

Queensland



State Housing Act 1945

STATE HOUSING REGULATION 1998

**Reprinted as in force on 25 October 2002
(includes amendments up to SL No. 280 of 2002)**

Reprint No. 1B

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Information about this reprint

This regulation is reprinted as at 25 October 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

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Queensland



STATE HOUSING REGULATION 1998

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STATE HOUSING REGULATION 1998

[as amended by all amendments that commenced on or before 25 October 2002]

PART 1—PRELIMINARY

1 Short title

This regulation may be cited as the *State Housing Regulation 1998*.

2 Commencement

This regulation commences on 1 July 1998.

3 Definitions

In this regulation—

“**contracts register**” means the register of relevant contracts kept by the commission under section 4(1).

“**purchaser**” means a purchaser under a relevant contract.

“**registered document**” means a registrable document or another document, particulars about which have been registered in the contracts register under section 7(2).

“**registrable document**” means a document specified in schedule 1.

“**relevant contract**” means a contract entered into under section 24(1AA), (1AB) and (1A)¹ of the Act.

¹ Section 24 (Power to commission to sell houses to eligible persons)

PART 2—CONTRACTS REGISTER

4 Commission to keep contracts register

(1) The commission must keep a contracts register.

(2) The commission may keep the contracts register in the form the commission considers appropriate.

5 Particulars that must be recorded

The commission must record in the contracts register particulars about—

- (a) all relevant contracts, including the name of the purchaser; and
- (b) all documents lodged, including when they were lodged; and
- (c) all registered documents, including when they were registered; and
- (d) anything else the commission considers should be recorded to ensure the register is an accurate, comprehensive and useable record of the relevant contracts.

6 Other information may be kept

The commission may keep separately from the contracts register information the commission considers necessary or desirable for the effective or efficient operation of the register.

7 Documents form part of a register

(1) A document forms part of the contracts register from when it is lodged.

(2) A document is registered when the particulars about the document are recorded in the contracts register.

8 Entitlement to search register

(1) A person may, after paying the fee prescribed under this regulation—

- (a) search and obtain a copy of—

- (i) particulars recorded in the contracts register about a relevant contract; or
 - (ii) a document lodged but not registered (whether or not it has been cancelled); or
 - (iii) a registered document; or
 - (iv) information kept under section 6; and
- (b) obtain a copy of the things mentioned in paragraph (a) certified by the commission to be an accurate copy.

(2) Subsection (1)(a)(ii) and (iii) do not apply to a document disposed of by the commission under the *Libraries and Archives Act 1988*.

(3) The commission may certify a copy of a document mentioned in subsection (1)(a).

(4) A document purporting to be a certified copy of a document mentioned in subsection (1)(a) is evidence of the original of the document.

9 Commission may correct contracts register

(1) The commission may correct the contracts register if the commission is satisfied—

- (a) the register is incorrect; and
- (b) the correction will not prejudice the rights of a purchaser.

(2) The commission's power to correct the contracts register includes power to correct—

- (a) a particular in the register; or
- (b) a document forming part of the register.

(3) If a register or a document is corrected, the commission must record in the register—

- (a) the state of the register before the correction; and
- (b) the day and circumstances of the correction.

10 Requisitions

(1) The commission may, by written notice (the “**requisition**”) given to a person who has lodged a document, require the person to—

- (a) re-execute, complete or correct the document if it appears to the commission to be wrong, incomplete or defective; or
- (b) produce to the commission stated information, or deposit a stated document, in support of the person's application to register the document lodged.

(2) The commission may ask for a document or information to be verified by statutory declaration or affidavit.

(3) The requisition may state when it must be complied with.

(4) The commission may extend the time for complying with the requisition.

(5) The commission may refuse to deal with a document lodged by a person until the person complies with the requisition and pays the fee prescribed under this regulation.

11 Registering personal representative

(1) A person may ask the commission to register the death of a purchaser and the person as the purchaser's personal representative.

