



Queensland

City of Brisbane Act 2010

City of Brisbane (Operations) Regulation 2010

Reprinted as in force on 1 July 2010

Reprint No. 1

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Information about this reprint

This regulation is reprinted as at 1 July 2010.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 40)
- correct minor errors (s 44)
- make all necessary consequential amendments (s 7(1)(k)).

This page is specific to this reprint. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including, table of corrected minor errors.**

Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

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City of Brisbane (Operations) Regulation 2010

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Chapter 1 Preliminary

1 Short title

This regulation may be cited as the *City of Brisbane (Operations) Regulation 2010*.

2 Commencement

This regulation commences on 1 July 2010.

3 Definitions

The dictionary in schedule 3 defines particular words used in this regulation.

Chapter 2 Brisbane City Council

Part 1 Brisbane's external boundaries and its wards

4 Boundaries of Brisbane—Act, s 7(4)

- (1) External boundaries of Brisbane are shown on map LGRB 1 edition 2, sheets 1 to 4.

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- (2) To remove any doubt, it is declared that any part of a watercourse, including the land below the high-water mark of the watercourse, that is within the boundary of Brisbane is part of Brisbane.

Note—

Brisbane is the council's local government area.

- (3) A *watercourse* includes a canal, lake or river.

5 Wards of Brisbane—Act, s 17(2)

- (1) The wards of Brisbane are named in schedule 1.
- (2) The boundaries of each ward are shown on map LGRB 1 edition 2, sheets 5 to 30.
- (3) For each ward, the boundaries are shown on the sheet number of map LGRB 1 edition 2 stated in schedule 1 opposite the ward's name.

6 Availability of map of Brisbane

- (1) The department's chief executive must ensure—
 - (a) a copy of map LGRB 1, edition 2 (including sheets 1 to 30 of the map) may be viewed by the public at the State office; and
 - (b) the council has a copy of the map.
- (2) The council must ensure the public may view a copy of map LGRB 1, edition 2 (including sheets 1 to 30 of the map) at its public office.

Part 2 **Changing Brisbane's external boundaries**

7 **What pt 2 is about**

This part prescribes, for section 21(2)(c) of the Act, the other matters to be considered by the change commission when assessing whether a proposed boundary change is in the public interest.

8 **Community of interest**

- (1) The external boundaries of Brisbane should be drawn in a way that has regard to communities of interest, including that Brisbane should generally—
 - (a) reflect local communities, for example, the geographical pattern of human activities (where people live, work and engage in leisure activities), and the linkages between local communities; and
 - (b) have a centre, or centres, of administration and service easily accessible to its population; and
 - (c) ensure effective elected representation for residents and ratepayers; and
 - (d) have external boundaries that—
 - (i) do not divide local neighbourhoods or adjacent rural and urban areas with common interests or interdependencies, including, for example, economic, cultural and ethnic interests or interdependencies; and
 - (ii) subject to the water catchment principle—follow the natural geographical features and non-natural features separating different communities; and
 - (iii) do not dissect properties.

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- (2) The *water catchment principle* is the principle that water catchment areas should generally be included in the local government area they service.

9 Joint arrangements

- (1) Regard should be had to whether or not a joint arrangement should be established instead of, or in combination with, a change to the external boundaries of Brisbane.
- (2) A *joint arrangement* includes the following—
- (a) a joint standing committee;
 - (b) joint action by agreement;
 - (c) the joint exercise of local government jurisdiction or the joint operation of an activity, facility or service;
 - (d) an agreement on, or extension of, an activity, facility or service outside Brisbane;
 - (e) a contribution for the operation of an activity, facility or service outside Brisbane;
 - (f) resource sharing by the council and other local governments;
 - (g) any other type of arrangement of a joint nature the change commission considers appropriate, including an arrangement not dealt with under the Act.

10 Planning

The external boundaries of Brisbane should be drawn in a way that—

- (a) helps in—
- (i) the planning and development for the benefit of Brisbane; and

- (ii) the efficient and effective operation of its facilities, services and activities; and
- (b) has regard to existing and expected population growth.

11 Resource base sufficiency

The council should have a sufficient resource base—

- (a) to be able to efficiently and effectively exercise its jurisdiction and operate facilities, services and activities; and
- (b) to be flexible and responsive in the exercise of its jurisdiction and the operation of its activities, facilities and services.

Chapter 3 The business of council

Part 1 Local laws

12 Information to be given to Minister—Act, s 31

For section 31(2)(b)(iii) of the Act, the information required about a proposed local law is—

- (a) details of any consultation with the public about the proposed local law; and
- (b) details of any consultation with relevant government entities about the overall State interest in the proposed local law; and
- (c) if the proposed local law infringes any fundamental legislative principles—justifications for the infringement.

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13 Local law register—Act, s 34

- (1) For section 34(1) of the Act, the council’s register of its local laws must contain all of the following information about each local law—
 - (a) the local law’s name, purposes and general effect;
 - (b) if the law is a subordinate local law—the name of the local law allowing the subordinate local law to be made;
 - (c) the name of any existing local law amended or repealed by the new local law;
 - (d) if the local law is for a limited period—details of the limitation;
 - (e) if the local law applies only to a part of Brisbane—a description of the part;
 - (f) the day the council made the local law;
 - (g) the day the notice advising of the making of the local law is published and the name of each newspaper in which the notice appeared;
 - (h) the day the local law commences.
- (2) The council may include, in the register of its local laws, any other information about a local law it considers appropriate.
- (3) A person may, on payment of a fee decided by the council, request an extract or a certified copy of a local law from the register of its local laws.
- (4) The fee mentioned in subsection (3) must not be more than the actual reasonable cost of providing the extract or copy.
- (5) The council must publish the register of its local laws on its website.

