



Local Government Act 1993

Local Government Reform Implementation (Transferring Areas) Regulation 2007

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Also see endnotes for information about—

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

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Queensland

Local Government Reform Implementation (Transferring Areas) Regulation 2007

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Local Government Reform Implementation (Transferring Areas) Regulation 2007

[as amended by all amendments that commenced on or before 14 March 2008]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Local Government Reform Implementation (Transferring Areas) Regulation 2007*.

Note—

Under section 159ZZA of the Act, chapter 3, part 1B of the Act expires at the end of 31 December 2011 or at an earlier time fixed under a regulation. This regulation (other than part 3) will expire on the same day chapter 3, part 1B of the Act expires.

2 Purposes of regulation

- (1) This regulation is a reform implementation regulation.
- (2) The main purpose of this regulation is to make provision for empowering and directing the commission to make decisions about the allocation of employees, assets, liabilities and property of any kind between local governments whose areas have a transferring area included in them or excluded from them.
- (3) Another purpose of this regulation is to support the coming into effect of reform matters under chapter 3, part 1B of the Act in relation to transferring areas A to K.

3 Application of definitions for ch 3, pt 1B of the Act

Words defined for chapter 3, part 1B of the Act have the same meaning in this regulation.

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4 Definitions

The dictionary in the schedule defines particular words used in this regulation.

4A References to changeover day

A matter under this regulation that happens from a changeover day happens from the beginning of that day.

Part 2 Transition matters for particular transferring areas

Division 1 Preliminary

5 Application of pt 2

This part applies in relation to transferring areas A, B, C, D, E, F, G and H.

Division 2 Making allocation methodology

6 Purpose of allocation methodology

The chief executive may make a methodology directed at ensuring the proper allocation of employees, assets, liabilities and property of any kind between the local governments of new and adjusted local government areas in relation to transferring areas (the *allocation methodology*).

7 When allocation methodology takes effect

- (1) The chief executive must notify the making of the allocation methodology by publishing the methodology on the department's website.
- (2) The allocation methodology takes effect—
 - (a) on the day the methodology is published on the department's website; or
 - (b) if a later day is stated in the allocation methodology—on the later day.

8 Notification of allocation methodology

The chief executive must, as soon as practicable after the allocation methodology or an amendment of the methodology takes effect, advise all responsible entities of the taking effect of the allocation methodology or the amendment of the methodology.

Division 3 Process after making of allocation methodology

9 Complying with allocation methodology

Each responsible entity must take all reasonable steps to comply with the allocation methodology.

10 Role of commission

The commission must make decisions as provided for under the allocation methodology.

11 Public notification of decisions

When the commission makes a decision in relation to an employee, asset, liability or property of any kind, it must publish the decision in the gazette.

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12 When decisions take effect

- (1) On the changeover day for a new or adjusted local government area, all decisions gazetted under this division, including, for example, transfers or vesting of assets or property of any kind, assumptions of liability and transfers of employees, provided for in the decisions in relation to the local government for the new or adjusted local government area, take effect.
- (2) The registrar of titles or other person responsible for keeping a register for dealings in assets or property of any kind must, if asked by a local government, record the transfer or the vesting of any asset or property under this section in the local government.

Division 4 Miscellaneous

13 Direction for the Act, s 159YQ

This regulation directs for section 159YQ(6) of the Act that chapter 3, part 3, divisions 3 to 5 of the Act do not apply to the commission for the purposes of making decisions under this regulation.

Part 3 Reform matters for particular transferring areas

Division 1 Preliminary

14 Application of pt 3

This part applies in relation to transferring areas A, B, C, D, E, F, G and H.

15 References to transferring and receiving local governments and local government areas

- (1) A new local government or an adjusted local government whose local government area includes a transferring area from the changeover day for the new or adjusted local government's local government area is called a *receiving local government*.
- (2) An existing local government whose local government area included a transferring area immediately before the changeover day for a receiving local government's local government area is called a *transferring local government*.
- (3) In a provision of this part about a receiving local government, a transferring local government and a transferring area, the receiving local government is the local government whose local government area includes, under chapter 3, part 1B of the Act, the transferring area that, immediately before the changeover day for the receiving local government's local government area, was part of the transferring local government's local government area.

Division 2 Role of receiving local governments

16 Receiving local government successor of transferring local government

- (1) Each receiving local government is, in all respects, the successor of each of its transferring local governments in relation to the transferring areas.
- (2) The other provisions of this part do not limit subsection (1).
- (3) However, nothing in this part is intended to affect the operation of section 12(1).

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17 Receiving local government to take over particular functions and powers

- (1) This section applies in relation to a receiving local government if, under an Act—
 - (a) a local government may perform a function or exercise a power; and
 - (b) a transferring local government started to perform the function or exercise the power in relation to the transferring area, but did not finish performing the function or exercising the power, before the changeover day for the receiving local government's local government area.
- (2) The receiving local government may, from the changeover day for its local government area, continue to perform the function or exercise the power in relation to the transferring area.

Example—

If a person has, before the changeover day for a receiving local government's local government area, made an application under an Act to a transferring local government about land in the transferring area, the receiving local government may deal with the application from the changeover day for its local government area.

18 Receiving local government subject to particular obligations etc.

If a transferring local government is, immediately before the changeover day for a receiving local government's local government area, subject to a condition, duty, obligation, order or requirement in relation to a transferring area, the receiving local government is, from the changeover day, subject to the condition, duty, obligation, order or requirement.