(2) The commission may register a person as personal representative only if—

- (a) if the person has obtained a grant of representation—the grant, or an office copy of the grant issued by the Supreme Court, is given to the commission; or
- (b) if paragraph (a) does not apply and a purchaser died without a will—
 - (i) letters of administration of the purchaser's estate have not been granted in Queensland within 6 months after the purchaser's death; and
 - (ii) the gross value of the purchaser's estate in Queensland on the day of the purchaser's death is not more than \$150 000; and
 - (iii) the commission believes the person has a right to obtain a grant of representation; or
- (c) if paragraph (a) does not apply and the purchaser died leaving a will—the commission believes the person has a right to obtain a grant of representation.

(3) A person registered as personal representative without a grant of representation has the same interest in a relevant contract as if the person had obtained a grant of representation.

(4) The validity of an act done or payment made in good faith under a relevant contract by a person registered as personal representative is not affected by a later grant of representation.

(5) If the person who obtains a grant of representation (the “grantee”) is different from the person registered as personal representative, the person must—

- (a) account to the grantee for an interest in a relevant contract controlled by the person before the grant was made; and
- (b) take all action necessary to vest in the grantee the interest in the relevant contract remaining under the person’s control.

(6) In a relevant contract, a reference to a purchaser includes a reference to the purchaser’s personal representative.

(7) However, subsection (6) applies only to the extent that there is no contrary intention in the relevant contract.

12 Registering person beneficially entitled

(1) A person beneficially entitled under a will to a purchaser’s interest in a relevant contract may lodge a request to register a transmission of the interest to that person.

(2) However, the commission may register a transmission under subsection (1) only if—

- (a) the purchaser’s personal representative gives written approval; and
- (b) the commission is satisfied the person is beneficially entitled to the interest.

13 Registering other dealings

(1) The commission may only register particulars about—

- (a) a change or correction of name of a purchaser if a request to register the change is lodged; and

- (b) a court order affecting, whether directly or indirectly, a purchaser's interest in a relevant contract if a request to register the court order is lodged; and
- (c) a court order setting aside a court order mentioned in paragraph (b) if a request to register the court order is lodged; and
- (d) a power of attorney, under which an attorney has power to act on a purchaser's behalf under a relevant contract or another document lodged, if a request to register the power of attorney is lodged; and
- (e) a revocation of a power of attorney mentioned in paragraph (d) if a request to register the revocation is lodged; and
- (f) a transmission of a purchaser's interest in a relevant contract under a law about bankruptcy if a request to register the transmission is lodged; and
- (g) a disclaimer of an interest in a relevant contract under a law about bankruptcy if a request to register the disclaimer is lodged; and
- (h) an assignment of a purchaser's interest in a relevant contract if a request to register the assignment is lodged.

(2) A request to register lodged under subsection (1) must be in writing.

(3) However, if a request to register under subsection (1) is a registrable document, it must also comply with section 14.

14 Form of registrable documents

(1) The commission may approve the form of a registrable document.

(2) If the form of a registrable document has been approved under subsection (1), a registrable document may be registered by the commission only if it is in the approved form.

(3) However, if a registrable document is not in the approved form, the commission may register the document if it is considered appropriate in the circumstances to do so.

PART 3—FEES, COMMISSIONS AND OTHER AMOUNTS PAYABLE

15 Fees

- (1) The commission may charge a fee for—
- (a) if a payment is required under the Act or an instrument made under the Act and a financial institution dishonours the payment—the dishonour of the payment; or
 - (b) a consent sought under a mortgage or contract under the Act; or
 - (c) an application made, or consent sought, under the Act; or
 - (d) giving a statement of account to another person; or
 - (e) paying an insurance premium under a contract under the Act or mortgage; or
 - (f) producing a document to another person; or
 - (g) registering particulars about documents in the contracts register.
- (2) The fees payable under the Act are set out in schedule 2.

16 Exemption from payment of fees

(1) The commission may exempt a person from paying a fee or part of a fee.

(2) However, the commission may exempt a person under subsection (1) only if—

- (a) the commission is satisfied the person is suffering hardship; or
- (b) the fee is payable—
 - (i) for a registrable document other than a registrable document mentioned in schedule 1, item 2 recording a matter ordered by a court under a court order affecting, whether directly or indirectly, a purchaser's interest in a relevant contract; or
 - (ii) for a consent to assign of a kind mentioned in schedule 2, part 1, item 3 if the consent is required to be sought because of a court order affecting, whether directly or indirectly, a purchaser's interest in a relevant contract; or

- (iii) for an application to transfer a fee simple under section 24(7) of the Act if the application is required to be made because of a court order affecting, whether directly or indirectly, a purchaser's interest in a relevant contract.