14 Anti-competitive provisions

- (1) For the Act, schedule, definition *anti-competitive provision*, a provision that is identified as creating barriers to entry to a

market or barriers to competition within a market is a provision—

- (a) for a provision of a model local law proposed to be adopted by the council—the council considers, under section 5.1.2 of the identification guidelines, as being within the criteria applied under that section; or
 - (b) for any other provision proposed to be adopted by the council—
 - (i) identified by the council, under section 5.2.3 of the identification guidelines, as being within the criteria applied under that section; and
 - (ii) not excluded by the council under section 5.2.1 or 5.2.2 of the identification guidelines.
- (2) The *identification guidelines* is the document called ‘National Competition Policy Guidelines to Assist Local Governments Identify Possible Anti-competitive Provisions in Proposed Local Laws and Proposed Local Law Policies’, version 1, made by the department.

Editor’s note—

The identification guidelines are available for inspection on the department’s website.

15 Procedures for the review of anti-competitive provisions—Act, s 41

- (1) For section 41(1) of the Act, the procedures prescribed are those procedures under the public interest test guidelines.
- (2) The *public interest test guidelines* is the document called the ‘National Competition Policy Guidelines for Conducting Public Interest Tests on “Possible” Anti-competitive Provisions in Local Laws and Local Law Policies’, version 1, made by the department.

Editor’s note—

The public interest test guidelines are available for inspection on the department’s website.

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16 Drafting standards for local laws

- (1) This section prescribes, for the Act, schedule, definition *drafting standards*, the standards for drafting local laws.
- (2) Local laws must be consistent with the guidelines issued by the Parliamentary Counsel under the *Legislative Standards Act 1992*, section 9, for local laws and subordinate local laws.

Part 2 Roads and other infrastructure

Division 1 Roads

17 Prescribed particulars for register of roads—Act, s 81

- (1) For section 81(1)(b)(iii) of the Act, the other particulars prescribed are—
 - (a) the length of every road, including an unformed road, in Brisbane; and
 - (b) if a road is formed, gravelled pavement or sealed pavement—the length and width of the formed, gravelled pavement or sealed pavement part of the road; and
 - (c) if a road consists of a through road and an adjacent road—the width of each as if each were a separate road.
- (2) For subsection (1)—
 - (a) a length must be measured in kilometres and a width must be measured in metres; and
 - (b) the width of a divided road is the total width of all sections of the divided road that are formed, gravelled pavement or sealed pavement.
- (3) In this section—

formed, for a road, means a road, other than a gravelled pavement or sealed pavement road, formed so that stormwater drains from the road.

gravelled pavement, for a road, means a road surfaced with gravel, limestone or rubble and constructed by the use of a mechanical compaction process.

sealed pavement, for a road, means a road with a surface of asphalt, bitumen, concrete or pavers.

unformed, for a road, means a road or track that—

- (a) is not a formed, gravelled pavement or sealed pavement road; but
- (b) is open to, and used by, the public.

Division 2 Malls

Subdivision 1 Establishing malls

18 Procedures for establishing malls—Act, s 88

- (1) For section 88(2) of the Act, this section prescribes the procedures for establishing or extending a mall.
- (2) The council must take the following steps if it is to establish or extend a mall—
 - (a) decide, by resolution, that the mall should be established or extended;
 - (b) include the proposed mall or extension in its planning scheme;
 - (c) declare, by public notice, that a relevant road or other land becomes a mall or an extension as from a stated day.
- (3) The public notice must be published—

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- (a) in a newspaper that is circulating generally in the locality of the proposed mall or extension; and
- (b) on the council's website.

Subdivision 2 Managing, promoting and using malls

19 Other matters connected with managing, promoting or using malls—Act, s 88

- (1) For section 88(3) of the Act, this section prescribes other matters connected with managing, promoting or using a mall.
- (2) In relation to a mall, the council may do any of the following—
 - (a) anything that is necessary or desirable for developing, managing, maintaining (including cleaning), promoting, or using the mall;
 - (b) permit the use of any part of the mall (including for the use of erecting any structure, for example) on the conditions it considers appropriate;
 - (c) anything incidental to its powers mentioned in paragraph (a) or (b).
- (3) The council's planning scheme must include all existing and proposed malls in Brisbane.

Subdivision 3 Vehicles and traffic on malls

20 Restricted traffic on malls

- (1) The council may, by public notice (a *mall traffic restriction*), restrict—
 - (a) the types of vehicles (including recreational vehicles) that may be on any part of a mall; and

- (b) the times that particular types of vehicles may be on any part of a mall.
- (2) The public notice must be published—
 - (a) in a newspaper that circulates throughout Brisbane; and
 - (b) on the council’s website.
- (3) Also, the public notice—
 - (a) may state the types of vehicles to which it relates by reference to any of the following—
 - (i) vehicles generally;
 - (ii) vehicles of a particular class or similar description;
 - (iii) vehicles used for a particular purpose or in particular circumstances;
 - (iv) vehicles used by a particular person or class of person; and
 - (b) may state that times differ according to different types of vehicles; and
 - (c) may state the parts of the mall that a type of vehicle may not be on; and
 - (d) must state the day on which the restrictions take effect.
- (4) The council may vary or revoke a public notice made under subsection (1) by publishing another public notice.
- (5) While the restriction is in force, the council must display and maintain a notice on the mall that—
 - (a) is easily visible to—
 - (i) if the restriction applies to only part of the mall—persons entering the part of the mall where the restriction applies; or
 - (ii) if the restriction applies to all of the mall—persons entering the mall from a road; and

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Note—

To comply with the requirement under paragraph (a) the council may need to display more than 1 notice on a mall (at each entrance to the mall, for example).

- (b) generally indicates that traffic restrictions apply (including by indicating the types of vehicles affected by the restriction); and

Examples—



- (c) states that further information about the restriction may be viewed on the council's website.

21 Offence to contravene mall traffic restriction

- (1) This section applies to a mall if a mall traffic restriction restricts—
- (a) a type of vehicle that may enter or be on any part of the mall; or
- (b) the times that a particular type of vehicle may enter or be on any part of the mall.
- (2) A person must not contravene the restriction unless the person has a lawful excuse.

Maximum penalty—20 penalty units.

- (3) It is a lawful excuse if, at the time of the contravention, the person was complying with a mall traffic permit.