Division 3 Local laws and other instruments

19 Definition for div 3

In this division—

continuing local law means a local law of a transferring local government in force in the transferring area immediately before the changeover day for a receiving local government's local government area.

20 Local laws for transferring area

- (1) From the changeover day for a receiving local government's local government area, a continuing local law and any subordinate local law made under the local law continue to apply in the transferring area until the earliest of the following—
 - (a) it is repealed by the receiving local government;
 - (b) the receiving local government, by local law, applies the continuing local law to the whole of its local government area under section 21(2);
 - (c) 31 December 2010.
- (2) A continuing local law is, from the changeover day for the receiving local government's local government area, taken to be a local law of the receiving local government.
- (3) The receiving local government may, by local law, amend a continuing local law while it continues in force under subsection (1).
- (4) A continuing local law must be read with the changes necessary to make it consistent with, and adapt its operation to, this regulation.

21 Limited application of continuing local laws

- (1) To remove any doubt, it is declared that a continuing local law continues in force only for the transferring area.

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- (2) However, the receiving local government may, by local law, apply a continuing local law to the whole of the receiving local government's local government area, with or without changes.
- (3) If the receiving local government applies a continuing local law to the whole of its local government area, any subordinate local law made under the local law also applies to the whole of the local government area.
- (4) If the receiving local government applies, by local law, a continuing local law without changes to the whole of its local government area, sections 867 and 872 of the Act do not apply to the making of the local law.
- (5) If—
 - (a) the receiving local government applies, by local law, a continuing local law to the whole of its local government area; and
 - (b) when applying the local law, the receiving local government repeals another continuing local law (the *repealed local law*) about the same matter; and
 - (c) the only change to the continuing local law, as applied by the local law, is to amend the continuing local law to provide for instruments made under the repealed local law to continue in force;sections 867 and 872 of the Act do not apply to the making of the local law.
- (6) If—
 - (a) the receiving local government applies, by local law, a continuing local law to the whole of its local government area; and
 - (b) the only change to the continuing local law, as applied by the local law, is to repeal—
 - (i) any redundant provision under section 899D of the Act; or

- (ii) any anti-competitive provision identified in a public interest test report under chapter 12, part 2, division 6 of the Act;

sections 867 and 872 of the Act do not apply to the making of the local law.

22 Local laws for particular receiving local government areas

- (1) This section applies to each of the following receiving local governments—
 - (a) Banana Shire Council;
 - (b) Logan City Council.
- (2) A receiving local government may, by local law, apply an existing local law to the whole of its local government area, with or without changes.
- (3) Section 21(3), (4) and (6) applies to the receiving local government as if a reference to a continuing local law were a reference to an existing local law.
- (4) If—
 - (a) the receiving local government applies, by local law, an existing local law to the whole of its local government area; and
 - (b) when applying the local law, the receiving local government repeals a continuing local law (the *repealed local law*) about the same matter; and
 - (c) the only change to the existing local law, as applied by the local law, is to amend the existing local law to provide for instruments made under the repealed local law to continue in force;

sections 867 and 872 of the Act do not apply to the making of the local law.

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23 Local laws about meetings for particular receiving local government areas

- (1) This section applies to each of the following receiving local governments—
 - (a) Banana Shire Council;
 - (b) Logan City Council.
- (2) An existing local law about meetings, and any subordinate local law made under the local law, apply to the receiving local government's local government area from its changeover day.

24 Existing instruments continue in force

- (1) This section applies to an instrument, other than a local law or an instrument made under the Planning Act—
 - (a) properly made under an Act before the changeover day for a receiving local government's local government area about—
 - (i) a resident in the transferring area; or
 - (ii) an owner of land in the transferring area; or
 - (iii) land in the transferring area; or
 - (iv) a person's entitlement to carry out an activity in the transferring area; and
 - (b) in force immediately before the changeover day for the receiving local government's local government area.
- (2) For the receiving local government dealing with the instrument from the changeover day for its local government area, the instrument continues in force until it would, if the transferring area had not become part of the receiving local government's local government area, have ceased to have effect under the Act.

25 Existing delegations made to transferring local government

- (1) This section applies to a delegation—
 - (a) made to a transferring local government under an Act; and
 - (b) in force in relation to the transferring area immediately before the changeover day for a receiving local government's local government area.
- (2) From the changeover day, the delegation continues in force as a delegation to the receiving local government until the earlier of the following—
 - (a) it is revoked;
 - (b) it would, if the transferring area had not become part of the receiving local government's local government area, have ended.
- (3) Subsection (2) does not stop the delegation being amended while it continues in force under the subsection.

26 Existing delegations made by transferring local government to chief executive officer

- (1) This section applies to a delegation—
 - (a) made by a transferring local government to its chief executive officer in relation to a transferring area; and
 - (b) in force immediately before the changeover day for a receiving local government's local government area.
- (2) From the changeover day, the delegation continues in force as a delegation to the receiving local government's chief executive officer from the receiving local government in relation to the whole of the receiving local government's local government area until the earlier of the following—
 - (a) it is revoked by the receiving local government;

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- (b) it would, if the transferring area had not become part of the receiving local government's local government area, have ended.
- (3) Subsection (2) does not stop the receiving local government amending a delegation while it continues in force under the subsection.
- (4) If there is an inconsistency between 2 or more delegations of 1 or more transferring local governments and an existing local government that becomes a receiving local government from the changeover day for its local government area, the receiving local government's chief executive officer may exercise delegated authority in accordance with any of the delegations.

