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**140 Notice of intention to sell land for overdue rates or charges**

- (1) This section applies if—
  - (a) there are overdue rates or charges on land; and
  - (b) the liability to pay the overdue rates or charges is not the subject of court proceedings; and
  - (c) some or all of the overdue rates or charges have been overdue for at least—
    - (i) generally—3 years; or
    - (ii) if the rates or charges were levied on vacant land or land used only for commercial purposes, and the local government has obtained judgment for the overdue rates or charges—1 year; or
    - (iii) if the rates or charges were levied on a mining claim—3 months.
- (2) The local government may, by resolution, decide to sell the land.
- (3) If the local government does so, the local government must, as soon as practicable, give all interested parties a notice of intention to sell the land.
- (4) A *notice of intention to sell* is a document, signed by the chief executive officer, stating—
  - (a) that the local government has, by resolution, decided under this section to sell land for overdue rates or charges; and
  - (b) the day on which the resolution was made; and
  - (c) the terms of the resolution; and
  - (d) a description of the location and size of the land, as shown in the local government's land record; and
  - (e) details of the overdue rates or charges for the land, as at the date of the notice, including details of the period for which the rates or charges have been unpaid; and

- (f) details of the interest that is owing on the overdue rates or charges, as at the date of the notice, including—
  - (i) details of the rate at which interest is payable on the rates or charges; and
  - (ii) a description of the way the interest is calculated; and
- (g) the total amount of overdue rates or charges and the interest, as at the date of the notice; and
- (h) a copy, or a general outline, of sections 141 to 144.

#### **141 When procedures for selling land must start and end**

- (1) This section applies if—
  - (a) a local government decides to sell land under this subdivision for overdue rates and charges and gives the registered owner of the land a notice of intention to sell the land; and
  - (b) the overdue rates or charges are not paid in full within—
    - (i) generally—3 months after the local government gives the notice of intention to sell the land; or
    - (ii) if the rates or charges were levied on a mining claim—1 month after the local government gives the notice of intention to sell the land.
- (2) The local government must start the procedures mentioned in section 142(4) for selling the land within 6 months after the local government gives the notice of intention to sell the land to the registered owner of the land.
- (3) The local government must end the procedures at the earliest of the following—
  - (a) the local government is paid—
    - (i) the amount of the overdue rates or charges; and
    - (ii) all expenses that the local government incurs in attempting to sell the land;

- (b) the land is sold;
  - (c) 1 year after the notice of intention to sell is given to the registered owner.
- (4) If the local government ends the procedures under subsection (3)(c), nothing in this section prevents the local government from deciding to sell the land again under section 140(2).

## **142 Procedures for selling land**

- (1) This section sets out the procedures that a local government must follow when selling land for overdue rates or charges.
- (2) The local government must first offer the land for sale by auction.
- (3) The local government must prepare an auction notice.
- (4) At least 14 days, but not more than 35 days, before the day of the auction, the local government must—
  - (a) give a copy of the auction notice to everyone who was given a notice of intention to sell the land; and
  - (b) publish the auction notice on the local government’s website; and
  - (c) display the auction notice in a conspicuous place in the local government’s public office, until the day of the auction; and
  - (d) display the auction notice in a conspicuous place on the land unless it is not reasonably practicable to do so because the land is in a remote location or difficult to access; and
  - (e) take all reasonable steps to publish the auction notice in another way to notify the public about the sale of the land.

*Examples of other ways to publish the auction notice—*

publish the auction notice in a newspaper that is circulating generally in the local government area or on a real estate trading website

- (5) However, if—
- (a) the land is a building unit; and
  - (b) it is not practicable to display the auction notice in a conspicuous place on the land;
- the notice may be displayed in a conspicuous part of the common property for the building units.
- (6) In this section—
- auction notice***, for a sale of land by auction, means a written notice stating—
- (a) the day, time and place of the auction; and
  - (b) a full description of the land.

