose of the Great Start Grant (the grant), and consequential amendments arising from amendments to some of the authorising laws.

Fees under the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2000*.

On 25 June 2012, Cabinet decided that, from 1 July 2012, all fees and charges are to be indexed annually at a rate of 3.5% per annum until further notice. This policy was applied for 2013-14. It has been confirmed that the 3.5% per annum indexation policy will continue in 2014-15.

An annual indexation rate of 3.5% per annum is to apply to fees and charges administered by OSR in accordance with Government policy.

First Home Owner Grant Regulation 2010 amendment

The *First Home Owner Grant Act 2000* makes available the grant to eligible applicants who enter into eligible transactions for the acquisition of their first home. The grant is payable when the eligible transaction has been completed. For the purposes of determining when an eligible transaction has been completed, the *First Home Owner Grant Act 2000* provides for completion requirements to be prescribed under a regulation. No completion requirements are currently prescribed.

For an eligible transaction that is a comprehensive home building contract or the building of a new home by an owner builder, the Commissioner of State Revenue views these transactions as being completed when a final inspection certificate is issued for the home under the *Building Act 1975*. Under the *Building Act 1975*, a final inspection certificate is required to be issued for building work to confirm the work has been completed and complies with the development approval, and can therefore be occupied.

Prescription of the issue of a final inspection certificate under the *Building Act 1975* as a completion requirement for an eligible transaction that is a comprehensive home building contract or the building of a new home by an owner builder under the *First Home Owner Grant Regulation 2010* will provide greater certainty for affected grant applicants, without adding to their regulatory burden.

Mineral Resources Regulation 2013 amendments

The *Revenue Legislation Amendment Act 2014* amends the *Mineral Resources Act 1989*, including to specify how a royalty refund may be made and introduce a new royalty assessment and reassessment framework. Consequential amendments to the *Mineral Resources Regulation 2013* are required to reflect these changes.

Petroleum and Gas (Production and Safety) Regulation 2004 amendments

The *Revenue Legislation Amendment Act 2014* amends the *Petroleum and Gas (Production and Safety) Act 2004* to enable the Minister to bring forward the due date for lodgement of an annual or quarterly petroleum royalty return, where it is considered necessary for the protection of the public revenue. Consequential amendments to the *Petroleum and Gas (Production and Safety) Regulation 2004* are required to clarify when royalty is payable.

The *Revenue Legislation Amendment Act 2014* also amends the *Petroleum and Gas (Production and Safety) Act 2004* to introduce a new royalty assessment and reassessment framework and provide for the imposition of a royalty penalty amount. Consequential amendments to the *Petroleum and Gas (Production and Safety) Regulation 2004* are required to reflect these changes.

State Penalties Enforcement Regulation 2000 amendment

The *State Penalties Enforcement Act 1999* provides that the State Penalties Enforcement Registry (SPER) is responsible for the collection of unpaid penalty infringement notices and certain court ordered amounts. Where a debt is not paid as required, SPER may approve that the amount be satisfied through community service under a fine option order, or may issue an arrest and imprisonment warrant.

Schedule 2 of the *State Penalties Enforcement Act 1999* includes a definition of *cut-out rate*, which is relevant for determining the hours of community service to be undertaken under a fine option order, the compensation payable to a person where a withdrawal notice is given for an infringement notice offence after community service has been performed, and the period of imprisonment for an arrest and imprisonment warrant.

Pursuant to section 5A(1) of the *Penalties and Sentences Act 1992*, the *Penalties and Sentences Amendment Regulation (No. 1) 2014* increases the value of a penalty unit under section 5(1)(a) of that Act from \$110 to \$113.85 on 1 July 2014. This penalty unit value is relevant for the value of the cut-out rate under the *State Penalties Enforcement Act 1999*.

The purpose of the Regulation is to increase the cut-out rate under the *State Penalties Enforcement Regulation 2000* on 1 July 2014, in line with the increase in the penalty unit value at the same time.

In addition, the *Revenue Legislation Amendment Act 2014* amends the *State Penalties Enforcement Act 1999* to allow the Registrar to delegate prescribed functions to a service contractor under a service contract. Relevant functions are to be prescribed.

Achievement of policy objectives

Fees under the *Duties Regulation 2013, Land Tax Regulation 2010, Mineral Resources Regulation 2013, Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2000*.

The Regulation will achieve its objective of increasing fees administered by OSR in accordance with current Government policy by amending the *Duties Regulation 2013, Land Tax Regulation 2010, Mineral Resources Regulation 2013, Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2000* to increase particular fees for the 2014-15 financial year by 3.5% per annum. The amendments are reasonable and appropriate based on consistency with government policy also applied for 2012-13 and 2013-14. Any change to the fees administered by OSR must be effected through legislative amendment.

First Home Owner Grant Regulation 2010 amendment

The objective will be achieved by amending the *First Home Owner Grant Regulation 2010* to prescribe the issue of a final inspection certificate under the *Building Act 1975* as a completion requirement for an eligible transaction that is comprehensive home building contract or the building of a new home by an owner builder under the *First Home Owner Grant Act 2000*.

Prescription of completion requirements under the *First Home Owner Grant Regulation 2010* is expressly permitted by the *First Home Owner Grant Act 2000* and will provide greater certainty for affected grant applicants, without adding to the regulatory burden

Mineral Resources Regulation 2013 amendments

The Regulation makes consequential amendments to the *Mineral Resources Regulation 2013*, including to update cross references to relevant provisions of the *Mineral Resources Act 1989*, to reflect amendments made by the *Revenue Legislation Amendment Act 2014*.

