



Queensland

# Housing Legislation Amendment Bill 2005





## Queensland

# Housing Legislation Amendment Bill 2005

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**2005**

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**A Bill**

for

***An Act to amend the *Housing Act 2003* and the *Housing (Freeholding of Land) Act 1957****

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Housing Legislation Amendment Act 2005*. 4  
5

**Clause 2 Commencement** 6

This Act commences on 1 July 2006. 7

**Part 2 Amendment of Housing Act 2003** 8  
9

**Clause 3 Act amended in pt 2** 10

This part amends the *Housing Act 2003*. 11

**Clause 4 Amendment of s 113 (Chief executive's power to sell houses to eligible persons)** 12  
13

(1) Section 113(1AB) and (6) to (6J)— 14  
*omit.* 15

(2) Section 113(1A), 'to (1AB)'— 16  
*omit, insert—* 17  
'and (1AA)'. 18

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<b>Clause 5</b>	<b>Amendment of s 134 (Other lease under the repealed Act, s 24)</b>	1 2
	Section 134—	3
	<i>insert—</i>	4
	‘(4) However, the <i>Land Act 1994</i> , chapter 4, part 3, division 3, <sup>1</sup> does not apply for converting the lease to freehold land.	5 6
	‘(5) The <i>Housing (Freeholding of Land) Act 1957</i> , part 2, <sup>2</sup> applies for converting the lease to freehold land.	7 8
	‘(6) For subsection (3), a reference in the <i>Land Act 1994</i> to the Minister is taken to be a reference to the Minister administering this Act.’.	9 10 11
 <b>Clause 6</b>	 <b>Amendment of s 135 (Sale, lease or arrangements under the repealed Act, s 24A)</b>	 12 13
	Section 135—	14
	<i>insert—</i>	15
	‘(4) On 1 July 2006, this section stops applying to a lease.’ <sup>3</sup> .	16
 <b>Clause 7</b>	 <b>Replacement of s 150 (Land Act 1994 applies to deed of grant)</b>	 17 18
	Section 150—	19
	<i>omit, insert—</i>	20
	<b>‘150 Deed of grant to be issued under Land Act 1994</b>	21
	‘A deed of grant required under this Act to be issued must be issued under the <i>Land Act 1994</i> .’.	22 23
 <b>Clause 8</b>	 <b>Insertion of new pt 10, div 6</b>	 24
	Part 10—	25
	<i>insert—</i>	26

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1 *Land Act 1994*, chapter 4 (Land holdings), part 3 (Leases), division 3 (Conversion of tenure)

2 *Housing (Freeholding of Land) Act 1957*, part 2 (Homes and home sites)

3 See section 154 (Lease under the repealed Act, s 24A).

<b>‘Division 6</b>	<b>Transitional provisions for Housing Legislation Amendment Act 2005</b>	1
		2
<b>‘153</b>	<b>Lease under s 113</b>	3
‘(1)	This section applies to a lease granted under section 113 <sup>4</sup> that was in force immediately before 1 July 2006.	4 5
‘(2)	Section 113 continues to apply to the lease while the lease is in force.	6 7
‘(3)	The lease is taken to be a perpetual lease for residential purposes under the <i>Land Act 1994</i> .	8 9
‘(4)	However, the <i>Land Act 1994</i> , chapter 4, part 3, division 3, <sup>5</sup> does not apply for converting the lease to freehold land.	10 11
‘(5)	The <i>Housing (Freeholding of Land) Act 1957</i> , part 2, <sup>6</sup> applies for converting the lease to freehold land.	12 13
‘(6)	For subsection (3), a reference in the <i>Land Act 1994</i> to the Minister is taken to be a reference to the Minister administering this Act.	14 15 16
<b>‘154</b>	<b>Lease under the repealed Act, s 24A</b>	17
‘(1)	This section applies to a lease granted under the repealed Act, section 24A, <sup>7</sup> that was in force immediately before 1 July 2006.	18 19 20
‘(2)	The lease is taken to be a perpetual lease for residential purposes under the <i>Land Act 1994</i> .	21 22
‘(3)	However, the <i>Land Act 1994</i> , chapter 4, part 3, division 3 does not apply for converting the lease to freehold land.	23 24
‘(4)	The <i>Housing (Freeholding of Land) Act 1957</i> , part 2, applies for converting the lease to freehold land.	25 26

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4 Section 113 (Chief executive’s power to sell houses to eligible persons)

5 *Land Act 1994*, chapter 4 (Land holdings), part 3 (Leases), division 3 (Conversion of tenure)

6 *Housing (Freeholding of Land) Act 1957*, part 2 (Homes and home sites)

7 Repealed Act, section 24A (Power of commission to provide home sites)

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‘(5) For subsection (2), a reference in the *Land Act 1994* to the Minister is taken to be a reference to the Minister administering this Act. 1  
2  
3

