

Land Title Regulation 2015

Explanatory notes for SL 2015 No. 145

made under the

Land Title Act 1994

General Outline

Short title

Land Title Regulation 2015

Authorising law

Section 199 of the *Land Title Act 1994*

Policy objectives and the reasons for them

The *Land Title Act 1994* enshrines the principles of Torrens titling in Queensland and provides the head of power for the *Land Title Regulation 2005*.

The *Land Title Regulation 2005* prescribes administrative and machinery matters for the Act, such as the location of offices of the Titles Registry (the Registry) and the requirements for instruments lodged in the Registry. Additionally the Regulation prescribes the fees payable for depositing instruments (lodgements) in the Registry and for obtaining registry information (searches).

The *Land Title Regulation 2005* is subordinate legislation subject to automatic expiry under Part 7 of the *Statutory Instruments Act 1992*. The *Land Title Regulation 2005* was due to expire on 1 September 2015, however was exempted from expiry for 12 months to allow time for completion of a streamlining review prior to the *Land Title Regulation 2005* being remade.

The focus of the review was to identify opportunities for streamlining and red tape reduction, as well as to review the efficiency and effectiveness of the *Land Title Regulation 2005*. Any issues that may have emerged since the *Land Title Regulation 2005* was made were also considered.

The review recommended the *Land Title Regulation 2005* be remade as it remains necessary for the continued effective operation of the *Land Title Act 1994*, by facilitating the operation of the *Land Title Act 1994* and prescribing necessary administrative and machinery matters. Several amendments were also recommended to improve the operation and usability of the *Land Title Regulation 2005*.

The objective of the *Land Title Regulation 2015* is to remake the *Land Title Regulation 2005* incorporating the recommendations of the review.

Achievement of policy objectives

The *Land Title Regulation 2015* remakes the *Land Title Regulation 2005*. To a large extent, the content of the *Land Title Regulation 2005* has been retained. The following amendments have been made to give effect to the recommendations of the review:

- providing the Registrar of Titles with discretion to accept an amended form that has been altered and would not otherwise satisfy the requirements for amended forms lodged with the Registry. The Registrar may accept the form that is not initialled by each relevant party, if satisfied it is not reasonable to require that each party to the form and each witness initial the alteration to the form (such as where parties are overseas or interstate).
- removing the half-fee for re-lodgement of a rejected 'paper' instrument. Providing a discount for re-lodgement is inconsistent with the e-conveyancing process, which does not allow for the re-lodgement of a rejected dealing.
- streamlining the current multi-level fee structure for administered fees and the number of individual price points. The change will achieve approximate revenue-neutrality in fee adjustment impacts overall and reduce the time taken by customers to prepare fees for lodgement, particularly where there are a number of fees payable. The new multi-level fee structure will enable easier annual indexation by government.
- fees to be rounded to the nearest full dollar amount across the entire lodgement fee schedule to make for easier calculation of fees by customers where multiple fees are payable. However, search fees will continue to be in dollars and cents.
- decreasing the fees for simple dealings resulting from life events such as a change of name of a natural person or recording of the death of a joint tenant.
- removing the disparity between fees for the cancellation, discharge or satisfaction of a writ of execution and other similar transactions.
- removing the postal lodgement fee so that lodgement by post costs the same as over the counter transactions, to ensure customers pay the same fee regardless of their ability to visit a registry lodgement office.
- aligning the fees for investigative searches of the register more closely with the cost of delivering the searches.
- clarifying the exemption from fees for transfers to the State and other State dealings to ensure that the State or another party is not paying for dealings which will benefit the State.

The *Natural Resources and Mines Legislation Amendment Regulation (No. 1) 2015* also amends a number of regulations to reflect the outcomes of the review and align the fees across the regulations that prescribe fees for similar registration and titling matters.

Consistency with policy objectives of authorising law

The *Land Title Regulation 2015* is consistent with the main objects of the *Land Title Act 1994*. The *Land Title Regulation 2015* supports the *Land Title Act 1994* by prescribing:

- the location of office of the Registry;

- how instruments may be lodged in the Registry;
- fees to be paid in relation to the lodgement of instruments in the Registry.

The intent of remaking the *Land Title Regulation 2005* is to provide continuity to these administrative and machinery matters that facilitate the operation of the *Land Title Act 1994*. Remaking the *Land Title Regulation 2005* is not intended to effect functional changes to the lodgement or registration of instruments in the Registry.

Inconsistency with policy objectives of other legislation

The *Land Title Regulation 2015* is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

Implementing the *Land Title Regulation 2015* will not result in an increase in costs for Government as administration will remain subject to existing processes and staffing.

Prescribing fees through regulation remains supportive of general regulatory principles, as the prescribed fees are a component most subject to periodic amendment and thus could be dealt with without change to the *Land Title Act 1994*.

The current fee structure, subject to some minor changes as outlined above, satisfactorily meets requirements for the maintenance and improvement of systems necessary to support land titling in Queensland.

Consistency with fundamental legislative principles

It is considered that the *Land Title Regulation 2015* is consistent with the fundamental legislative principles as defined in the *Legislative Standards Act 1992*.

Consultation

The Office of Best Practice Regulation within the Queensland Productivity Commission was consulted with regard to the Regulatory Impact Statement requirements. The Office of Best Practice Regulation advised that the subordinate legislation appears unlikely to have significant adverse impacts and therefore no further assessment is required under the Treasurer's Regulatory Impact Statement System Guidelines.

The Queensland Law Society was consulted and generally supports the intent of the changes.