

Proclamation—Queensland Future Fund (Titles Registry) Act 2021

Explanatory notes for SL 2021 No. 61

made under the

Queensland Future Fund (Titles Registry) Act 2021

General Outline

Short title

Proclamation commencing certain sections of the *Queensland Future Fund (Titles Registry) Act 2021*

Authorising law

Section 2 of the *Queensland Future Fund (Titles Registry) Act 2021*

Policy objectives and the reasons for them

Section 2(5) of the *Queensland Future Fund (Titles Registry) Act 2021* (the Act) provides for the commencement of provisions that did not commence on assent, or on a fixed date, to commence on a day to be fixed by proclamation.

On assent, chapter 1, parts 1 and 4; chapter 1, part 18, division 1, heading; sections 141 and 143; and schedule 2 of the Act commenced.

The objective of the Proclamation is to commence:

- on 18 June 2021 at 11.59p.m.—the provisions of the Act that are not in force and not otherwise commenced under section 2(2) to (4) of the Act or this Proclamation; and
- on 1 January 2022—section 142.

Chapter 1 of the Act and associated schedules 1, 2 and 3 address specific matters linked to the transfer of the assets, liabilities and operations of the Titles Registry (Registry) to a newly incorporated State-owned company, Queensland Titles Registry Pty Ltd ACN 648 568 101 (Registry Co), which will be contributed to the Queensland Future (Debt Retirement) Fund.

Part 2 of chapter 1 declares Registry Co to be the operator for the Act and specifies its functions as follows:

- to perform titles registry functions delegated to the operator under a titles registry Act¹;
- to decide, collect and keep titles registry amounts²;
- to act as the agent for the State or an official³ under an arrangement under section 46;
- to identify and pursue commercial arrangements that are not inconsistent with a function mentioned in the preceding three dot points.⁴

Section 9 sets out requirements for the operator's constitution. Section 10 requires the operator to keep a register of subdelegations by the operator of a titles registry function delegated to the operator under a titles registry Act.

Part 3 of chapter 1 entitles the operator to collect and keep titles registry amounts⁵. Part 3 also provides for the revocation of delegations and the effect of the revocation on titles registry fees and other amounts. Schedule 1 of the Bill sets out titles registry fees for sections 12 and 17 of the Act.

Part 4 of chapter 1 of the Act allows the Minister, by the gazette notice, to transfer shares and business assets of the State to the operator, and to transfer shares in the operator to a stated entity.

Part 5 of chapter 1 enables the transfer of eligible employees of the Registry to the operator.

Part 6 of chapter 1 provides for the performance of titles registry functions of an official delegated to the operator. Section 30 allows the operator to act under the title of the official. The part also sets out the role of the official and the operator. The official will have the role of monitoring and reviewing performance of the operator's function in a way and to the extent the official considers appropriate. The operator will be responsible for ensuring that the titles registry function is properly exercised by its subdelegates.

Part 6 also authorises an official to issue directions to the operator, and the Minister⁶ to appoint an administrator to act in place of the operator, in certain circumstances.

¹ Schedule 2 defines 'titles registry Act' to mean an Act that: (a) authorises or requires something to be deposited, lodged, noted, recorded, or registered in the land registry or water allocations register; or (b) confers a function on an official.

² Section 11 provides that each of the following is a titles registry amount: (a) titles registry fees; and (b) fees and charges applying under an agreement under the *Land Act 1994* (section 285A) or the *Land Title Act* (section 198A).

³ Schedule 2 defines 'official' to mean the registrar of titles or the registrar of water allocations.

⁴ Section 8(1).

⁵ Section 11.

⁶ The Minister administering the *Land Title Act 1994*.

Finally, part 6 also provides for:

- information about the operator's performance of titles registry functions to be included in the annual report of the Department where the *Land Title Act 1994* is administered; and
- limitation of review under the *Judicial Review Act 1991*.

Part 7 of chapter 1 concerns the operation of other laws. Section 41 applies the following Acts to the operator to the extent the operator is performing a titles registry function:

- *Crime and Corruption Act 2001*;
- *Information Privacy Act 2009*;
- *Public Records Act 2002*;
- *Right to Information Act 2009*.

The *Human Rights Act 2019* will also apply to the operator to the extent the operator is performing a titles registry function or another function of a public nature under section 10 of that Act. Section 42 declares section 38, 39, 40(4) and 40A(5) of the *Crime and Corruption Act 2001* to be Corporations legislation displacement provisions for the *Corporations Act 2001*, section 5G in relation to section 1317AAE of the Corporations Act.

Part 8 of chapter 1 provides for exchange of information between the operator and an official, the operator's duty to disclose information to an official, protection from civil liability, agency arrangements and the Governor in Council's regulation-making power.

Part 9 of chapter 1 repeals the *Foreign Owner of Land Register Regulation 2013* and the *Land Regulation 2015* and provides for transitional arrangements in relation to fees and a transitional regulation-making power.

Parts 10 to 17 of chapter 1 and schedule 3 amend various Acts and regulations to: vest titles registry functions directly on the registrar of titles, allow for the delegation of functions from an official to the operator, authorise an official to approve forms, make consequential amendments in relation to fees and forms, and provide for transitional provisions.

The specific timing of the Proclamation to commence the relevant chapter, sections and schedules of the Act is necessary as it is intended that a series of sequential steps will immediately follow. Those steps include:

- the transfer of assets, instruments and liabilities by transfer notice under section 20 of the Act; and
- the making of a direction under section 10 of the *Queensland Future Fund Act 2020*.

Achievement of policy objectives

Commencing the provisions referred to above will enable the transfer of the operations of the Registry to the operator and support the State's contribution to the Debt Retirement Fund. From commencement, the operator will carry out relevant functions of the Registry via delegations from the registrar of titles and the registrar of water allocations.

Consistency with policy objectives of authorising law

The Proclamation is consistent with the objectives of the Act.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by making the Proclamation.

Benefits and costs of implementation

As outlined in the Explanatory Notes to the Act, the costs to the government associated with retaining financial, commercial, legal and probity advisors as part of the due diligence of the Registry (in anticipation of the transfer of titles registry functions to the operator) were funded by the Queensland Investment Corporation (QIC).

Consistency with fundamental legislative principles

The Proclamation is consistent with fundamental legislative principles.

Consultation

Targeted stakeholder consultation was undertaken in the development of the *Queensland Future Fund (Titles Registry) Act 2021*.

The former Office of Best Practice Regulation, Queensland Productivity Commission,⁷ was not consulted. In accordance with *The Queensland Government Guide to Better Regulation*, the Proclamation, has been assessed as excluded from further regulatory impact analysis as it falls within the agency-assessed exclusion category (g)—*Regulatory proposals of a machinery nature*.

⁷ Now within Queensland Treasury.