27 Existing delegations made by chief executive officer of transferring local government

- (1) This section applies to a delegation—
 - (a) made by the chief executive officer of a transferring local government to an employee of the transferring local government in relation to a transferring area; and
 - (b) in force immediately before the changeover day for a receiving local government's local government area.
- (2) From the changeover day, the delegation continues in force as a delegation to the employee from the receiving local government's chief executive officer in relation to the whole of the receiving local government's local government area until the earlier of the following—
 - (a) it is revoked by the receiving local government's chief executive officer;
 - (b) it would, if the transferring area had not become part of the receiving local government's local government area, have ended.
- (3) Subsection (2) does not stop the receiving local government's chief executive officer amending a delegation while it continues in force under the subsection.

- (4) Subsections (2) and (3) do not apply if the employee does not, on the changeover day for the receiving local government's local government area, become an employee of the receiving local government.

28 Existing authorisations

- (1) This section applies to an authorisation in force in relation to a transferring area, and applying in relation to the transferring local government or an officer of the transferring local government, immediately before the changeover day for a receiving local government's local government area.
- (2) From the changeover day, the authorisation continues in force in the transferring area, and in relation to the receiving local government or the officer, until the earlier of the following—
- (a) it is revoked;
 - (b) it would, if the transferring area had not become part of the receiving local government's local government area, have ended.
- (3) Subsection (2) does not stop the authorisation being amended while it continues in force under the subsection.
- (4) In this section—
- authorisation*** means an approval, consent, licence, permission, registration or other authority issued under an Act by any entity.

29 Authorised persons

- (1) This section applies if—
- (a) either—
 - (i) a transferring local government appoints a person as an authorised person under chapter 15, part 5 of the Act in relation to a transferring area; or

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Editor's note—

Chapter 15, part 5 (Enforcement of local government Acts) of the Act

- (ii) the chief executive officer of a transferring local government appoints an employee of the transferring local government to be an authorised person under the *Environmental Protection Act 1994*, section 445(2), in relation to a transferring area; and

Editor's note—

Environmental Protection Act 1994, section 445
(Appointment of authorised persons)

- (b) the person holds office as an authorised person immediately before the changeover day for a receiving local government's local government area.
- (2) From the changeover day for the receiving local government's local government area, the person's instrument of appointment continues in force as an instrument of appointment of the person as an authorised person—
 - (a) of the receiving local government, if subsection (1)(a)(i) applies; or
 - (b) under the *Environmental Protection Act 1994*, section 445, if subsection (1)(a)(ii) applies.
 - (3) The instrument of appointment continues in force in relation to the transferring area until the earlier of the following—
 - (a) the instrument of appointment is repealed;
 - (b) the person stops holding office as an authorised person in the circumstances provided for under section 1086(2) of the Act or the *Environmental Protection Act 1994*, section 446(3).

Editor's note—

Section 1086 (Authorised person's appointment conditions) of the Act or the *Environmental Protection Act 1994*, section 446
(Terms of appointment of authorised persons)

- (4) Subsection (2) does not stop the receiving local government, or the chief executive officer of the receiving local government, amending the instrument of appointment while it continues in force under subsection (3).

Division 4 Financial matters

30 Fees and charges

- (1) From the changeover day for a receiving local government's local government area, a fee or charge fixed or made by a transferring local government in relation to a transferring area—
- (a) is taken to have been fixed or made, in relation to the transferring area, by the receiving local government; and
 - (b) applies until the receiving local government varies the fee or charge.
- (2) In this section—
- charge* includes an infrastructure charge and infrastructure contribution under the Planning Act.

31 Recovery of unpaid fees and charges

- (1) This section applies if—
- (a) before the changeover day for a receiving local government's local government area, a transferring local government had fixed or made a fee or charge in relation to the transferring area; and
 - (b) immediately before the changeover day, the fee or charge had not been paid.
- (2) The receiving local government is taken to have fixed or made the fee or charge.
- (3) If the time for payment of the fee or charge had not ended before the changeover day, the time continues to run until the

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end of the period in which the fee or charge must be paid (the *relevant period*).

- (4) If the person fails to pay the fee or charge within the relevant period, the receiving local government may take action against the person to obtain payment of the fee or charge.
- (5) In this section—
charge includes an infrastructure charge and infrastructure contribution under the Planning Act.

32 Levying rates

- (1) This section applies if, immediately before the changeover day for a receiving local government's local government area, a transferring local government—
 - (a) had made or imposed a rate on land in the transferring area; and
 - (b) had not given a notice levying the rate on a person.
- (2) The receiving local government or the transferring local government must give the person a notice levying the rate.
- (3) If the receiving local government gives the person a notice levying the rate, the receiving local government is taken to have made and levied the rate.
- (4) If the transferring local government gives the person a notice levying the rate, the transferring local government—
 - (a) is taken to have made and levied the rate on behalf of the receiving local government for the period from 15 March 2008 to 30 June 2008; and
 - (b) the notice must contain a statement to this effect.

33 Recovery of unpaid rates

- (1) This section applies if—
 - (a) before the changeover day for a receiving local government's local government area, a transferring local

government had given a person a notice levying a rate on land in the transferring area; and

- (b) immediately before the changeover day, the rate had not been paid.
- (2) The receiving local government is taken to have made and levied the rate.
- (3) If the time for payment of the rate had not ended before the changeover day, the time continues to run until the due date for payment of the rate.
- (4) If the person fails to pay the rate on or before the due date for payment of the rate, the receiving local government or the transferring local government may take action against the person to recover the rate.