22 Permits for vehicles on malls

- (1) The council may, in writing, permit a vehicle (a *mall traffic permit*) to be on any part of a mall for the purposes and period, and subject to the conditions (if any), stated in the permit.
- (2) A mall traffic permit must state the day on which it takes effect.
- (3) The council may revoke a mall traffic permit by giving written notice of the revocation to the holder of the permit.

23 Removal or moving of vehicles on malls

- (1) This section applies if an authorised person is satisfied, on reasonable grounds, that—
 - (a) a vehicle (including a recreational vehicle) has been—
 - (i) abandoned on any part of a mall; or
 - (ii) left unattended in a mall (whether temporarily or otherwise) in circumstances in which its presence is an obstruction or contravenes a mall traffic restriction; and
 - (b) the person who is or appears to be in control of the vehicle—
 - (i) cannot readily be located after the authorised person has made reasonable attempts to do so; or
 - (ii) has failed to immediately remove the vehicle when required by the authorised person to do so.
- (2) For subsection (1), the presence of a vehicle is an *obstruction* if it is preventing, hindering or obstructing, or is likely to prevent, hinder or obstruct, the use of the mall or a part of the mall for a lawful purpose.
- (3) The authorised person may—
 - (a) remove the vehicle from the mall and keep it at a safe place; or

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- (b) move the vehicle, with the consent of the person who is or appears to be in control of the vehicle, to another place.

Example of move the vehicle for paragraph (b)—

shunting or bumping the vehicle using a modified vehicle that has a padded attachment at the front

24 Notice to operator if vehicle removed from mall

- (1) Within 14 days after the removal of a vehicle from a mall under section 23(3)(a), the chief executive officer must, unless possession of the vehicle has already been delivered under section 25, give written notice of the vehicle's removal.
- (2) The notice must be given—
 - (a) if the registered operator of the vehicle can be identified—personally or by post to the registered operator; or
 - (b) if the registered operator of the vehicle can not be identified—by advertising it in a newspaper circulating in Brisbane.
- (3) However, subsection (2)(b) does not apply if the cost of giving the notice is more than the value of the vehicle.
- (4) The notice must state each of the following—
 - (a) a description of the vehicle;
 - (b) the date and time the vehicle was removed;
 - (c) the place from which the vehicle was removed;
 - (d) where the vehicle is kept;
 - (e) how the registered operator or another person entitled to possession of the vehicle may obtain possession of it;
 - (f) that the vehicle may be sold if the registered operator or another person entitled to possession of the vehicle does not obtain possession of it within 28 days after the date the notice is given.

25 Requirements for return of vehicle

- (1) The chief executive officer may deliver possession of the vehicle to an entitled person only if—
 - (a) the person has applied in writing to the chief executive officer for the release of the vehicle; and
 - (b) the applicant has provided proof, to the chief executive officer's satisfaction—
 - (i) that the applicant is the operator, or is entitled to possession, of the vehicle; or
 - (ii) if the applicant is acting on behalf of the operator—of the applicant's authority to act on behalf of the operator; and
 - (c) the applicant has paid all reasonable expenses incurred by the council for—
 - (i) removing and keeping the vehicle; and
 - (ii) giving a notice, under section 24, about the vehicle; and
 - (d) the applicant has signed a receipt for the delivery of the vehicle.
- (2) An *entitled person* for a vehicle is—
 - (a) the registered operator of the vehicle; or
 - (b) a person acting on behalf of the registered operator; or
 - (c) a person claiming a right to possession of the vehicle.
- (3) If the chief executive officer refuses the application, the chief executive officer must give the applicant written notice stating the following—
 - (a) the decision;
 - (b) the reasons for the decision;
 - (c) that the applicant may appeal against the decision to a Magistrates Court within 28 days;
 - (d) how the person may appeal against the decision.

26 Sale of vehicle removed from mall

- (1) This section applies if—
 - (a) the chief executive officer has not delivered possession of a vehicle under section 25 within 28 days after the date notice is given under section 24; or
 - (b) all of the following apply—
 - (i) the chief executive officer has not delivered possession of a vehicle under section 25;
 - (ii) an application has been made under section 25 for the return of the vehicle;
 - (iii) the chief executive officer has refused the application;
 - (iv) either—
 - (A) the period allowed for an appeal against the decision has ended; or
 - (B) an appeal against the decision has been decided and the Magistrates Court has confirmed the decision.
- (2) The chief executive officer may, by notice published in a newspaper circulating in Brisbane, advertise that the council will offer the vehicle for sale by public auction on the day and at the time and place stated in the advertisement.
- (3) The day stated in the advertisement must not be earlier than 14 days after the day the notice is advertised.
- (4) The council may offer the vehicle for sale by public auction on the day and at the time and place stated in the advertisement.
- (5) If no offer for the vehicle is received at the auction, the council may dispose of the vehicle in the way and on the conditions decided by the chief executive officer.
- (6) The proceeds of the sale or disposal of the vehicle must be applied as follows—

-
- (a) firstly, in payment of the expenses of the sale or disposal;
 - (b) secondly, in payment of the costs of—
 - (i) removing and keeping the vehicle; and
 - (ii) giving a notice under section 24;
 - (c) thirdly, in payment to—
 - (i) a person entitled to possession of the vehicle; or
 - (ii) if a person entitled to possession of the vehicle can not be identified after reasonable inquiry—the public trustee to be placed in the unclaimed moneys fund, under the *Public Trustee Act 1978*, and dealt with as unclaimed money.
- (7) The council may deal with any goods, equipment or thing in or on the vehicle when it is removed in the same way as the council may deal with the vehicle under this section.
- (8) However, any perishable goods in or on the vehicle when it is removed must be disposed of in the way decided by the chief executive officer.
- (9) Any proceeds of the disposal under subsection (7) must be applied in accordance with subsection (6).

Subdivision 4 Appeals relating to vehicles removed from malls

27 Who may appeal

A person who is dissatisfied with a decision of the chief executive officer to refuse to deliver possession of a vehicle to the person under section 25 may appeal against the decision to a Magistrates Court.