**‘155 Delegation by Minister of powers under Land Act 1994 4  
5**

‘(1) The Minister may delegate the Minister’s powers under a prescribed provision to the chief executive or to an officer or employee of the department. 6  
7  
8

‘(2) In this section— 9

*prescribed provision* means a provision of the *Land Act 1994* that, under any of the following, applies to a lease— 10  
11

(a) section 133, 134, 153 or 154;<sup>8</sup> 12

(b) the *Housing (Freeholding of Land) Act 1957*, section 10J or 11.<sup>9</sup>. 13  
14

**Part 3 Amendment of Housing (Freeholding Of Land) Act 1957 15  
16**

**Clause 9 Act amended in pt 3 and schedule 17**

This part and the schedule amend the *Housing (Freeholding of Land) Act 1957*. 18  
19

**Clause 10 Insertion of new s 2 20**

Part 1— 21

*insert*— 22

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8 Section 133 (Freeholding lease under the repealed Act, s 24), 134 (Other lease under the repealed Act, s 24), 153 (Lease under s 113) or 154 (Lease under the repealed Act, s 24A)

9 *Housing (Freeholding of Land) Act 1957*, section 10J (Application of Land Act 1994 to freeholding leases) or 11 (Continued application of previous pt 2, div 1 for freeholding leases)

<b>'2</b>	<b>Dictionary</b>	1
	'The dictionary in schedule 2 defines particular words used in this Act.'	2 3
<b>Clause 11</b>	<b>Omission of pt 2, hdg (Provision for the freeholding of certain leaseholds held under the Housing Act 2003)</b>	4 5
	Part 2, heading—	6
	<i>omit.</i>	7
<b>Clause 12</b>	<b>Amendment of s 3 (Interpretation)</b>	8
	(1) Section 3, heading—	9
	<i>omit, insert—</i>	10
<b>'3</b>	<b>Act to be read with Housing Act 2003'</b>	11
	(2) Section 3, 'This part'—	12
	<i>omit, insert—</i>	13
	'This Act'.	14
<b>Clause 13</b>	<b>Omission of pt 2, div 1 (Homes and home sites) and pt 2, div 2, hdg (Industrial, trading and business sites)</b>	15 16
	Part 2, division 1 and part 2, division 2, heading—	17
	<i>omit.</i>	18
<b>Clause 14</b>	<b>Insertion of new pt 2 and pt 3, hdg</b>	19
	After section 3—	20
	<i>insert—</i>	21
<b>'Part 2</b>	<b>Homes and home sites</b>	22
<b>'Division 1</b>	<b>Preliminary</b>	23
<b>'3A</b>	<b>Declared percentage</b>	24
	(1) The chief executive must declare, by publishing a notice in a newspaper circulating throughout the State, the percentage	25 26

	(the <i>declared percentage</i> ) of the unimproved value amount of a residential lease that must be used—	1 2
	(a) to work out the purchase price for converting a residential lease to freehold land under division 2, subdivision 1; <sup>10</sup> or	3 4 5
	(b) to work out the conversion cost for an unconverted lease under division 3. <sup>11</sup>	6 7
	‘(2) The declared percentage—	8
	(a) must not be more than 100%; and	9
	(b) must be worked out in accordance with the requirements for working out the declared percentage prescribed under a regulation.	10 11 12
<b>‘Division 2</b>	<b>Voluntary conversion of residential leases to freehold land</b>	13 14
<b>‘Subdivision 1</b>	<b>Residential leases other than conversion in progress leases</b>	15 16
<b>‘3B</b>	<b>Application of sdiv 1</b>	17
	‘Subject to subdivision 2, this subdivision does not apply to a conversion in progress lease.	18 19
<b>‘3C</b>	<b>Lessee’s application to convert residential lease</b>	20
	‘The lessee of a residential lease may, at any time, make a written application (a <i>conversion application</i> ) to the chief executive to convert the lease to freehold land.	21 22 23
<b>‘4</b>	<b>Chief executive’s offer to convert</b>	24
	‘(1) If the chief executive receives a conversion application, the chief executive must, as soon as practicable—	25 26

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10 See section 4A (Purchase price).