Division 5 Financial operation and accountability matters—chapter 7 of the Act

Subdivision 1 Preliminary

34 Definitions for div 5

In this division—

pre-changeover period means the period starting on 1 July 2007 and ending at the end of 14 March 2008.

relevant local government means each of the following adjusted local governments—

- (a) Banana Shire Council;
- (b) Gold Coast City Council;
- (c) Ipswich City Council;
- (d) Logan City Council.

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Subdivision 2 Particular financial operation and accountability documents

35 Corporate plan, operational plan, revenue policy and revenue statement

- (1) Until 1 July 2008, a relevant local government is not required to amend its corporate plan, operational plan, revenue policy or revenue statement to take account of the inclusion or exclusion of a transferring area in its local government area under the reform implementation provisions.
- (2) However, if a relevant local government amends its corporate plan to take account of the inclusion or exclusion of a transferring area in its local government area, section 507(b) of the Act does not apply to the amendment.

Editor's note—

Section 507 (Requirements of corporate plans) of the Act

36 Amending budget of relevant local government

- (1) A relevant local government must amend its budget for the financial year starting on 1 July 2007 to take account of the inclusion or exclusion of a transferring area in its local government area under the reform implementation provisions.
- (2) Sections 519(2)(a) and (b) and 520(3) of the Act do not apply to the amendment of the budget.

Note—

Under section 519(2)(c) and (d) of the Act, a relevant local government's budget must comply with the Local Government Finance Standards and be accompanied by its revenue statement.

Editor's note—

Sections 519 (Requirements of budgets) and 520 (Content of operating fund budgets) of the Act

37 Budget of receiving local government in relation to transferring area

- (1) This section applies to a budget adopted by a transferring local government for the financial year starting on 1 July 2007 (the *relevant financial year*).
- (2) From the changeover day for a receiving local government's local government area, the part of the budget that applies in relation to the transferring area is taken to have been adopted by the receiving local government for the relevant financial year.
- (3) Subsection (2) does not stop the receiving local government amending the budget during the relevant financial year.
- (4) The Local Government Finance Standard, section 54(b)(i), (ii) and (iv), does not apply to the part of the budget, or an amendment of the part of the budget, for the relevant financial year.

Editor's note—

Local Government Finance Standard, section 54 (General requirements for budget)

Subdivision 3 Reporting obligations of particular receiving local governments

38 References to transferring local government and receiving local government

In a provision of this subdivision about a transferring local government and a receiving local government, the receiving local government is—

- (a) for the transferring local government of Beaudesert Shire Council—Scenic Rim Regional Council; and
- (b) for the transferring local government of Taroom Shire Council—Banana Shire Council; and
- (c) for the transferring local government of Tiaro Shire Council—Fraser Coast Regional Council.

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39 Financial statements of transferring local government for pre-changeover period

- (1) This section applies to a transferring local government's financial statements for the pre-changeover period.
- (2) The receiving local government must, on or before 30 June 2008, give the auditor-general for auditing the financial statements for the transferring local government.
- (3) If the auditor-general notifies the receiving local government that the financial statements require amendment, the receiving local government must give the auditor-general—
 - (a) the financial statements as amended (the *amended financial statements*); and
 - (b) a new official certificate of the receiving local government stating it considers the relevant recording and reporting procedures have been complied with in the preparation of the amended statements.
- (4) The financial statements or amended financial statements have effect as the transferring local government's financial statements for the pre-changeover period when the auditor-general certifies the financial statements or amended financial statements as audited financial statements.
- (5) The Local Government Finance Standard, sections 48(1), 49, 50 and 51, do not apply to the financial statements.

Editor's note—

Local Government Finance Standard, sections 48 (Financial statements must be given to auditor-general for auditing), 49 (Financial statements must be presented to meeting), 50 (Procedure for amended financial statements) and 51 (When financial statements have effect)

40 Annual report for pre-changeover period

- (1) A receiving local government must prepare a transferring local government's annual report for the pre-changeover period.

-
- (2) The annual report must be presented to the receiving local government for adoption, and must be adopted by it, on or before 15 September 2008.
 - (3) However, the Minister may allow a longer period for the receiving local government to comply with subsection (3).
 - (4) Sections 531 and 533 of the Act do not apply to the annual report.

Editor's note—

Sections 531 (Annual report to be prepared and adopted) and 533 (Content of report about implementing corporate and operational plans) of the Act

41 Certificate about payment of notional GST for pre-changeover period

- (1) This section applies to notional GST to be paid by a transferring local government for the pre-changeover period.
- (2) The receiving local government must, on or before 15 September 2008, give the Minister an official certificate of the receiving local government stating the transferring local government has paid the notional GST for the pre-changeover period.
- (3) The Local Government Finance Standard, section 21, does not apply to the transferring local government.