Petroleum and Gas (Production and Safety) Regulation 2004 amendments

For annual royalty returns, a petroleum producer is required to pay any petroleum royalty payable when the return is required to be lodged. However, the requirement to pay petroleum royalty when a quarterly return is due is not as explicit. Following amendment of *Petroleum and Gas (Production and Safety) Act 2004* by the *Revenue Legislation Amendment Act 2014* to enable the Minister to bring forward the due date for lodgement of an annual or quarterly petroleum royalty return, consequential amendments to the *Petroleum and Gas (Production and Safety) Regulation 2004* are required to clarify that the obligation to pay petroleum royalty arises when the quarterly royalty return is required to be lodged.

The Regulation also makes consequential amendments to the *Petroleum and Gas (Production and Safety) Regulation 2004*, including to update cross references to relevant provisions of the *Petroleum and Gas (Production and Safety) Act 2004*, to reflect amendments made by the *Revenue Legislation Amendment Act 2014*.

State Penalties Enforcement Regulation 2000 amendment

The Regulation amends the *State Penalties Enforcement Regulation 2000* to increase the cut-out rate to maintain its relativity on an increase in the penalty unit value under the *Penalties and Sentences Regulation 2005*.

The Regulation also amends the *State Penalties Enforcement Regulation 2000* to prescribe the powers and functions of the Registrar under sections 24 and 42 of the *State Penalties Enforcement Act 1999* as prescribed functions.

Consistency with policy objectives of authorising law

Fees under the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2000*.

Amendments increasing the fees in the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004*, and *State Penalties Enforcement Regulation 2000* are consistent with the policy objectives under each of the respective enabling acts, all of which contemplate prescription of the relevant fees as part of administration provided for under each Act.

First Home Owner Grant Regulation 2010 amendment

The amendment to the *First Home Owner Grant Regulation 2010* is consistent with the policy objective of the *First Home Owner Grant Act 2000* to encourage and help home ownership, and to introduce appropriate administrative and enforcement provisions to facilitate effective administration of the grant.

Mineral Resources Regulation 2013 and Petroleum and Gas (Production and Safety) Regulation 2004 amendments

The amendments to the *Mineral Resources Regulation 2013* and the *Petroleum and Gas (Production and Safety) Regulation 2004* are consistent with the policy objective of the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004*, respectively.

State Penalties Enforcement Regulation 2000 amendment

Amendments changing the cut-out rate in the *State Penalties Enforcement Regulation 2000* are consistent with the policy objective of the *State Penalties Enforcement Act 1999* that the cut-out rate be prescribed by regulation.

The inclusion of prescribed functions in the *State Penalties Enforcement Regulation 2000* is consistent with amendments made to the *State Penalties Enforcement Act 1999* to allow the Registrar to delegate prescribed functions to a service contractor under a service contract.

Inconsistency with policy objectives of other legislation

Not applicable for all amendments.

Benefits and costs of implementation

Fees under the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2000*.

Implementation of the Regulation will ensure the fees administered by OSR are in line with Government policy.

Implementation of the amendments increasing the fees administered by OSR and contained in the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2000* will not result in any additional costs to Government as the administration of the fees will continue to be subject to existing processes, systems and staffing.

First Home Owner Grant Regulation 2010 amendment

The amendment will provide certainty for grant applicants as to when the affected eligible transactions have been completed. There will be no additional costs to Government in implementing the amendment.

Mineral Resources Regulation 2013 and *Petroleum and Gas (Production and Safety) Regulation 2004* amendments

The amendments are minor in nature. There will be no additional costs to Government to implement these consequential amendments.

State Penalties Enforcement Regulation 2000 amendment

Implementing the Regulation will increase the cut-out rate to \$113.85 following a corresponding increase in the penalty unit value under the *Penalties and Sentences Regulation 2005*. It will not result in an increase in costs for Government as the administration of the cut-out rate will remain subject to existing processes, systems and staffing.

Prescription of the functions that may be delegated by the Registrar under a service contract will facilitate implementation of a new service delivery framework for the State Penalties Enforcement Registry.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

Fees under the *Duties Regulation 2013, Land Tax Regulation 2010, Mineral Resources Regulation 2013, Petroleum and Gas (Production and Safety) Regulation 2004 and State Penalties Enforcement Regulation 2000.*

The Office of Best Practice Regulation (OBPR), Queensland Competition Authority, was consulted regarding the need to prepare a Regulatory Impact Statement (RIS). As the Regulation proposes standard annual fee variations in line with a Government endorsed indexation factor, OBPR advised the amendments are excluded from the RIS system.

All fees administered by OSR under the *Duties Regulation 2013, Land Tax Regulation 2010, Mineral Resources Regulation 2013, Petroleum and Gas (Production and Safety) Regulation 2004 and State Penalties Enforcement Regulation 2000* are increased by a rate of 3.5% per annum in accordance with current Government policy. Therefore, consultation was considered unnecessary.

First Home Owner Grant Regulation 2010 amendment

OBPR was consulted regarding the need to prepare a RIS. Due to the nature of the amendment, OBPR advised it is excluded from the RIS system as it falls within the exclusion category of providing for a financial grant for the purchase or construction of a home (excluding administration of the grant).

Mineral Resources Regulation 2013, Petroleum and Gas (Production and Safety) Regulation 2004 and State Penalties Enforcement Regulation 2000 amendments

OBPR was consulted regarding the need to prepare a RIS. OBPR advised that a RIS is not required as the amendments will not impose a significant adverse impact on community, business or government. A Preliminary Impact Assessment has been prepared.