11 See section 6 (Definitions for div 3), definition *conversion cost*.

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(a)	work out the purchase price for converting the residential lease to freehold land; and	1 2
(b)	give the lessee a written notice (an <i>offer to convert</i> ) stating each of the following—	3 4
(i)	the purchase price;	5
(ii)	the period (the <i>availability period</i> ) during which the lessee may accept the offer to convert;	6 7
(iii)	the day (the <i>effective day</i> ) the lessee’s requirement to comply with the lease ends if the offer is accepted during the availability period;	8 9 10
(iv)	if the offer is subject to conditions under subsection (3)—the conditions.	11 12
‘(2)	The offer to convert may state more than 1 purchase price for different effective days.	13 14
‘(3)	The chief executive may make an offer to convert subject to any relevant condition stated in the offer, including, for example, the following conditions—	15 16 17
(a)	that fees for converting the lease to freehold land, including, for example, fees prescribed under the <i>Land Act 1994</i> or the <i>Land Title Act 1994</i> , be paid by the lessee;	18 19 20 21
(b)	that any costs reasonably incurred by the chief executive in converting the lease to freehold land be paid by the lessee.	22 23 24
‘(4)	The chief executive may also give the lessee of a residential lease an offer to convert on the chief executive’s own initiative if the lessee has not made a conversion application.	25 26 27
<b>‘4A</b>	<b>Purchase price</b>	28
‘(1)	The purchase price for converting a residential lease to freehold land under this subdivision is the amount equal to the difference between—	29 30 31
(a)	the declared percentage of the unimproved value amount of the lease; and	32 33

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(b) the amount of any concession prescribed under a regulation that applies for the conversion.	1 2
‘(2) However, the chief executive may adjust the purchase price to account for arrears of rent, or credits for rent, payable by or to the lessee under the lease.	3 4 5
‘(3) A regulation made under subsection (1)(b) may prescribe a concession that applies in different amounts for converting different residential leases, or different types of residential leases, to freehold land.	6 7 8 9
<i>Example—</i>	10
A concession might apply in different amounts depending on how long a lessee has held a residential lease.	11 12
<b>‘4B Acceptance of offer to convert</b>	13
‘(1) The lessee of a residential lease may accept an offer to convert during the availability period for the offer.	14 15
‘(2) The lessee must accept the offer to convert by—	16
(a) paying the purchase price to the chief executive; and	17
(b) giving the chief executive all documents required to surrender the lease; and	18 19
(c) complying with the conditions stated in the offer.	20
‘(3) If the lessee does not accept the offer to convert within the availability period—	21 22
(a) the offer lapses at the end of the period; and	23
(b) subject to division 3, a subsequent conversion application or offer to convert may be made in relation to the lease.	24 25 26
<b>‘4C How conversion takes effect</b>	27
‘(1) If the lessee of a residential lease accepts an offer to convert—	28
(a) on the relevant effective day, the land is taken to be unallocated State land; and	29 30
(b) the Governor in Council must issue a deed of grant to the lessee for the land contained in the lease.	31 32

‘(2)	The deed of grant issued under subsection (1)(b) is issued subject to all of the interests to which the lease was subject immediately before its surrender and in the same priorities.	1 2 3
‘(3)	In this section—	4
	<i>relevant effective day</i> means—	5
(a)	if the offer to convert stated more than 1 purchase price for different effective days—the effective day to which the purchase price paid by the lessee applies; or	6 7 8
(b)	otherwise—the effective day stated in the offer.	9
<b>‘Subdivision 2</b>	<b>Conversion in progress leases</b>	10
<b>‘5</b>	<b>Application of sdiv 2</b>	11
	‘This subdivision applies for a conversion in progress lease.	12
<b>‘5A</b>	<b>Purchase price</b>	13
‘(1)	This section applies if the lessee of the lease was not given notice of the purchasing price for the land contained in the lease under previous section 5(4) before 1 July 2006.	14 15 16
‘(2)	The purchase price for converting the lease to freehold land under this subdivision must be worked out by the chief executive under previous sections 5(1) and (1A) and 5A. <sup>12</sup>	17 18 19
‘(3)	For subsection (2)—	20
(a)	previous sections 5(1), (1A) and (5) and 5A continue to apply, with any necessary changes, as if they had not been repealed; and	21 22 23
(b)	a reference in previous section 5A to the notice given to the lessee under previous section 5(4) is taken to be a reference to the offer to convert given to the lessee under this section.	24 25 26 27

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12 Previous sections 5 (Purchasing price) and 5A (Notification of rental credit)

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- ‘(4) As soon as practicable after the purchase price is worked out, the chief executive must give the lessee an offer to convert under section 4. 1  
2  
3
- ‘(5) The availability period stated in the offer to convert must be 3 months from the day the offer is given to the lessee. 4  
5

**‘5B Acceptance and payment of purchase price 6**

- ‘(1) The lessee of the lease may accept the purchase price stated in the relevant price notice during the availability period by giving written notice (the *acceptance notice*) to the chief executive of the lessee’s acceptance. 7  
8  
9  
10
- ‘(2) Immediately after the chief executive receives the acceptance notice, the chief executive must give the lessee a written acknowledgement stating the day the chief executive received the notice. 11  
12  
13  
14
- ‘(3) If the lessee accepts the purchase price during the availability period, the lessee must, within 30 days after the chief executive receives the lessee’s acceptance notice— 15  
16  
17
- (a) pay the purchase price to the chief executive; and 18
- (b) give the chief executive all documents required to surrender the lease; and 19  
20
- (c) comply with the conditions stated in the relevant price notice. 21  
22
- ‘(4) If the lessee complies with subsection (3), section 4C applies in relation to the lease as if the lessee had accepted an offer to convert under subdivision 1. 23  
24  
25
- ‘(5) For subsection (4), if the lessee is an existing notice lessee, a reference in section 4C to the relevant effective day is taken to be a reference to the first day of the first month starting after the 30 day period ends. 26  
27  
28  
29
- Example—* 30
- If the 30 day period ended on 5 March, the relevant effective day would be 1 April. 31  
32
- ‘(6) If the lessee does not accept the purchase price during the availability period, the lease— 33  
34
- (a) is no longer a conversion in progress lease; and 35