28 How to start appeal

- (1) An appeal is started by—
 - (a) filing notice of appeal with the clerk of the court of the Magistrates Court at Brisbane; and
 - (b) giving a copy of the notice to the council within 7 days after the notice is filed.
- (2) The notice of appeal must be filed within 28 days after the appellant receives notice of the decision.
- (3) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

29 Stay of decision

- (1) The Magistrates Court may grant a stay of the decision appealed against to secure the effectiveness of the appeal.
- (2) The stay—
 - (a) may be given on the conditions the court considers appropriate; and
 - (b) operates for the period fixed by the court; and
 - (c) may be revoked or amended by the court.
- (3) The period of the stay must not extend past the time when the court decides the appeal.
- (4) The appeal affects the decision, or carrying out of the decision, only if the decision is stayed.

30 Powers of Magistrates Court

- (1) In deciding the appeal, the Magistrates Court—
 - (a) has the same powers as the chief executive officer; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice.

-
- (2) The appeal is by way of rehearing unaffected by the decision appealed against on the material before the chief executive officer and any further evidence allowed by the court.
 - (3) The court may—
 - (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the issue to the chief executive officer with the directions the court considers appropriate.

31 Appeal to District Court

An appeal to the District Court from a decision of the Magistrates Court may be made only on a question of law.

Subdivision 5 Mall advisory committees

32 Mall advisory committees

The following committees are established—

- (a) the Chinatown and The Valley Malls Advisory Committee;
- (b) the Queen Street Mall Advisory Committee.

Note—

A committee established under this section is not a statutory committee under the Act.

33 Functions

- (1) The function of each committee is to give the council information or advice on the following matters for the relevant mall for the committee—
 - (a) a matter relevant to the exercise by the council of its powers under sections 19 and 20;

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- (b) a matter referred to it by the council concerning the exercise by the council of any of its other powers, relating to malls, under the Act.
- (2) A **relevant mall**, for each committee, is—
- (a) for the Chinatown and The Valley Malls Advisory Committee—
 - (i) the pedestrian mall known as the Chinatown Mall, as established and extended, under the repealed *Local Government (Chinatown and The Valley Malls) Act 1984*; and
 - (ii) the pedestrian mall known as The Valley Mall, as established and extended, under the repealed *Local Government (Chinatown and The Valley Malls) Act 1984*; and
 - (b) for the Queen Street Mall Advisory Committee—the pedestrian mall known as the Queen Street Mall, as established and extended, under the repealed *Local Government (Queen Street Mall) Act 1981*.

34 Membership

- (1) Each committee must consist of the following persons—
- (a) the mayor;
 - (b) the leader of the opposition or another councillor nominated by the leader of the opposition;
 - (c) the councillor who represents the ward that includes the mall;
 - (d) the member of the Legislative Assembly who represents the electoral district, under the Electoral Act, that includes the mall;
 - (e) 1 or more persons, appointed by the council, who are or are employed by an owner of rateable land that is adjacent to a mall that is relevant to the committee to which the person is appointed;

- (f) 1 or more persons, appointed by the council, who are conducting a business or are employed by a business conducted from rateable land that is adjacent to a mall that is relevant to the committee to which the person is appointed;
 - (g) a person appointed by the council on the nomination of the Minister;
 - (h) 2 other persons appointed by the council.
- (2) The council must appoint 1 member of the committee to be the chairperson of the committee.

35 Term of appointment of membership

- (1) A member of a committee, who is appointed by the council, is appointed for the term stated in the member's instrument of appointment.
- (2) A member of a committee may resign their membership by signed notice given to the council.
- (3) A person's eligibility for reappointment or the term for which a person may be reappointed is not affected by an earlier appointment.

36 Procedure at meetings

- (1) The chairperson, if present, is to preside at a meeting of a committee.
- (2) If the chairperson is absent, the member chosen by the members present is to preside.
- (3) Subject to subsections (1) and (2), each committee may conduct its meetings as it considers appropriate.

Division 3 Marine and aquatic matters

37 Harbours, jetties, breakwaters and ramps

- (1) The council may construct, maintain, manage and regulate the use of—
 - (a) harbours for small vessels in or over tidal waters; and
 - (b) jetties, breakwaters and ramps in or over tidal waters.
- (2) The council may exercise powers under subsection (1) for a harbour or proposed harbour even if the waters of the harbour are inside the limits of a port within the meaning of the Transport Infrastructure Act.
- (3) The council may occupy and use foreshore, tidal land or tidal waters to undertake work in exercising the powers under subsection (1).
- (4) While the council occupies or uses foreshore, tidal land or tidal waters, the foreshore, land or waters are taken to be within Brisbane.

38 Canals

- (1) This section is about canals within the meaning of the *Coastal Protection and Management Act 1995*, section 9.
- (2) If a local law affects the owner of a structure in a canal, the **owner** of the structure is—
 - (a) the holder of the development permit under the Planning Act to build the structure; or
 - (b) the owner of the land—
 - (i) that receives the benefit of the structure; or
 - (ii) to which the structure is connected.

39 The foreshore

- (1) The Governor in Council may, by gazette notice, place a foreshore that is adjoining Brisbane under the control of the council.
- (2) While the foreshore is under the council's control the foreshore is taken to be part of Brisbane.

40 Bathing reserves

- (1) The Governor in Council may, by gazette notice, place the following under the control of the council as a bathing reserve—
 - (a) a part of a seashore;
 - (b) land under the sea that is adjacent to the part of a seashore and seawards for a distance of not more than 1km beyond low-water mark at ordinary spring tides;
 - (c) sea above the part of a seashore and land.
- (2) The *seashore* is—
 - (a) the foreshore; or
 - (b) State land that—
 - (i) is above the high-water mark at ordinary spring tides; and
 - (ii) is ordinarily covered by sand or shingle; and
 - (iii) is not subject to a licence, permit or other authority granted by the State under an Act.
- (3) While the bathing reserve is under the council's control the bathing reserve is taken to be part of Brisbane.