Editor's note—

Local Government Finance Standard, section 21 (Certificate about payment of notional GST)

Division 6 Planning schemes and related matters

42 Existing planning schemes and other planning instruments continue

- (1) The existing planning scheme of a transferring local government—

[s 42]

- (a) from the changeover day for the receiving local government's local government area, continues to apply to the transferring area until a new planning scheme for the transferring area prepared by the receiving local government is approved under the Planning Act; and
 - (b) is to be implemented, administered and enforced by the receiving local government; and
 - (c) for paragraph (b), is taken to be part of the receiving local government's planning scheme for the area; and
 - (d) binds the receiving local government.
- (2) The receiving local government may, under the Planning Act, amend the existing planning scheme while it continues to apply to the transferring area.
- (3) If the receiving local government amends the existing planning scheme while it continues to apply to the transferring area to include a priority infrastructure plan, the priority infrastructure plan is taken to apply only for the transferring area.
- (4) If a planning instrument, other than the existing planning scheme, is in force immediately before the changeover day for the receiving local government's local government area, the planning instrument continues in force from the changeover day until whichever of the following first happens—
 - (a) the planning instrument expires or is repealed;
 - (b) if the planning instrument is made under the existing planning scheme—the scheme, or a relevant part of it, is replaced.
- (5) The receiving local government may, under the Planning Act, amend the planning instrument while it continues to apply to the transferring area.
- (6) If the planning instrument is made under the existing planning scheme, subsection (4) does not stop a new planning scheme for the transferring area providing for the planning instrument continuing in force from the changeover day for the receiving local government's local government area.

(7) In this section—

existing planning scheme, of a transferring local government, means the planning scheme for the transferring local government, as in force for the transferring area immediately before the changeover day for the receiving local government's local government area.

43 Priority infrastructure plans for receiving local government areas

(1) This section applies if the local government for a relevant area started to amend its planning scheme to include a priority infrastructure plan, but did not finish amending the planning scheme, before the changeover day for the receiving local government's local government area.

(2) The receiving local government may, under the Planning Act, amend its planning scheme to include the priority infrastructure plan for the relevant area.

(3) In this section—

relevant area means the part of a receiving local government's local government area that does not include a transferring area.

44 Priority infrastructure plan for transferring area D

(1) This section applies to the part of Gold Coast City Council's priority infrastructure plan applying to transferring area D and in force immediately before the changeover day for Logan City Council's local government area (the *relevant part of PIP*).

(2) From the changeover day, the relevant part of PIP is taken to be a planning scheme policy made by Logan City Council and applying to transferring area D.

(3) In this section—

planning scheme policy see the Planning Act, section 2.1.16.

[s 45]

45 Requirements before changeover day in relation to infrastructure

- (1) Subsection (2) applies to any requirement about infrastructure in relation to the transferring area, including, for example, either of the following, made by a transferring local government before the changeover day for a receiving local government's local government area—
 - (a) levying a charge for infrastructure under the Planning Act, chapter 5, part 1;
 - (b) imposing a condition on a development approval, under the Planning Act, section 6.1.31, requiring land, works, or a contribution towards the cost of supplying infrastructure.

Editor's note—

Planning Act, chapter 5 (Miscellaneous), part 1 (Infrastructure planning and funding) or section 6.1.31 (Conditions about infrastructure for applications).

- (2) The requirement—
 - (a) continues to apply from the changeover day for the receiving local government's local government area as a requirement of the receiving local government; and
 - (b) for that purpose, is taken to have been made by the receiving local government; and
 - (c) is lawful to the extent it would have been lawful had the reform implementation provisions never been enacted.
- (3) Subsection (4) applies to any requirement about infrastructure in relation to the transferring local government's adjusted local government area, including, for example, either of the following, made by the transferring local government before the changeover day for its adjusted local government area—
 - (a) levying a charge for infrastructure under the Planning Act, chapter 5, part 1;
 - (b) imposing a condition on a development approval, under the Planning Act, section 6.1.31, requiring land, works,

or a contribution towards the cost of supplying infrastructure.

- (4) The requirement—
- (a) continues to apply from the changeover day for the transferring local government's adjusted local government area as a requirement of the transferring local government; and
 - (b) is lawful to the extent it would have been lawful had the reform implementation provisions never been enacted.

46 Requirements after changeover day in relation to infrastructure

- (1) Subsection (2) applies if a transferring local government may, immediately before the changeover day for a receiving local government's local government area and in relation to the transferring area—
 - (a) impose any requirement in relation to infrastructure under the Planning Act, chapter 5; or
 - (b) impose a condition on a development approval, under the Planning Act, section 6.1.31, requiring land, works, or a contribution towards the cost of supplying infrastructure.
- (2) The receiving local government may, from the changeover day for its local government area, impose the requirement, or impose the condition on a development approval, in relation to the transferring area.
- (3) A requirement or condition imposed under subsection (2) is lawful to the extent it would have been lawful had the reform implementation provisions never been enacted and the requirement or condition had been imposed by the transferring local government.
- (4) Subsection (5) applies if a transferring local government may, immediately before the changeover day for its adjusted local government area, and in relation to the adjusted local government area—

[s 47]

- (a) impose any requirement in relation to infrastructure under the Planning Act, chapter 5; or
 - (b) impose a condition on a development approval, under the Planning Act, section 6.1.31, requiring land, works, or a contribution towards the cost of supplying infrastructure.
- (5) The transferring local government may, from the changeover day for its adjusted local government area, impose the requirement, or impose the condition on a development approval, in relation to the adjusted local government area.
- (6) A requirement or condition imposed under subsection (5) is lawful to the extent it would have been lawful had the reform implementation provisions never been enacted.

47 Particular decisions about land in transferring area

- (1) This section applies to a decision about land in a transferring area made under a transferring local government's planning scheme by the transferring local government before the changeover day for a receiving local government's local government area.
- (2) From the changeover day for the receiving local government's local government area, the decision continues to apply to the land and for that purpose is taken to have been made by the receiving local government.