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- (b) subject to division 3, may be converted to freehold land under subdivision 1. 1  
2
- ‘(7) If the lessee accepts the purchase price during the availability period but does not comply with subsection (3)— 3  
4
- (a) the purchase price lapses at the end of the 30 day period; 5  
and 6
- (b) the lease— 7
- (i) is no longer a conversion in progress lease; and 8
- (ii) subject to division 3, may be converted to freehold land under subdivision 1. 9  
10
- ‘(8) In this section— 11
- availability period*** means— 12
- (a) if the lessee is an existing notice lessee—3 months after the relevant price notice was given to the lessee; or 13  
14
- (b) otherwise—the availability period stated in the offer to convert given to the lessee under section 5A. 15  
16
- existing notice lessee*** means a lessee who was given notice of the purchasing price for the land contained in the lease under previous section 5(4). 17  
18  
19
- relevant price notice*** means— 20
- (a) if the lessee is an existing notice lessee—the notice given to the lessee under previous section 5(4); or 21  
22
- (b) if the lessee was given an offer to convert under section 5A—the offer. 23  
24

<b>‘Division 3</b>	<b>Automatic conversion of residential leases to freehold land</b>	1 2
<b>‘Subdivision 1</b>	<b>Preliminary</b>	3
<b>‘5C</b>	<b>Application of div 3</b>	4
‘(1)	This division does not apply to a residential lease until a day (the <i>application day</i> ) prescribed under a regulation.	5 6
‘(2)	The application day must not be earlier than 1 July 2009.	7
<b>‘6</b>	<b>Definitions for div 3</b>	8
	‘In this division—	9
	<i>beneficiary</i> , in relation to a deceased lessee of an unconverted lease, means a person beneficially entitled to the lessee’s ownership of the unconverted lease.	10 11 12
	<i>conversion cost</i> , for an unconverted lease, means the total of the following amounts—	13 14
	(a) the amount equivalent to the declared percentage of the unimproved value amount of the lease;	15 16
	(b) any fees prescribed, at the time the lease is cancelled under this division, under the <i>Land Act 1994</i> or the <i>Land Title Act 1994</i> for the issue of a deed of grant for the land contained in the lease;	17 18 19 20
	(c) the costs reasonably incurred by the chief executive in converting the lease to freehold land.	21 22
	<i>register</i> a document, an interest, land or something else, means to record the particulars of the thing in the appropriate register under the <i>Land Act 1994</i> or the <i>Land Title Act 1994</i> .	23 24 25
	<i>registered owner</i> , of land in a deed of grant issued under this division, means the person recorded in the freehold land register as the registered owner of the land.	26 27 28
	<i>unconverted lease</i> means a residential lease in force immediately before the application day.	29 30

<b>‘6A</b>	<b>Meaning of <i>prescribed change of ownership</i></b>	1
	‘A <i>prescribed change of ownership</i> of an unconverted lease is	2
	a change in the lessee’s ownership of the lease registered on or	3
	after the application day, other than any of the following—	4
	(a) for an unconverted lease held by joint tenants, if 1 or	5
	more of the joint tenants die—the recording of the	6
	surviving joint tenant or tenants as the lessee for the	7
	lease;	8
	(b) for an unconverted lease held by a lessee who dies—a	9
	transmission of the lease to the lessee’s personal	10
	representative;	11
	(c) for an unconverted lease held by a person who becomes	12
	an insolvent under administration within the meaning of	13
	the Corporations Act, section 9—a transmission of the	14
	lease—	15
	(i) to the person’s trustee; or	16
	(ii) if the person ceases to be an insolvent under	17
	administration—from the person’s trustee to the	18
	person;	19
	(d) another change in the lessee’s ownership of a type	20
	prescribed under a regulation.	21
<b>‘Subdivision 2</b>	<b>Process for automatic conversion of</b>	22
	<b>residential leases to freehold land</b>	23
<b>‘6B</b>	<b>Cancellation of lease on registration of transfer</b>	24
	‘(1) This section applies if a prescribed change of ownership of an	25
	unconverted lease is registered.	26
	‘(2) On registration of the change of ownership (the <i>converting</i>	27
	<i>change of ownership</i> ), the lease is cancelled.	28
	‘(3) The Governor in Council must issue a deed of grant to the	29
	lessee for the land contained in the lease.	30
	‘(4) The deed of grant is issued subject to all the following	31
	interests—	32