Division 4 Other matters

41 Public thoroughfare easements

- (1) This section is about land within Brisbane that is subject to a public thoroughfare easement.
- (2) The council has control of the land, subject to the provisions of the instrument that created the easement.
- (3) ***Control of the land*** includes the right to take all necessary steps for—
 - (a) construction on, maintenance of or improvement of the land; and
 - (b) regulation of the use of the land.
- (4) The council is responsible for maintaining the land.
- (5) The owner of the land is not required, and can not be required, to maintain, or to contribute to the maintenance of, any part of the land.
- (6) The ***owner*** of the land is—
 - (a) if the land is land granted in trust under the Land Act—the trustee of the land; or
 - (b) if the land is non-freehold land under the Land Act—the lessee or licensee of the land; or
 - (c) if the land is a lot under the Land Title Act—the registered owner of the lot.
- (7) The owner of the land is not, and can not be made, civilly liable for an act done, or omission made, honestly and without negligence, in relation to the land.
- (8) When deciding what rights and liabilities attach because of something that happened on the land, the land is taken to be a road under the council's control.

42 Boundary works

- (1) This section is about a road or other work that is to be, or has been, built—
 - (a) along the boundary between Brisbane and another local government area; and
 - (b) partly in Brisbane and the other area.
- (2) The cost of planning, constructing, maintaining and managing the road or other work is the joint responsibility of the council and the other local government.
- (3) The council must enter into the arrangements that are necessary to perform that responsibility.

43 Levee banks

- (1) This section is about levees on land within Brisbane, other than land that is part of an approved plan under the *Soil Conservation Act 1986*.
- (2) If the council makes a local law to prohibit the construction of levee banks without a permit, the local law must provide for—
 - (a) particulars to be supplied by an applicant for a permit; and
 - (b) public notice of applications for permits to be given by advertisement at least twice in a newspaper that is circulating generally in Brisbane; and
 - (c) submissions supporting or objecting to applications and the requirements applying to the submissions; and
 - (d) procedures of the council in considering and deciding applications; and
 - (e) all other issues that the council considers necessary for dealing with applications.
- (3) A person dissatisfied by a decision of the council about an application for a permit may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

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- (4) A permit given under this section does not affect a right or remedy that a person has about the levee bank.

Chapter 4 Monitoring and enforcing local government related laws

44 Period prescribed for carrying out particular approved inspection programs—Act, s 123

For section 123(4)(e) of the Act, the period prescribed for carrying out an approved inspection program is 12 months if—

- (a) the program is only for the inspection of budget accommodation buildings under the Building Act; and
- (b) inspection under the program is for, or includes, the monitoring of compliance with the fire safety standard under that Act.

Chapter 5 Administration

Part 1 Councillors

Division 1 Councillor remuneration

45 What div 1 is about

This division prescribes requirements for the council's processes in deciding the remuneration payable to councillors.

46 Differential remuneration

The council may decide the remuneration that is payable to councillors differentially according to the following classes of offices—

- (a) the mayor;
- (b) the deputy mayor;
- (c) the leader of the opposition;
- (d) the chairperson of the council;
- (e) chairpersons of standing committees of the council;
- (f) other councillors.

47 Remuneration for corporate entity functions

- (1) The council may decide additional remuneration is payable to councillors who are directors of, or shareholder delegates for, a corporate entity.
- (2) However, the council can not differentiate between the additional remuneration payable to councillors who are directors of, or shareholder delegates for, a corporate entity.

48 Excluded matters

- (1) The remuneration can not include—
 - (a) any amount for expenses to be paid, or facilities to be provided, to a councillor under the council's expenses reimbursement policy; or
 - (b) any contribution the council makes for a councillor to a voluntary superannuation scheme for councillors established or taken part in by the council under section 210 of the Act.
- (2) However, the remuneration may include an additional amount for councillors who are over 75 years paid in lieu of the contributions mentioned in subsection (1)(b).

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49 Criteria for remuneration decisions

In making a decision under this division, the council must have regard to—

- (a) the provisions of the Act about entitlements and responsibilities of councillors; and
- (b) community expectations about what is appropriate remuneration in the circumstances.

50 Publication of remuneration decisions

As soon as practicable after the council makes a decision about the remuneration payable to councillors, the council must publish details of the decision—

- (a) in a newspaper circulating generally in Brisbane; and
- (b) on the council's website.

Division 2 Reimbursement of expenses and provision of facilities

51 What div 2 is about

- (1) This division is about the expenses reimbursement policy.
- (2) The *expenses reimbursement policy* is a policy providing for the following—
 - (a) payment of reasonable expenses incurred, or to be incurred, by councillors for discharging their duties and responsibilities as councillors;
 - (b) provision of facilities to the councillors for that purpose.

52 Requirement to adopt expenses reimbursement policy or amendment

- (1) The council must adopt, by resolution, an expenses reimbursement policy or an amendment of the expenses reimbursement policy.
- (2) An expenses reimbursement policy, including any amendment of the policy, adopted by the council must be consistent with the local government principles.

53 Notification of adoption of expenses reimbursement policy

- (1) As soon as practicable after the council adopts its expenses reimbursement policy, the council must give public notice of the policy.
- (2) The public notice must be published—
 - (a) in a newspaper circulating generally in Brisbane; and
 - (b) on the council's website.

54 Meetings about expenses reimbursement policy

The council can not resolve under section 71 that a meeting at which a proposed expenses reimbursement policy is discussed (including its adoption or amendment, for example) be closed.

Division 3 Other matters

55 Prescribed integrity offence—Act, s 153

For section 153(5)(c) of the Act, the offence against section 104 is prescribed.

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56 Declaration of office—Act, s 169

For section 169(2) of the Act, the declaration of office prescribed is—

‘I, (*insert* name of councillor), having been elected/appointed as a councillor of the City of Brisbane, declare that I will faithfully and impartially fulfil the duties of the office, in accordance with the local government principles under the *City of Brisbane Act 2010*, to the best of my judgment and ability.’.

57 Administrative and support services for councillors

- (1) The council must provide each councillor with sufficient administrative and support services to perform their responsibilities under the Act in accordance with the local government principles.
- (2) For subsection (1), a councillor’s responsibilities under the Act include any responsibilities that the councillor may have because of an office of the council that the councillor holds, including, for example as—
 - (a) the chairperson; or
 - (b) the leader of the opposition; or
 - (c) a chairperson of a committee.