48 Outstanding applications about land in transferring area

- (1) This section applies to an application about land in a transferring area that—
 - (a) before the changeover day for a receiving local government's local government area, was made to a transferring local government under an Act or the transferring local government's planning scheme; and
 - (b) was not finally decided before the changeover day.

- (2) The receiving local government must deal with the application from the changeover day for its local government area.

49 Appeals

- (1) Subsection (2) applies to an appeal—
- (a) started before the changeover day for a receiving local government's local government area against a decision of a transferring local government made under the transferring local government's planning scheme in relation to the transferring area; and
 - (b) not finished before the changeover day.
- (2) From the changeover day for the receiving local government's local government area, the receiving local government takes the place of the transferring local government in the appeal.
- (3) If—
- (a) an appeal could, before the changeover day for a receiving local government's local government area, have been started against a decision of a transferring local government made under the transferring local government's planning scheme in relation to the transferring area; and
 - (b) the appeal had not been started before the changeover day;
- it may be started against the receiving local government from the changeover day.
- (4) The appeal against the decision must be started within the time required under the Planning Act for the appeal.

[s 50]

Division 7 Employment matters

50 Preservation of employees' rights and entitlements

- (1) This section applies to a person who immediately before the changeover day for a receiving local government's local government area—
 - (a) was an employee of a transferring local government; and
 - (b) was identified in a decision of the commission, gazetted under section 11, as an employee who is to be transferred to the receiving local government.
- (2) On the changeover day for the receiving local government's local government area, the person is employed by the receiving local government on the same conditions on which the person was employed by the transferring local government.
- (3) Employment of the person by the receiving local government under subsection (2) does not—
 - (a) affect the employee's benefits, entitlements or remuneration; or
 - (b) prejudice the employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (c) interrupt continuity of service; or
 - (d) constitute a retrenchment or redundancy; or
 - (e) entitle the employee to a payment or other benefit merely because the person is no longer employed by the transferring local government.
- (4) Without limiting subsection (2), if an industrial instrument applies to the person immediately before the changeover day for the receiving local government's local government area, the instrument continues to apply to the person.

(5) If the person was, immediately before the changeover day for the receiving local government's local government area, employed under a contract of employment between the person and the transferring local government, subsections (2) and (3) apply subject to the contract of employment.

(6) In this section—

industrial instrument means a federal award, federal agreement or industrial instrument, as defined under the *Industrial Relations Act 1999*.

51 Appointer of employees

For the continuing employment, under section 50, of a person employed by the receiving local government, the person is taken to have been appointed by the chief executive officer of the receiving local government.

52 Declaration for the Act, s 159ZE

For section 159ZE(2), definition *predecessor* of the Act, a transferring local government is the predecessor of the receiving local government in relation to the continuing employment of a person under section 50.

Division 8 General

53 Documents of transferring local government

The documents of a transferring local government, to the extent they relate to the transferring area, become the documents of the receiving local government on the changeover day for its local government area.

Example—

the employment records for an employee of a transferring local government who becomes an employee of a receiving local government on the changeover day for its local government area

[s 54]

54 References to transferring local government

A reference in an Act or document to a transferring local government may, from the changeover day for the receiving local government's local government area and if the reference is in relation to the transferring area and the context permits, be taken to be a reference to the receiving local government.

Example—

a contract about land in a transferring area to which a transferring local government is a party

55 Administrative action taken by transferring local government

- (1) Any administrative action taken by a transferring local government in relation to a transferring area before the changeover day for a receiving local government's local government area is, from the changeover day, taken to be an administrative action taken by the receiving local government.
- (2) An administrative action that could have been started or continued by a transferring local government in relation to a transferring area before the changeover day for a receiving local government's local government area may, from the changeover day, be started or continued by the receiving local government.
- (3) In this section—

administrative action means an administrative action as defined by section 501C of the Act.

56 Infringement notice offences

- (1) This section applies to any matter happening, in relation to a transferring area and before the changeover day for a receiving local government's local government area, to which the *State Penalties Enforcement Act 1999* applies or may apply.
- (2) From the changeover day, the receiving local government takes the place of the transferring local government.

-
- (3) Subsection (2) does not apply in relation to an infringement notice issued by the transferring local government before the changeover day for the receiving local government's local government area.
 - (4) However, if the transferring local government goes out of existence on the changeover day for a receiving local government's local government area, all local governments that are receiving local governments in relation to the transferring local government must agree on which receiving local government is to take the place of the transferring local government in relation to the infringement notice.

Example—

If the transferring local government is Beaudesert Shire Council, Scenic Rim Regional Council and Logan City Council would have to agree on which of them is to take the place of Beaudesert Shire Council.

- (5) The receiving local government agreed on under subsection (4) takes the place of the transferring local government in relation to the infringement notice.

57 Legal proceedings

A legal proceeding that could have been started or continued by or against a transferring local government in relation to the transferring area before the changeover day for a receiving local government's local government area may, from the changeover day, be started or continued by or against the receiving local government.

58 Duty to facilitate changes in boundaries

A transferring local government and a receiving local government must do all acts and things necessary or desirable to facilitate external boundary changes because of the inclusion of a transferring area in the receiving local government's local government area under the reform implementation provisions.

[s 59]

Example—

agreement between a transferring local government and a receiving local government to give the receiving local government documents in relation to the transferring area

Part 4 Reform matters for transferring areas I, J and K

Division 1 Preliminary

59 Application of pt 4

This part applies in relation to transferring areas I, J and K.