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(a) if section 7(2) applies to the deed—the chief executive’s charge;	1 2
(b) all of the interests to which the lease was subject.	3
‘(5) The order of priority of the interests is—	4
(a) firstly, the chief executive’s charge; and	5
(b) secondly, the interests mentioned in subsection (4)(b) in the order in which they would have had priority had the lease not been cancelled.	6 7 8
‘(6) If there is an unregistered document in relation to the cancelled lease, the document must be relogged by the registrar, for the person who lodged the document, against the deed of grant.	9 10 11 12
‘(7) As soon as practicable after the lease is cancelled, the registrar must—	13 14
(a) record the cancellation; and	15
(b) advise the chief executive of the cancellation.	16
‘(8) No fee is payable for recording the cancellation of the lease.	17
‘(9) In this section—	18
<i>unregistered document</i> means a document that—	19
(a) has been lodged under the <i>Land Act 1994</i> but is not registered; and	20 21
(b) has not been rejected.	22
‘6C <b>Conversion cost may be paid before issue of deed of grant</b>	23 24
‘The lessee of an unconverted lease may pay the conversion cost for the lease to the chief executive before a deed of grant is issued under section 6B(3) for the land contained in the lease.	25 26 27 28
‘7 <b>Creation of chief executive’s charge</b>	29
‘(1) This section applies if the conversion cost for an unconverted lease is not paid to the chief executive before a deed of grant is issued under section 6B(3) for the land contained in the lease.	30 31 32

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- ‘(2) The deed of grant is subject to a charge (the *chief executive’s charge*) in favour of the chief executive securing payment of the conversion cost. 1  
2  
3
- ‘(3) The charge is binding on the registered owner to whom the deed of grant is issued and the registered owner’s successors in title. 4  
5  
6
- ‘(4) The chief executive must, when the deed of grant is lodged with the registrar of titles, give written notice to the registrar stating— 7  
8  
9
- (a) the conversion cost for the lease; and 10
- (b) the last day of the payment period for the deed of grant. 11
- ‘(5) The registrar of titles must— 12
- (a) record the chief executive’s charge in the freehold land register; and 13  
14
- (b) while the charge is recorded in the freehold land register, keep a record of the information given to the registrar under subsection (4). 15  
16  
17
- ‘(6) No fee is payable for recording the chief executive’s charge in the freehold land register. 18  
19
- ‘(7) For the *Local Government Act 1993*, section 1057,<sup>13</sup> the chief executive’s charge is an encumbrance conferring rights on the State. 20  
21  
22
- ‘7A Requirement to pay conversion cost 23**
- ‘(1) If a deed of grant is issued subject to the chief executive’s charge, the registered owner of the land in the deed of grant must pay the conversion cost for the unconverted lease to the chief executive within the period stated in subsection (2). 24  
25  
26  
27
- ‘(2) The period (the *payment period*) is— 28
- (a) if the lessee of the unconverted lease died and the converting change of ownership was a transmission or transfer to a beneficiary in relation to the deceased lessee—the period provided for under section 7B; or 29  
30  
31  
32

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13 *Local Government Act 1993*, section 1057 (Priority of State debts preserved)

	(b) otherwise—2 years from the day the converting change of ownership is registered.	1 2
<b>‘7B</b>	<b>Payment period—deceased lessee</b>	3
	‘(1) For section 7A(2)(a), the payment period is 5 years from the day of the lessee’s death.	4 5
	‘(2) However, if the beneficiary to whom the unconverted lease was transferred transfers the land in the deed of grant to a non-beneficiary during the 5 year period, the payment period is the earliest of the following periods to end—	6 7 8 9
	(a) 5 years from the day of the lessee’s death;	10
	(b) 2 years from the day the transfer from the beneficiary to the non-beneficiary is registered.	11 12
	‘(3) In this section—	13
	<i>non-beneficiary</i> means a person who is not a beneficiary in relation to the deceased lessee.	14 15
<b>‘7C</b>	<b>Enforcement of chief executive’s charge—notice of intention to sell land</b>	16 17
	‘(1) This section applies if—	18
	(a) a deed of grant is issued subject to the chief executive’s charge; and	19 20
	(b) the registered owner of the land in the deed of grant does not pay the total amount of the conversion cost to the chief executive during the payment period; and	21 22 23
	(c) the chief executive decides to sell the land.	24
	‘(2) The chief executive must give written notice (a <i>notice of intention to sell</i> ) stating the matters mentioned in subsection (3) to—	25 26 27
	(a) the registered owner of the land; and	28
	(b) each mortgagee of the land.	29
	‘(3) The matters are each of the following—	30
	(a) the day the payment period ended;	31