Part 2 Council meetings

58 What pt 2 is about

This part is about the meetings of the council (other than meetings of its committees).

59 Agenda of post-election meetings

- (1) The matters the council must consider at a post-election meeting include the day and time for holding other meetings.
- (2) A *post-election meeting* is the meeting mentioned in section 177(1) of the Act.

60 Frequency of meetings

- (1) The council may decide how often it is to meet.
- (2) However, the council must hold an extraordinary council meeting if requested by 9 or more of its councillors.
- (3) An *extraordinary council meeting* is a meeting of the council that is in addition to any meetings of the council decided under subsection (1).

61 Place of meetings

- (1) All meetings of the council are to be held at one of its public offices.
- (2) However, the council may, by resolution, fix another place for a particular meeting.

62 Notice of meetings for councillors

- (1) Written notice of each meeting or adjourned meeting of the council must be given to each councillor at least 2 days before the day of the meeting unless it is impracticable to give the notice.
- (2) The written notice must state—
 - (a) the day and time of the meeting; and
 - (b) for a special meeting—the object of the meeting.
- (3) A *special meeting* is a meeting at which the only business that may be conducted is the business stated in the notice of meeting.

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63 Public notice of meetings

- (1) The council must, at least once in each year, publish in a newspaper circulating generally in Brisbane a notice of the days and times when its ordinary meetings, and the ordinary meetings of its standing committees, will be held.
- (2) The council must display in a conspicuous place in its public office a notice of the days and times when—
 - (a) its meetings will be held; and
 - (b) meetings of its committees will be held.
- (3) The council must immediately notify any change to the days and times mentioned in subsection (1) or (2) in the same way as the days and times were previously notified.
- (4) A list of the items to be discussed at a meeting mentioned in subsection (2) must be open to inspection at the time the agenda for the meeting is made available to councillors.
- (5) Subsection (4) does not affect the right to discuss or deal with, at any meeting, items arising after the agenda for the meeting is made available to councillors.

64 Quorum at meetings

A quorum of the council is a majority of its councillors.

65 Meetings in public unless otherwise resolved

A meeting of the council is open to the public unless the council has resolved that the meeting is to be closed under section 71.

66 Procedure at meetings

- (1) Business may be conducted at a meeting of the council only if a quorum is present.
- (2) At a meeting of the council—

- (a) voting must be open; and
- (b) a question is decided by a majority of the votes of the councillors present; and
- (c) each councillor present has a vote on each question to be decided and, if the votes are equal, the chairperson of the council has a casting vote.

67 Adjournment of meetings

- (1) The majority of councillors present at a meeting of the council may adjourn the meeting to a later hour of the same day or to a later day.
- (2) If a quorum is not present within 30 minutes after the time appointed for a meeting, the meeting may be adjourned to a later hour or another day within 14 days after the day of adjournment, by—
 - (a) a majority of the councillors present; or
 - (b) if only 1 councillor is present—the councillor; or
 - (c) if no councillors are present—the chief executive officer.

68 Repeal or amendment of resolutions

A resolution of the council may be repealed or amended only if written notice of intention to propose the repeal or amendment is given to each councillor at least 5 days before the meeting at which the proposal is to be made.

69 Minutes

- (1) The chief executive officer must ensure minutes of each meeting of the council are taken under the supervision of the chairperson of the council.
- (2) Minutes of each meeting must include—
 - (a) the names of councillors present at the meeting; and

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- (b) if a division is called on a question—the names of all persons voting on the question and how they voted.
- (3) At each meeting, the minutes of the previous meeting must be—
 - (a) confirmed by the councillors present; and
 - (b) signed by the chairperson of the council.
- (4) A copy of the minutes of each meeting—
 - (a) must be available for inspection by the public, at the council’s public office and on its website, within 10 days after the end of the meeting; and
 - (b) when the minutes have been confirmed—must be available for purchase at the council’s public office.
- (5) The price for purchasing the minutes must not be more than—
 - (a) the cost to the council of having the copy printed and made available for purchase; and
 - (b) if the copy is supplied to a purchaser by post—the cost of postage.

70 Recording of reasons for particular decisions

- (1) This section applies if a decision made at a meeting of the council is inconsistent with a recommendation or advice given to the council by an advisor of the council and either or both of the following apply to the decision—
 - (a) the decision is about entering into a contract the total value of which is more than the greater of the following—
 - (i) \$150000;
 - (ii) 1% of the council’s net rate and utility charges as stated in the council’s audited financial statements included in the council’s most recently adopted annual report;
 - (b) the decision is inconsistent with—

- (i) the policy or approach ordinarily followed by the council for the type of decision; or
- (ii) a policy previously adopted by the council by resolution, whether or not as required by the Act, and still in force.

Examples of decisions to which subsection (1) might apply—

- the grant of a licence, permit or approval, however named, under an Act or local law
 - the grant of a concession, rebate or waiver in relation to an amount owed to the council
 - disposing of land or a non-current asset
- (2) An **advisor**, of the council, is a person—
 - (a) who is an employee of the council or is otherwise engaged to provide services to the council; and
 - (b) whose duties include giving a recommendation or advice.
 - (3) The chief executive officer must ensure the minutes of the meeting include a statement of the reasons for not adopting the recommendation or advice.

71 Closed meetings

- (1) The council may resolve that a meeting of the council be closed to the public if its councillors consider it necessary to close the meeting to discuss—
 - (a) the appointment, dismissal or discipline of employees; or
 - (b) industrial matters affecting employees; or
 - (c) the council's budget; or
 - (d) rating concessions; or
 - (e) contracts proposed to be made by it; or
 - (f) starting or defending legal proceedings involving the council; or

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- (g) any action to be taken by the council under the Planning Act, including deciding applications made to it under that Act; or
 - (h) other business for which a public discussion would be likely to prejudice the interests of the council or someone else, or enable a person to gain a financial advantage.
- (2) A resolution that a meeting be closed must state the nature of the matters to be considered while the meeting is closed.
- (3) The council must not make a resolution (other than a procedural resolution) in a closed meeting.