17 Expenses of taking possession

(1) This section applies if—

- (a) the commission takes possession of land under a mortgage or relevant contract; and
- (b) the mortgage or relevant contract provides for an amount to be paid to the commission for the expenses of taking possession.

(2) A mortgagor or purchaser must pay the commission the commission's actual expenses of taking possession.

PART 3A—STANDARD INTEREST RATE POLICY

17A Standard interest rate policy—Act, s 32AA(2)

(1) The standard interest rate policy is as follows—

- (a) for setting the standard fixed interest rate for a period, the rate set—
 - (i) must not be more than the greatest of the bank standard fixed interest rates, for the period, applicable on the chosen day for the setting; and
 - (ii) must not be less than the lowest of the bank standard fixed interest rates, for the period, applicable on the day;
- (b) for setting the standard variable interest rate, the rate set—
 - (i) must not be more than the greatest of the bank standard variable interest rates applicable on the chosen day for the setting; and
 - (ii) must not be less than the lowest of the bank standard variable interest rates applicable on the day.

(2) In this section—

“bank standard fixed interest rates”, for a period, means the standard fixed interest rates charged by the major banks, for the period, for a residential loan.

“bank standard variable interest rates” means the standard variable interest rates charged by the major banks for a residential loan.

“chosen day” means the day, chosen by the Minister at the time of setting a standard interest rate, that is within 1 month before the Minister sets the rate.

“major banks” means the following—

- (a) Australia and New Zealand Banking Group Limited ACN 005 357 522;
- (b) Commonwealth Bank of Australia ACN 123 123 124;
- (c) National Australia Bank Limited ACN 004 044 937;
- (d) Westpac Banking Corporation ACN 007 457 141.

“residential loan” means a loan secured by a mortgage over a residential property that is occupied by the mortgagor under the mortgage.

PART 4—REPEALS AND TRANSITIONAL

18 Repeals

- (1) The *State Housing Regulation 1986* is repealed.
- (2) All instruments made as orders in council under the Act are repealed.

19 Prescribed covenants not affected by repeal

(1) The operation of section 14 of the former regulation does not end merely because of the repeal of the former regulation.

(2) In this section—

“former regulation” means the *State Housing Regulation 1986*.

SCHEDULE 1**REGISTRABLE DOCUMENTS**

section 3, definition “registrable document”

1. A request to register a change or correction of name of a purchaser.
2. A request to register a court order affecting, whether directly or indirectly, a purchaser’s interest in a relevant contract.
3. A request to register a court order setting aside a court order mentioned in item 2.
4. A request to register a power of attorney under which an attorney has power to act on a purchaser’s behalf under a relevant contract or another document lodged.
5. A request to register a revocation of a power of attorney mentioned in item 4.
6. A request to register the death of a purchaser.
7. A request to register a person as the purchaser’s personal representative.
8. A request to register a transmission of a purchaser’s interest in a relevant contract to a person beneficially entitled under a will.
9. A request to register a transmission of a purchaser’s interest in a relevant contract under a law about bankruptcy.
10. A request to register a disclaimer of an interest in a relevant contract under a law about bankruptcy.
11. A request to register an assignment of a purchaser’s interest in a relevant contract.

SCHEDULE 2

FEES

section 15(2)

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PART 1—FEES FOR APPLICATIONS AND CONSENTS

- | | | |
|-----------|---|--------|
| 1. | Fee for an application for an advance— | |
| | (a) under section 23 of the Act. | 542.00 |
| | (b) under section 23A of the Act | 468.00 |
| | (c) under section 24 of the Act for the purchase of— | |
| | (i) a house and freehold land under section under section 24(1AA) of the Act | 468.00 |
| | (ii) a share in a house and freehold land under section 24(1AA) and (1A) of the Act if the purchaser does not already have a share in the house and land. | 468.00 |
| | (iii) an additional share in the house and land under section 24(1AA) and (1A) of the Act | 195.00 |
| 2. | Transaction fee for an advance under section 24 of the Act for the purchase of— | |
| | (a) a house and freehold land under section 24(1AA) of the Act. | 590.00 |
| | (b) a share in a house and freehold land under section 24(1AA) and (1A) of the Act if a purchaser does not already have a share in the house and land and if— | |
| | (i) the purchaser asked the commission to buy the house and land. | 905.00 |
| | (ii) the purchaser did not ask the commission to buy the house and land | 590.00 |
| 3. | Fee for a consent to assign— | |
| | (a) a house and freehold land purchased under section 24(1AA) of the Act. | 200.00 |