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- (b) the amount of the unpaid conversion cost; 1
- (c) that the chief executive may sell the land if the 2  
registered owner does not pay to the chief executive 3  
within a stated period— 4
  - (i) the amount of the unpaid conversion cost; and 5
  - (ii) if the chief executive requires interest on the 6  
unpaid conversion cost to be paid by the registered 7  
owner—interest on the unpaid conversion cost. 8
- ‘(4) The total amount payable by the registered owner under 9  
subsection (3)(c) is the ***demand amount***. 10
- ‘(5) The period stated in the notice under subsection (3)(c) must be 11  
at least 14 days after the notice is given to the registered 12  
owner. 13
- ‘(6) If the notice requires the registered owner to pay interest 14  
under subsection (3)(c)(ii), the interest is payable— 15
  - (a) at the standard variable interest rate that applies from 16  
time to time under the *Housing Act 2003*, section 92,<sup>14</sup> 17  
for owner-occupied home loans or, if more than 1 18  
standard variable interest rate applies, at the lowest 19  
applicable rate; and 20
  - (b) for the period starting on the day after the payment 21  
period ends and ending on the day the amount of the 22  
unpaid conversion cost is paid in full. 23
- ‘(7) If the registered owner does not pay the demand amount 24  
within the period stated in the notice, the chief executive 25  
may— 26
  - (a) sell the land; or 27
  - (b) if a mortgagee agrees to sell the land—allow the 28  
mortgagee to sell the land. 29
- ‘(8) If the chief executive allows a mortgagee to sell the land under 30  
subsection (7)(b), the lessee is taken to be in default under the 31  
mortgage. 32

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14 *Housing Act 2003*, section 92 (Standard interest rates)

<b>‘8</b>	<b>Release of chief executive’s charge on payment of conversion cost etc.</b>	1 2
‘(1)	This section applies if—	3
	(a) the chief executive receives payment of—	4
	(i) the conversion cost during the payment period; or	5
	(ii) the demand amount during the period stated in a notice of intention to sell; or	6 7
	(b) the chief executive agrees to accept, and receives payment of, a lesser amount in payment of the chief executive’s charge.	8 9 10
‘(2)	The land in the deed of grant is released from the chief executive’s charge.	11 12
‘(3)	The chief executive must, as soon as practicable, ask the registrar of titles to record the release of the charge in the freehold land register.	13 14 15
‘(4)	The registrar of titles must, on the chief executive’s request, record the release of the charge in the freehold land register.	16 17
‘(5)	No fee is payable for recording the release of the chief executive’s charge under this section.	18 19
<b>‘8A</b>	<b>Sale of land by chief executive</b>	20
‘(1)	If the chief executive may sell the land in a deed of grant under section 7C(7)(a), the land may be sold by public auction or private contract.	21 22 23
‘(2)	The chief executive must apply the proceeds of sale as follows—	24 25
	(a) firstly, in payment of all costs, charges and expenses properly incurred by the chief executive in the sale or a previous attempted sale of the land;	26 27 28
	(b) secondly, in payment of the demand amount to the chief executive;	29 30
	(c) thirdly, in payment of any amount owing to a mortgagee or, if there is more than 1 mortgagee, according to their priorities;	31 32 33

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- (d) lastly, in payment to the previous registered owner of the land. 1  
2
- ‘(3) On the sale of the land, the chief executive must give the registrar of titles a completed instrument of transfer, in the approved form under the *Land Title Act 1994*, in relation to the sale. 3  
4  
5  
6
- ‘(4) On receiving the instrument of transfer, the registrar of titles must register the purchaser stated in the instrument for the interest held in the land by the previous registered owner, free of all encumbrances. 7  
8  
9  
10
- ‘(5) The registrar of titles must comply with subsection (4) even if an instrument of title relating to the land is not produced. 11  
12
- ‘(6) Subsection (4) applies subject to section 8B. 13
- ‘(7) If the demand amount has not been paid in full after the proceeds of sale are applied, the unpaid part of the amount may be recovered from the previous registered owner of the land as a debt owing to the State. 14  
15  
16  
17
- ‘(8) The *Property Law Act 1974* does not apply to the exercise of the chief executive’s powers under this section. 18  
19
- ‘(9) In this section— 20
- encumbrance***— 21
- (a) includes any of the following affecting land— 22
- (i) a mortgage, lien or charge; 23
- (ii) a caveat; 24
- (iii) an agreement; 25
- (iv) a judgment, writ or process; 26
- (v) an interest adverse to the interest of the land’s owner; but 27  
28
- (b) does not include an easement. 29
- previous registered owner***, of land sold under this section, means the person who was the registered owner of the land immediately before its sale. 30  
31  
32

