

# Land Tax Regulation 2021

Explanatory notes for SL 2021 No. 19

made under the

*Land Tax Act 2010*

## General Outline

### Short title

*Land Tax Regulation 2021*

### Authorising law

Sections 53, 63, 72 and 85 of the *Land Tax Act 2010*

### Policy objectives and the reasons for them

The *Land Tax Regulation 2010* provides for particular administrative matters which are necessary for the proper administration of the *Land Tax Act 2010*. Specifically, it prescribes primary production activities for the purposes of the primary production exemption, the ways to apply for a land tax clearance certificate and the associated fees, and matters relating to elections by taxpayers to pay land tax by instalments.

The *Land Tax Regulation 2010* was due to expire on 1 September 2020, in accordance with section 54 of the *Statutory Instruments Act 1992*, which provides for the automatic expiry of subordinate legislation on 1 September first occurring after the 10<sup>th</sup> anniversary of the day of its making. However, the *Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2020*, which commenced at the end of the day on 31 August 2020, provides that the *Land Tax Regulation 2010* is exempt from expiry until 31 August 2021 on the grounds that it is being replaced.

The Office of State Revenue conducted a sunset review of the *Land Tax Regulation 2010* in accordance with *The Queensland Government Guide to Better Regulation*. The sunset review confirmed that the provisions of the *Land Tax Regulation 2010* are still necessary and appropriate for the proper administration of land tax under the *Land Tax Act 2010*, and identified that a change is necessary to update the ways for applying for a clearance certificate to ensure it remains current. Therefore, the *Land Tax Regulation 2010* is to be remade as the *Land Tax Regulation 2021*, with this change relating to the clearance certificate application process, along with minor changes necessary to facilitate the remake.

## Achievement of policy objectives

Under the *Land Tax Act 2010*, land tax is imposed on owners of freehold land as at midnight on 30 June each year. Owners are liable for land tax once the total value of their taxable land exceeds the tax-free threshold. Land tax is payable at the rates set out in the *Land Tax Act 2010*, which differ depending on the taxable value of the land and whether the owner is a company, trustee, absentee or an individual other than an absentee.

The *Land Tax Act 2010* authorises regulations to be made with respect to particular matters, including -

- Primary production activities for the purposes of the primary production exemption. This exemption is available to particular types of owners for land, or a part of land that is used solely for the business of primary production but only if the land, or the part of land, is used for an activity prescribed by regulation that is carried on for the business.
- Ways to apply to the Commissioner of State Revenue (Commissioner) for a clearance certificate which states the amount of any unpaid land tax on land along with any security held on land. Unpaid land tax is generally recoverable from the owner of land for the time being as a debt, unless the tax was imposed before the owner purchased the land and the owner obtained a clearance certificate stating that, at the time of purchase, there was no unpaid land tax on the land.
- The period and documents required for taxpayers to elect to pay land tax by instalments, as an alternative to paying the full amount of land tax in a lump-sum.

Additionally, the *Land Tax Act 2010* contains a general regulation making power, which authorises regulations to be made with respect to particular matters, including fees payable.

The *Land Tax Regulation 2010* provides for matters authorised under the regulation making heads of power identified above. The *Land Tax Regulation 2021* remakes the provisions of the *Land Tax Regulation 2010*, to prescribe:

- primary production activities for the purposes of the primary production exemption;
- the ways to apply to the Commissioner for a clearance certificate and the associated fees; and
- the period and documents required to elect to pay land tax by instalments.

Unlike the *Land Tax Regulation 2010* which permitted written applications for clearance certificates to be made by mail or at particular offices of the department or State Government, the *Land Tax Regulation 2021* provides that written applications for a clearance certificate may only be made by mail, as counter services are no longer offered for land tax. This change ensures the *Land Tax Regulation 2021* contains current application methods.

## Consistency with policy objectives of authorising law

The *Land Tax Regulation 2021* is consistent with the policy objectives of the *Land Tax Act 2010*, to impose land tax on owners of freehold land. Additionally, the *Land Tax Act 2010* authorises the making of regulations with respect to matters included in the *Land Tax Regulation 2021*.

## **Inconsistency with policy objectives of other legislation**

The *Land Tax Regulation 2021* is not inconsistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

An alternative way of achieving the policy objectives is to let the *Land Tax Regulation 2010* expire and enact its provisions in the *Land Tax Act 2010*. This was not adopted as the provisions are of an administrative nature which are more appropriately contained in a regulation.

## **Benefits and costs of implementation**

The *Land Tax Regulation 2021* supports the proper operation of the *Land Tax Act 2010*. The provisions contained in the *Land Tax Regulation 2021* are necessary for the administration and payment of land tax under the *Land Tax Act 2010*.

The *Land Tax Regulation 2021* remakes the *Land Tax Regulation 2010*, with the change relating to the clearance certificate application process, along with minor changes necessary to facilitate the remake. Accordingly, implementation costs for Government are not expected to be significant and can be met within existing allocations.

## **Consistency with fundamental legislative principles**

The *Land Tax Regulation 2021* is consistent with fundamental legislative principles. Its provisions are consistent with the objectives of, and are within the scope of the regulation making power in, the *Land Tax Act 2010*.

## **Consultation**

The Office of Best Practice Regulation, Queensland Productivity Commission, was consulted on the sunset review of the *Land Tax Regulation 2010*. They noted that it is of an administrative nature with minimal likely adverse impacts, continues to be required to support the operation of the *Land Tax Act 2010* and they did not identify any significant issues. Accordingly, they advised that no further regulatory impact analysis was required under the *Queensland Government Guide to Better Regulation*.