SCHEDULE 2 (continued)

	(b) a share in a house and freehold land purchased under section 24(1AA) and (1A) of the Act	200.00
4.	Fee for an application to transfer a fee simple under section 24(7) of the Act	200.00
5.	Fee for an application for a loan under section 29T of the Act	468.00

PART 2—FEES FOR CONTRACTS REGISTER

1.	Fee for registering in the contracts register particulars about—	
	(a) a request to register a change or correction of name of a purchaser	87.00
	(b) a request to register a court order effecting, whether directly or indirectly, a purchaser's interest in a relevant contract.	87.00
	(c) a request to register a court order setting aside a court order mentioned in paragraph (b)	87.00
	(d) a request to register a power of attorney under which an attorney has power to act on a purchaser's behalf under a relevant contract or another document.	87.00
	(e) a request to register a revocation of a power of attorney mentioned in paragraph (d).	87.00
	(f) a request to register the death of a purchaser	87.00
	(g) a request to register a person as the purchaser's personal representative	87.00
	(h) a request to register a transmission of a purchaser's interest in a relevant contract under a will to a person beneficially entitled	87.00
	(i) a request to register a transmission of a purchaser's interest in a relevant contract under a law about bankruptcy	87.00

SCHEDULE 2 (continued)

(j)	a request to register a disclaimer of an interest in a relevant contract under a law about bankruptcy	87.00
(k)	a request to register an assignment of a purchaser's interest in a relevant contract	87.00
2.	Fee for a requisition on a lodged document	25.00
3.	Additional fee for each document if lodged by post or similar facility	20.00
4.	Fee for searching—	
(a)	the register	10.00
(b)	a document forming part of the register	10.00
(c)	information kept under section 6 of this regulation .	10.00
5.	Fee for—	
(a)	a copy of a document	10.00
(b)	certification of the copy of the document	20.00
(c)	sending the copy of the document by facsimile	8.00

PART 3—OTHER FEES

1.	Fee for the dishonour by a financial institution of a payment if the payment is required under the Act or an instrument made under the Act	11.50
2.	Fee for giving a statement of account to another person . .	13.00
3.	Fee if—	
(a)	the commission pays an insurance premium on behalf of a borrower or purchaser under a contract under the Act or a mortgage; and	
(b)	the contract or mortgage provides for a fee to be payable to the commission if paragraph (a) applies .	27.50
4.	Fee for producing a document to another person	58.00

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 25 October 2002. Future amendments of the State Housing Regulation 1998 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of earlier reprints, see the latest reprint.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

TABLE OF EARLIER REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	none	1 July 1998	17 July 1998
1A	to SL No. 110 of 2000	12 June 2000	22 June 2000

5 List of legislation

State Housing Regulation 1998 SL No. 117

made by the Governor in Council on 7 May 1998

notfd gaz 8 May 1998 pp 180–2

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 1998 (see s 2)

exp 1 September 2008 (see SIA s 54)

amending legislation—

State Housing Amendment Regulation (No. 1) 2000 SL No. 110

notfd gaz 9 June 2000 pp 456–9

ss 1–2 commenced on date of notification

remaining provisions commenced 12 June 2000 (see s 2)

State Housing Amendment Regulation (No. 1) 2002 SL No. 280

notfd gaz 25 October 2002 pp 690–1

commenced on date of notification

6 List of annotations

Fees

s 15 amd 2002 SL No. 280 s 3

Exemption from payment of fees

s 16 amd 2002 SL No. 280 s 4

PART 3A—STANDARD INTEREST RATE POLICY

pt 3A (s 17A) ins 2000 SL No. 110 s 4

SCHEDULE 2—FEES

amd 2002 SL No. 280 s 5