

Property Law (Prescribed Exemption) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 80

Made under the

Property Law Act 1974

General Outline

Short Title

This regulation may be cited as the *Property Law (Prescribed Exemption) Amendment Regulation 2018*

Authorising law

Sections 57A and 351 of the *Property Law Act 1974* (PLA)

Policy objectives and the reasons for them

The policy objective of the *Property Law (Prescribed Exemption) Amendment Regulation 2018* (Amendment Regulation) is to ensure the effective operation of section 6 of the *Housing Regulation 2015* (Housing Regulation) following the commencement of amendments to section 57A of the PLA as it applies to subordinate legislation.

Section 57A(1) of the PLA provides that a statutory instrument, other than prescribed subordinate legislation (as defined in section 57A(3)), does not and cannot render void or unenforceable any contract or dealing concerning property that is made, entered into or effected contrary to the statutory instrument; or for a contract for the sale of land, give a party to the contract a right to terminate the contract for a failure by another party to the contract to comply with the statutory instrument.

Section 6 of the Housing Regulation provides that where a term of a funding agreement is inconsistent with a provision in part 2 of the Housing Regulation, the provision of the Housing Regulation prevails, and the term of the funding agreement is void to the extent of the inconsistency.

The Amendment Regulation prescribes section 6 of the Housing Regulation for the purposes of section 57A(3) of the PLA to ensure that section 57A(1) will not prevent section 6 of the Housing Regulation from having its intended effect in relation to a funding agreement that is a contract or dealing concerning property.

Achievement of policy objectives

To achieve the policy objective, the Amendment Regulation provides for section 6 of the Housing Regulation to be prescribed subordinate legislation within the meaning of section 57A of the PLA.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objective of section 57A of the PLA which is to promote business certainty by limiting the circumstances in which a contract or dealing concerning property can be rendered void, unenforceable or terminable for failure to comply with a statutory instrument.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation ensures that section 6 of the Housing Regulation is not prevented from having its intended effect. There is no implementation cost for the amendment regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The Department of Justice and Attorney-General has self-assessed the regulatory proposal to be excluded from further regulatory impact analysis under exclusion category (g) of the Queensland Government Guide to Better Regulation, as no substantive policy change is proposed and the regulatory proposal is of a machinery nature.