Part 3 Council employees

Division 1 Disciplinary action against council employees

72 What div 1 is about

This division prescribes, for section 194(2) of the Act, when the chief executive officer may take, and the types of, disciplinary action.

73 When disciplinary action may be taken

The chief executive officer may take disciplinary action against a council employee if the chief executive officer is satisfied the employee has—

- (a) failed to perform their responsibilities under the Act; or
- (b) failed to perform a responsibility under the Act in accordance with the local government principles; or

-
- (c) taken action under the Act in a way that is not consistent with the local government principles.

74 Types of disciplinary action

- (1) The disciplinary action taken by the chief executive officer against a council employee may be 1 or more of the following—
 - (a) dismissal;
 - (b) demotion;
 - (c) a deduction from salary or wages of an amount of not more than 2 penalty units;
 - (d) a written reprimand or warning.

Note—

If the disciplinary action to be taken is dismissal, the dismissal must comply with the requirements under the *Industrial Relations Act 1999*, chapter 3.

- (2) A written reprimand or warning—
 - (a) must state the following—
 - (i) the employee's conduct that is disapproved of;
 - (ii) the remedial action needed to rectify the conduct;
 - (iii) the period within which the remedial action is to be taken;
 - (iv) the possible consequences for a repeat of the conduct by the employee; and
 - (b) is part of a council employee's employment record.

75 Deductions from salary or wages

- (1) If disciplinary action taken against a council employee consists of a deduction from the salary or wages of the employee, the council may make the deduction—

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- (a) if no appeal is brought against the disciplinary action—when the period for starting an appeal against the disciplinary action has ended; or
 - (b) if an appeal is brought against the disciplinary action and the decision on the appeal confirms the deduction or changes the amount of the deduction—when notice of the decision is given to the employee; or
 - (c) if an appeal is brought against the disciplinary action and the appeal is discontinued or struck out—when the appeal is discontinued or struck out.
- (2) If an appeal is brought against the disciplinary action taken against a council employee and the decision on appeal changes the disciplinary action to a deduction from the salary or wages of the employee, the council may make the deduction when notice of the decision is given to the employee.

76 Suspension of employees

- (1) If the chief executive officer is satisfied, on reasonable grounds, that a council employee will be subject to disciplinary action, the chief executive officer may suspend the employee from duty.
- (2) Suspension of a council employee from duty does not affect the following—
 - (a) the continuity of the employee’s service in employment with the council;
 - (b) the entitlements previously accrued to the employee from employment with the council;
 - (c) the accrual of entitlements to the employee during the period of suspension.
- (3) A suspended employee must be paid the employee’s full remuneration as at the start of the suspension for the period of suspension.

77 Employee to be given notice of grounds for disciplinary action

- (1) Before the chief executive officer takes disciplinary action against a council employee, the chief executive officer must give the employee—
 - (a) written notice of the following—
 - (i) the disciplinary action to be taken;
 - (ii) the grounds on which the disciplinary action is taken;
 - (iii) the particulars of conduct claimed to support the grounds; and
 - (b) a reasonable opportunity to respond to the information contained in the written notice.
- (2) The grounds and particulars are taken to be the only grounds and particulars for the disciplinary action taken, and no other ground or particular of conduct can be advanced in any proceeding about the disciplinary action taken against the council employee.

78 Period for keeping records about disciplinary action

If the chief executive officer takes disciplinary action against a council employee, the chief executive officer must destroy any council record about the disciplinary action taken no later than 2 years after the action is taken.

Division 2 Appeal entity for disciplinary action

79 Appeal entity for disciplinary action—Act, s 194

The entity prescribed for section 194(3) of the Act is the Local Government Employee Disciplinary Appeal Board established under section 82 of the *Local Government (Operations) Regulation 2010* (the *appeal board*).

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80 Council to reimburse cost of appeal

- (1) This section applies if disciplinary action is taken against a council employee and the employee appeals to the appeal board.
- (2) The council must reimburse the appeal board all expenses properly incurred in hearing the appeal (including fees and allowances payable to each board member).

Division 3 Appeals against disciplinary action

81 What div 3 is about

This division is about an appeal against a decision of a chief executive officer to take disciplinary action against a council employee.

82 Grounds of appeal

The council employee may appeal to the appeal board on 1 or more of the following grounds—

- (a) there has been a failure to comply with procedures required by law for taking disciplinary action against the employee;
- (b) the employee is innocent of the matter claimed as grounds for the disciplinary action;
- (c) the grounds for the disciplinary action are unreasonable or insufficient;
- (d) the disciplinary action taken is excessive.

83 How to start appeal

- (1) The appeal is started by the council employee—
 - (a) giving a written notice of appeal to the department's chief executive; and

- (b) giving a copy of the notice to the chief executive officer.
- (2) The notice of appeal must—
 - (a) state the grounds for the appeal; and
 - (b) be given within 1 month after the council employee is given notice of the disciplinary action to be taken under section 77 (the *appeal period*).
- (3) However, if a notice of appeal is given after the appeal period—
 - (a) the Minister still must appoint a person to form the appeal board for the appeal; and
 - (b) the appeal board must decide whether or not to hear the appeal.

84 Duties of appeal board

In hearing the appeal, the appeal board must—

- (a) observe natural justice; and
- (b) act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.

85 Appeal board may decide procedures

- (1) The appeal board—
 - (a) is not bound by the rules of evidence; and
 - (b) may inform itself in any way it considers appropriate; and
 - (c) may decide the procedures to be followed in the appeal, including, for example, whether—
 - (i) the appeal should be heard with other appeals; and
 - (ii) the parties should be heard together or separately; and

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(iii) the parties should be heard, or evidence or submissions taken, by way of video link or another form of communication.

(2) However, the appeal board must comply with this division.

86 Representation

- (1) A party to the appeal may appear personally.
- (2) Also, the appeal board may give a party leave to be represented by a lawyer.

87 Preliminary hearing of appeals

- (1) Without limiting section 85(1)(c), the appeal board may conduct a preliminary hearing of the appeal to decide interlocutory and other preliminary matters.
- (2) In a preliminary hearing, the appeal board may—
 - (a) make orders for the conduct of the appeal; or
 - (b) require parties to make discovery or permit inspection of evidentiary material; or
 - (c) require parties to file pleadings; or
 - (d) strike out the appeal because it is frivolous or vexatious.

