



Queensland

Property Law Regulation 2013

Explanatory Notes for SL 2013 No. 46

made under the

Property Law Act 1974

General outline

Short title

Property Law Regulation 2013.

Authorising law

Section 351 of the *Property Law Act 1974* (the Act).

Policy objectives and the reasons for them

Under the *Statutory Instruments Act 1992*, the *Property Law Regulation 2003* (the expiring regulation) is due to expire on 1 September 2013. The *Property Law Regulation 2013* replaces and repeals the expiring regulation.

The Act governs a diverse range of matters relating to property law in Queensland. In addition to providing a set of general rules affecting property, it includes provisions about mortgages. Under section 85, a mortgagee or receiver must, when exercising a power of sale over mortgaged property, take reasonable care to ensure a property is sold at market value.

Section 85(1A) sets out the steps a mortgagee or receiver must take in relation to a *prescribed mortgage*, to ensure a property is sold at market

value. Section 85(10) defines *prescribed mortgage* to be a mortgage of a kind prescribed under a regulation.

The Act also provides for a regulation to be made about fees.

Achievement of policy objectives

The regulation defines *prescribed mortgage* for the purposes of section 85 of the Act as a mortgage over residential land where the mortgagor's home is on that land.

Schedule 1 of the regulation sets out the fees payable under the Act. The fees remain the same as those under the expiring regulation.

Consistency with policy objectives of authorising law

The regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

There are no costs associated with the implementation of the regulation.

Consistency with fundamental legislative principles

The regulation is consistent with fundamental legislative principles.

Consultation

The Queensland Law Society was consulted during the development of the regulation.

The Regulatory Reform Branch (Queensland Treasury and Trade) was consulted in relation to the proposed notice and confirmed that a Regulatory Assessment Statement is not required.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Justice and Attorney-General.

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