60 References to transferring and receiving local governments and local government areas

- (1) An adjusted local government whose local government area includes a transferring area from the changeover day for the adjusted local government's local government area is called a *receiving local government*.
- (2) An existing local government whose local government area included a transferring area immediately before the changeover day for the receiving local government's local government area is called a *transferring local government*.
- (3) In a provision of this part about a receiving local government, a transferring local government and a transferring area, the receiving local government is the local government whose local government area includes, under chapter 3, part 1B of the Act, the transferring area that, immediately before the changeover day for the receiving local government's local government area, was part of the transferring local government's local government area.

Division 2 Role of receiving local governments and local laws

61 Receiving local government to take over particular functions and powers

- (1) This section applies in relation to a receiving local government if, under an Act—
 - (a) a local government may perform a function or exercise a power; and
 - (b) a transferring local government started to perform the function or exercise the power in relation to a transferring area, but did not finish performing the function or exercising the power, before the changeover day for the receiving local government's local government area.
- (2) The receiving local government may, from the changeover day of its local government area, continue to perform the function or exercise the power in relation to the transferring area.

Example—

If a person has, before the changeover day for a receiving local government's local government area, made an application under an Act to a transferring local government about land in the transferring area, the receiving local government may deal with the application from the changeover day for its local government area.

62 Receiving local government subject to particular obligations etc.

If a transferring local government is, immediately before the changeover day for a receiving local government's local government area, subject to a condition, duty, obligation, order or requirement in relation to a transferring area, the receiving local government is, from the changeover day, subject to the condition, duty, obligation, order or requirement.

[s 63]

63 Local laws

- (1) An existing local law and any subordinate local law made under the existing local law applies in the transferring area from the changeover day for a receiving local government's local government area.
- (2) However, subsection (1) does not apply to *Local Law No. 5 (Control of Entry) 2004* of Mornington Shire Council.

Division 3 Planning schemes and related matters

64 Application of div 3

This division applies only in relation to transferring area K.

65 Existing planning schemes and other planning instruments continue

- (1) The existing planning scheme of the transferring local government—
 - (a) from the changeover day for the receiving local government's local government area, continues to apply to the transferring area until a new planning scheme for the transferring area prepared by the receiving local government is approved under the Planning Act; and
 - (b) is to be implemented, administered and enforced by the receiving local government; and
 - (c) for paragraph (b), is taken to be the receiving local government's planning scheme for the area; and
 - (d) binds the receiving local government.
- (2) The receiving local government may, under the Planning Act, amend the existing planning scheme while it continues to apply to the transferring area.
- (3) If a planning instrument, other than the existing planning scheme, is in force immediately before the changeover day for

the receiving local government's local government area, the planning instrument continues in force from the changeover day until whichever of the following first happens—

- (a) the planning instrument expires or is repealed;
 - (b) if the planning instrument is made under the existing planning scheme—the scheme, or a relevant part of it, is replaced.
- (4) The receiving local government may, under the Planning Act, amend the planning instrument while it continues to apply to the transferring area.
- (5) If the planning instrument is made under the existing planning scheme, subsection (4) does not stop a new planning scheme for the transferring area providing for the planning instrument continuing in force after the changeover day for the receiving local government's local government area.

- (6) In this section—

existing planning scheme, of the transferring local government, means the planning scheme for the transferring local government, as in force for the transferring area immediately before the changeover day for the receiving local government's local government area.

66 Amending existing planning schemes

- (1) This section applies if the transferring local government started to amend its existing planning scheme or other planning instrument, but did not finish amending the existing planning scheme or planning instrument, before the changeover day for the receiving local government's local government area.
- (2) The receiving local government may, from the changeover day for its local government area, continue amending the existing planning scheme or the other planning instrument, while it continues to apply to the transferring area.

[s 67]

67 Particular decisions about land in transferring area

- (1) This section applies to a decision about land in the transferring area made under the transferring local government's planning scheme by the transferring local government before the changeover day for the receiving local government's local government area.
- (2) From the changeover day for the receiving local government's local government area, the decision continues to apply to the land and for that purpose is taken to have been made by the receiving local government.

68 Outstanding applications about land in transferring area

- (1) This section applies to an application about land in the transferring area that—
 - (a) before the changeover day for the receiving local government's local government area, was made to the transferring local government under an Act or the transferring local government's planning scheme; and
 - (b) was not finally decided before the changeover day.
- (2) The receiving local government must deal with the application from the changeover day for its local government area.

69 Appeals

- (1) Subsection (2) applies to an appeal—
 - (a) started before the changeover day for the receiving local government's local government area against a decision of the transferring local government made under the transferring local government's planning scheme in relation to the transferring area; and
 - (b) not finished before the changeover day.
- (2) From the changeover day for the receiving local government's local government area, the receiving local government takes the place of the transferring local government in the appeal.

- (3) If—
- (a) an appeal could, before the changeover day for the receiving local government's local government area, have been started against a decision of the transferring local government made under the transferring local government's planning scheme in relation to the transferring area; and
 - (b) the appeal had not been started before the changeover day;
- it may be started against the receiving local government from the changeover day.
- (4) The appeal against the decision must be started within the time required under the Planning Act for the appeal.

Schedule Dictionary

section 4

allocation methodology see section 6.

continuing local law for part 3, division 3—see section 19.

existing local law means a local law in force in the local government area of an existing local government that becomes a receiving local government from the changeover day for its local government area

infrastructure see the Planning Act, schedule 10.

Local Government Finance Standard means the *Local Government Finance Standard 2005*.