<b>‘8B</b>	<b>Priority of local government charge preserved</b>	1
‘(1)	This section applies if—	2
	(a) the chief executive intends to sell land under section 8A; and	3 4
	(b) the land is subject to a charge for an overdue rate under the <i>Local Government Act 1993</i> , section 1037A. <sup>15</sup>	5 6
‘(2)	The chief executive must, before selling the land, give written notice to the local government to which the rate is payable stating the chief executive’s intention to sell the land.	7 8 9
‘(3)	The chief executive may sell the land only—	10
	(a) subject to the charge; or	11
	(b) free of the charge to the extent, and subject to any conditions, agreed by the local government to which the rate is payable.	12 13 14
<b>‘9</b>	<b>Chief executive’s charge not affected by mortgagee sale</b>	15 16
‘(1)	This section applies if—	17
	(a) a deed of grant is issued subject to the chief executive’s charge; and	18 19
	(b) a mortgagee exercising the power of sale under the <i>Land Title Act 1994</i> sells the land in the deed of grant before the chief executive’s charge is released under this division.	20 21 22 23
‘(2)	The chief executive’s charge is not released by the sale and the land is transferred to the purchaser subject to the charge.	24 25
‘(3)	This section applies despite the <i>Property Law Act 1974</i> , section 86. <sup>16</sup>	26 27

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15 *Local Government Act 1993*, section 1037A (Registering charge over land)

16 *Property Law Act 1974*, section 86 (Effect of conveyance on sale)

<b>‘Subdivision 3</b>	<b>Miscellaneous provisions</b>	1
<b>‘9A</b>	<b>Condition of unconverted lease</b>	2
	‘On the application day, an unconverted lease is subject to the condition that if a prescribed change of ownership for the lease is registered, the lease is cancelled under this division.	3 4 5
<b>‘9B</b>	<b>Notification about application of div 3 to unconverted leases to be kept with register</b>	6 7
	‘(1) On the application day, the chief executive must notify the chief executive (land) that, from the application day, this division applies to an unconverted lease.	8 9 10
	‘(2) The chief executive (land) must, on receiving a notification under subsection (1), enter the notification, in relation to each unconverted lease, in the file attached to the appropriate register kept under the <i>Land Act 1994</i> .	11 12 13 14
	‘(3) The notification in relation to an unconverted lease must not be removed from the file until the lease is forfeited or surrendered, or cancelled under this division.	15 16 17
	‘(4) In this section— <i>chief executive (land)</i> means the chief executive of the department in which the <i>Land Act 1994</i> is administered.	18 19 20
<b>‘10</b>	<b>Disclosure requirement—contract for sale of unconverted lease</b>	21 22
	‘(1) This section applies to a contract for the sale of an unconverted lease entered into on or after the application day.	23 24
	‘(2) The contract must include a clause stating the following matters—	25 26
	(a) under this Act, the lease will be cancelled on registration of the transfer and a deed of grant for the land contained in the lease will be issued;	27 28 29
	(b) unless the conversion cost is paid to the chief executive before the transfer is registered, the deed of grant will be	30 31

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	subject to a charge in favour of the chief executive securing payment of the conversion cost;	1 2
	(c) if the conversion cost is not paid to the chief executive during the payment period, the chief executive may sell the land.	3 4 5
	‘(3) If the contract does not comply with subsection (2), the buyer may cancel the contract by giving written notice to the seller.	6 7
	‘(4) The notice must be given to the seller before settlement is completed under the contract.	8 9
	‘(5) If the buyer gives a notice under subsection (3)—	10
	(a) the contract, and any related contract, ends; and	11
	(b) the seller, or the seller’s agent, must immediately return to the buyer any consideration paid under the contract.	12 13
	‘(6) In this section—	14
	<i>related contract</i> includes—	15
	(a) a contract about the provision of finance to purchase the unconverted lease; or	16 17
	(b) a contract of insurance relating to premises on the land contained in the unconverted lease.	18 19
	<b>‘10A No compensation</b>	20
	‘Compensation is not payable for any action taken by the chief executive or the registrar of titles under this division.	21 22
	<b>‘Part 3 Industrial, trading and business sites’.</b>	23 24
<b>Clause 15</b>	<b>Insertion of new pt 4</b>	25
	After section 10J—	26
	<i>insert—</i>	27

<b>‘Part 4</b>	<b>Transitional provision for Housing Legislation Amendment Act 2005</b>	1 2 3
<b>‘11</b>	<b>Continued application of previous pt 2, div 1 for residential freeholding leases</b>	4 5
	‘(1) Previous part 2, division 1 continues to apply, as if it had not been repealed, for the conversion of a residential freeholding lease to freehold land.	6 7 8
	‘(2) In this section—	9
	<i>residential freeholding lease</i> means a lease that—	10
	(a) was in force immediately before 1 July 2006; and	11
	(b) was deemed to be a freeholding lease under previous part 2, division 1. <sup>17</sup> .	12 13
<b>Clause 16</b>	<b>Insertion of new sch 2</b>	14
	After schedule 1—	15
	<i>insert—</i>	16
<b>‘Schedule 2</b>	<b>Dictionary</b>	17
	section 2	18
	<i>application day</i> see section 5C(1).	19
	<i>availability period</i> see section 4(1)(b)(ii).	20
	<i>beneficiary</i> , for part 2, division 3, see section 6.	21
	<i>chief executive’s charge</i> see section 7(2).	22
	<i>conversion application</i> see section 3C.	23
	<i>conversion cost</i> , for part 2, division 3, see section 6.	24