### **143 Conduct of auction**

- (1) The local government must set a reserve price for the land at the auction that is at least—
- (a) the market value of the land; or
  - (b) the higher of the following—
    - (i) the amount of overdue rates or charges on the land;
    - (ii) the value of the land.
- (2) If the reserve price for the land is not reached at the auction, the local government may enter into negotiations with any bidder who attended the auction to sell the land by agreement.
- (3) However, the price for the land under the agreement must not be less than the reserve price for the land.

### **144 Procedures for selling land by another auction or negotiation**

- (1) The local government may, after the day of the auction, decide to continue to offer the land for sale by another auction, or sale by negotiation, under this section.

- (2) The local government must end any negotiations entered into under section 143(2) when it makes a decision under subsection (1).
- (3) Sections 142(3) to (5) and 143 apply to the preparation and conduct of any subsequent sale by auction under this section.
- (4) The local government must prepare a sales notice if it decides to offer the land for sale by negotiation under this section.
- (5) The local government must—
  - (a) give a copy of the sales notice to each interested party who was given a notice of intention to sell the land; and
  - (b) publish the sales notice on the local government’s website; and
  - (c) display the sales notice in a conspicuous place in the local government’s public office; and
  - (d) display the sales notice in a conspicuous place on the land unless it is not reasonably practicable to do so because the land is in a remote location or difficult to access; and
  - (e) take all reasonable steps to publish the sales notice in another way to notify the public about the sale of the land.

*Examples of other ways to publish the sales notice—*

publish the sales notice in a newspaper that is circulating generally in the local government area or on a real estate trading website

- (6) However, if—
  - (a) the land is a building unit; and
  - (b) it is not practicable to display the sales notice in a conspicuous place on the land;

the notice may be displayed in a conspicuous part of the common property for the building units.

- (7) The local government must ensure that the price for land offered for sale by negotiation under this section is at least—

- (a) the market value of the land; or
  - (b) the higher of the following—
    - (i) the amount of overdue rates or charges on the land;
    - (ii) the value of the land.
- (8) In this section—
- sales notice*, for a sale of land by negotiation, means a written notice stating—
- (a) the land is for sale by negotiation; and
  - (b) a full description of the land.

#### **145 Procedures after sale of land**

- (1) This section applies if land is sold under this subdivision.
- (2) The local government must give the registrar of titles an appropriate form stating—
  - (a) that the land has been sold under this subdivision; and
  - (b) the full description of the land; and
  - (c) the full name and address of the purchaser of the land; and
  - (d) the purchase price of the land.
- (3) An *appropriate form* is a form approved by the registrar of titles for lodgement in the land registry to record the transfer of land to a purchaser.
- (4) After receiving the appropriate form, the registrar of titles must register the transfer of the interest of the registered owner to the purchaser free of all encumbrances.
- (5) The registrar of titles may register the transfer even though the appropriate form is not accompanied by the instrument of title for the land.
- (6) Also, the registrar of titles—
  - (a) need not inquire whether the local government has complied with this subdivision; and

- (b) is not affected by actual or constructive notice of any failure by the local government to comply with this subdivision.

## **146 Application of proceeds of sale**

- (1) The local government must use the proceeds of the sale of the land in the following order—
  - (a) to pay any amount agreed for the release of a State encumbrance under section 138(4)(b) or (5);
  - (b) to pay the expenses of the sale;  
*Example of expenses of the sale—*
    - administrative costs incurred by the local government
  - (c) to pay land tax owing on the day of sale;
  - (d) to pay the overdue rates or charges for the land;
  - (e) to pay any other amounts relating to the land that the owner of the land owed the local government immediately before the sale;
  - (f) to pay any rates or charges, other than overdue rates or charges, for the land;
  - (g) to pay any registered encumbrances, other than State encumbrances, in order of their priority under the Land Title Act;
  - (h) to pay any body corporate fees that the owner of the land owed immediately before the sale;
  - (i) to pay the person who owned the land immediately before the sale.
- (2) If any of the proceeds of sale remain unclaimed after 2 years, the local government must pay the proceeds to the public trustee as unclaimed money.