Planning Act means the *Integrated Planning Act 1997*.

planning instrument see the Planning Act, schedule 10.

pre-changeover period for part 3, division 5—see section 34.

priority infrastructure plan see the Planning Act, schedule 10.

receiving local government has the meaning given by section 15(1).

reform implementation provisions means chapter 3, part 1B of the Act.

relevant local government, for part 3, division 5, see section 34.

responsible entity means a person or other entity having responsibilities under the allocation methodology.

transferring local government has the meaning given by section 15(2).

Endnotes

1 Index to 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 14 March 2008. Future amendments of the Local Government Reform Implementation (Transferring Areas) Regulation 2007 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 | rv | = revised edition |
| num | = numbered | 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 |
| prev | = previous | | |

4 Table of reprints

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

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

| Reprint No. | Amendments included | Effective | Notes |
|-------------|---------------------|------------------|-------|
| 1 | none | 30 November 2007 | |
| 1A | 2008 SL No. 24 | 15 February 2008 | |
| 1B | 2008 SL No. 66 | 14 March 2008 | |

5 List of legislation

Local Government Reform Implementation (Transferring Areas) Regulation 2007 SL No. 293

made by the Governor in Council on 29 November 2007

notfd gaz 30 November 2007 pp 1824–6

commenced on date of notification

exp 31 December 2011 (see 1993 No. 70 s 159ZZA)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

Local Government Reform Implementation (Transferring Areas) Amendment Regulation (No. 1) 2008 SL No. 24

notfd gaz 15 February 2008 pp 725–6

commenced on date of notification

Note—An explanatory note was prepared

Local Government Reform Implementation (Transferring Areas) Amendment Regulation (No. 2) 2008 SL No. 66

notfd gaz 14 March 2008 pp 1469–72

commenced on date of notification

6 List of annotations

Purposes of regulation

prov hdg amd 2008 SL No. 24 s 3(1)

s 2 amd 2008 SL No. 24 s 3(2)

References to changeover day

s 4A ins 2008 SL No. 24 s 4

PART 3—REFORM MATTERS FOR PARTICULAR TRANSFERRING AREAS

pt hdg prev pt 3 hdg om R1 (see RA ss 7(1)(k) and 40)

pres pt 3 hdg ins 2008 SL No. 24 s 5

Division 1—Preliminary

div hdg ins 2008 SL No. 24 s 5

Application of pt 3

s 14 prev s 14 om R1 (see RA ss 7(1)(k) and 40)

pres s 14 ins 2008 SL No. 24 s 5

References to transferring and receiving local governments and local government areas

s 15 prev s 15 om R1 (see RA ss 7(1)(k) and 40)

pres s 15 ins 2008 SL No. 24 s 5

Division 2—Role of receiving local governments

div 2 (ss 16–18) ins 2008 SL No. 24 s 5

Division 3—Local laws and other instruments

div 3 (ss 19–29) ins 2008 SL No. 24 s 5

Division 4—Financial matters

div 4 (ss 30–33) ins 2008 SL No. 24 s 5

Division 5—Financial operation and accountability matters—chapter 7 of the Act

div 5 (ss 34–41) ins 2008 SL No. 24 s 5

Endnotes

Division 6—Planning schemes and related matters

div hdg ins 2008 SL No. 24 s 5

Existing planning schemes and other planning instruments continue

s 42 ins 2008 SL No. 24 s 5

Priority infrastructure plans for receiving local government areas

s 43 ins 2008 SL No. 24 s 5

Priority infrastructure plan for transferring area D

s 44 ins 2008 SL No. 24 s 5

Requirements before changeover day in relation to infrastructure

prov hdg amd 2008 SL No. 66 s 3(1)

s 45 ins 2008 SL No. 24 s 5
amd 2008 SL No. 66 s 3(2)–(3)

Requirements after changeover day in relation to infrastructure

prov hdg amd 2008 SL No. 66 s 4(1)

s 46 ins 2008 SL No. 24 s 5
amd 2008 SL No. 66 s 4(2)–(4)

Particular decisions about land in transferring area

s 47 ins 2008 SL No. 24 s 5

Outstanding applications about land in transferring area

s 48 ins 2008 SL No. 24 s 5

Appeals

s 49 ins 2008 SL No. 24 s 5

Division 7—Employment matters

div 7 (ss 50–52) ins 2008 SL No. 24 s 5

Division 8—General

div 8 (ss 53–58) ins 2008 SL No. 24 s 5

PART 4—REFORM MATTERS FOR TRANSFERRING AREAS I, J AND K

pt 4 (ss 59–69) ins 2008 SL No. 24 s 5

SCHEDULE—DICTIONARY

def “**continuing local law**” ins 2008 SL No. 24 s 6

def “**existing local law**” ins 2008 SL No. 24 s 6

def “**infrastructure**” ins 2008 SL No. 24 s 6

def “**Local Government Finance Standard**” ins 2008 SL No. 24 s 6

def “**Planning Act**” ins 2008 SL No. 24 s 6

def “**planning instrument**” ins 2008 SL No. 24 s 6

def “**pre-changeover period**” ins 2008 SL No. 24 s 6

def “**priority infrastructure plan**” ins 2008 SL No. 24 s 6

def “**receiving local government**” ins 2008 SL No. 24 s 6

def “**reform implementation provisions**” ins 2008 SL No. 24 s 6

def “**relevant local government**” ins 2008 SL No. 24 s 6

def “**transferring local government**” ins 2008 SL No. 24 s 6

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