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17 Previous part 2 (Provision for the freeholding of certain leaseholds held under the Housing Act 2003), division 1 (Homes and home sites)

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<i>conversion in progress lease</i> means a residential lease in relation to which the lessee applied before 1 July 2006 under previous section 4 <sup>18</sup> for the lease to be deemed a freeholding lease, if—	1 2 3 4
(a) the lessee was not given notice of the purchasing price for the land in the lease under previous section 5(4) before 1 July 2006; or	5 6 7
(b) each of the following applies—	8
(i) before 1 July 2006, the lessee was given notice of the purchasing price for the land in the lease under previous section 5(4);	9 10 11
(ii) on 30 June 2006, the lessee had not yet elected to proceed with the application under previous section 6; <sup>19</sup>	12 13 14
(iii) the application did not lapse before 1 July 2006.	15
<i>converting change of ownership</i> see section 6B(2).	16
<i>declared percentage</i> see section 3A(1).	17
<i>deed of grant</i> means a document evidencing the grant of land in fee simple under the <i>Land Act 1994</i> , including an indefeasible title under the <i>Land Title Act 1994</i> .	18 19 20
<i>demand amount</i> see section 7C(4).	21
<i>effective day</i> see section 4(1)(b)(iii).	22
<i>freeholding lease</i> , for part 3, see section 10B(1A).	23
<i>notice of intention to sell</i> see section 7C(2).	24
<i>offer to convert</i> see section 4(1)(b).	25
<i>payment period</i> see section 7A(2).	26
<i>prescribed change of ownership</i> see section 6A.	27
<i>previous</i> , for a provision of this Act, means the provision as in force before 1 July 2006.	28 29

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18 Previous section 4 (Conversion of certain tenures from perpetual leases to leases for term of years with freeholding covenant)

19 Previous section 6 (Lessee to elect whether to proceed with application)

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<b><i>purchase price</i></b> , for converting a residential lease to freehold land under part 2, division 2, means—	1 2
(a) for a residential lease other than a conversion in progress lease—the purchase price worked out by the chief executive under section 4A; or	3 4 5
(b) for a conversion in progress lease—	6
(i) if section 5A(2) applies in relation to the lease—the purchase price worked out by the chief executive under section 5A; or	7 8 9
(ii) otherwise—the purchasing price for the land contained in the lease stated in a notice given to the lessee before 1 July 2006 under previous section 5(4).	10 11 12 13
<b><i>register</i></b> , for part 2, division 3, see section 6.	14
<b><i>registered owner</i></b> , for part 2, division 3, see section 6.	15
<b><i>registrar of titles</i></b> means the registrar of titles under the <i>Land Title Act 1994</i> .	16 17
<b><i>residential lease</i></b> means a perpetual lease for residential purposes—	18 19
(a) granted and held, or taken to be held, under the <i>Housing Act 2003</i> , section 113 or the repealed <i>State Housing Act 1945</i> , section 24A; <sup>20</sup> and	20 21 22
(b) that is in force immediately before 1 July 2006.	23
<b><i>unconverted lease</i></b> , for part 2, division 3, see section 6.	24
<b><i>unimproved value amount</i></b> , of a residential lease, means the amount of the valuation of the unimproved value of the land contained in the lease in force under the <i>Valuation of Land Act 1944</i> —	25 26 27 28
(a) for an offer to convert given to the lessee of the lease under part 2, division 2, subdivision 1—when the chief executive decides the purchase price under the subdivision; or	29 30 31 32

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<sup>20</sup> *Housing Act 2003*, section 113 (Chief executive's power to sell houses to eligible persons) or the repealed *State Housing Act 1945*, section 24A (Power of commission to provide home sites)

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- (b) for a lease cancelled under part 2, division 1  
3—immediately before the lease is cancelled.’ 2

<b>Schedule</b>	<b>Consequential amendments</b>	1
	section 9	2
<b>Housing (Freeholding of Land) Act 1957</b>		3
<b>1</b>	<b>Sections 10B, 10C(1), and 10E to 10I, ‘division’—</b>	4
	<i>omit, insert—</i>	5
	‘part’.	6
<b>2</b>	<b>Section 10B(2), ‘the schedule’—</b>	7
	<i>omit, insert—</i>	8
	‘schedule 1’.	9
<b>3</b>	<b>Schedule, heading—</b>	10
	<i>omit, insert—</i>	11
<b>‘Schedule 1</b>	<b>Lands to which part 3 does not</b>	12
	<b>apply’.</b>	13