88 Appeal board's powers

In hearing the appeal, the appeal board may—

- (a) act in the absence of a person who has been given reasonable notice; and
- (b) receive evidence on oath or by statutory declaration; and
- (c) adjourn the appeal; and
- (d) permit a document to be amended; and
- (e) disregard any defect, error, omission or insufficiency in a document.

89 Prosecution of appeal

- (1) An appeal must be prosecuted diligently.
- (2) The appeal board may strike out an appeal if it considers the council employee is not prosecuting the appeal diligently.
- (3) The appeal may be discontinued by the council employee by written notice given to the appeal board and the chief executive officer.

90 Decision on appeal

- (1) In deciding the appeal, the appeal board may—
 - (a) allow the appeal, set aside the disciplinary action taken and order that the council employee be restored, in all respects, to a position no less favourable than the employee would have been in if the disciplinary action had not been taken; or
 - (b) allow the appeal, set aside the disciplinary action taken and order the taking of the disciplinary action that, in the board's opinion, should be taken against the council employee; or
 - (c) dismiss the appeal and confirm the disciplinary action taken.
- (2) If an appeal board is satisfied the council employee was not given written notice under section 77, the board must allow the appeal and order that the employee be restored, in all respects, to a position no less favourable than the employee would have been in if the disciplinary action had not been taken.
- (3) In assessing whether disciplinary action is excessive, an appeal board may have regard to the council employee's employment record.
- (4) A decision on the appeal must be written and state the reasons for the decision.

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- (5) The appeal board must give a copy of a decision on an appeal to the parties to the appeal as soon as possible after making the decision.

91 Notice to witness

- (1) The appeal board may, by written notice given to a person, require the person to attend the hearing of the appeal at a stated time and place to give evidence or produce stated documents.
- (2) A person required to appear as a witness before the appeal board is entitled to the reasonable witness fees decided by the appeal board.
- (3) Fees to which a witness is entitled under subsection (2) must be paid to the witness—
 - (a) if the witness is called by the council employee to give evidence—by the employee; and
 - (b) otherwise—by the council.

92 Duty of witness at appeal

- (1) A person appearing as a witness at the appeal must not—
 - (a) fail to take an oath or make an affirmation when required by the appeal board; or
 - (b) fail, without reasonable excuse, to answer a question the person is required to answer by the appeal board; or
 - (c) fail, without reasonable excuse, to produce a document the person is required to produce by a notice under section 91(1).

Maximum penalty—20 penalty units.

- (2) It is a reasonable excuse for a person to fail to answer a question or produce a document if answering the question or producing the document might tend to incriminate the person.

93 Leave for attending an appeal

- (1) The council must give leave of absence on full pay to an employee who gives evidence at the appeal (including the council employee to whom the appeal relates).
- (2) The leave of absence must be for the period reasonably necessary for attending the appeal.

94 Contempt of appeal board

A person must not—

- (a) insult the person forming the appeal board in the appeal;
or
- (b) deliberately interrupt the appeal; or
- (c) create or continue, or join in creating or continuing, a disturbance in or near a place where the appeal board is conducting the appeal; or
- (d) do anything that would be a contempt of court if the person forming the appeal board were a judge acting judicially.

Maximum penalty—20 penalty units.

95 Change of person forming appeal board

The appeal is not affected by a change in the person forming the appeal board.

Division 4 Portability of long service leave

96 What div 4 is about

- (1) This division is about the continuation of particular council employees' accrued rights to long service leave and recognition of their previous periods of employment.

[s 96]

- (2) A person's ***accrued right to long service leave*** is the person's entitlement to take long service leave after having completed a minimum period of employment with an employer.
- (3) This division applies if—
 - (a) a person is employed (the ***new employment***) by the council (the ***new employer***); and
 - (b) the person was previously employed (the ***former employment***) by a relevant entity (the ***former employer***); and
 - (c) the period between ending the former employment and beginning the new employment is not longer than 1 year; and
 - (d) the person did not receive a payment from the former employer of an amount as a cash equivalent for the person's accrued right to long service leave.
- (4) However, this division does not apply if—
 - (a) the new employer is a distributor-retailer or a water entity; and
 - (b) the former employer is a distributor-retailer or a water entity.
- (5) A ***relevant entity*** is—
 - (a) a local government (other than the council); or
 - (b) a corporate entity under the Local Government Act; or
 - (c) a distributor-retailer; or
 - (d) a water entity; or
 - (e) another entity that is controlled or owned by a local government (other than the council).
- (6) A ***distributor-retailer*** is a distributor-retailer under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

-
- (7) A *water entity* is a water entity under the *South East Queensland Water (Restructuring) Act 2007*.

97 Continuation of particular council employees' accrued rights to long service leave

- (1) The person's accrued right to long service leave, in relation to the former employment, is continued, in relation to the new employment, as an accrued right to long service leave as an employee of the new employer.
- (2) From the start of the new employment, the new employer has the same obligations in relation to the person's accrued right to long service leave as the former employer had in relation to the person, at the end of the former employment.

Example—

If a person was entitled to take 11 weeks long service leave at the time the former employment ended, the person continues to be entitled to take 11 weeks long service leave after the start of the new employment. The entitlement would not be subject to completing any further period of employment with the new employer.

- (3) However, after the start of the new employment, the person continues to accrue rights to long service leave only under the same conditions as an employee of the new employer who is not a person to whom this division applies.

98 Recognition of previous periods of employment for particular council employees

- (1) This section applies when determining the person's accrued right to long service leave in relation to the new employer.
- (2) The person's period of employment with the former employer, in addition to the person's period of employment with the new employer, is taken to be the person's period of employment with the new employer.

Example—

A person is taken to have completed a period of employment of 10 years with a new employer if the person completed a period of employment of

[s 99]

6 years with a former employer and a period of employment of 4 years with the new employer.

99 Payment by former employer to new employer towards long service leave entitlements accrued with former employer

- (1) The former employer must pay the new employer an amount for the number of days of long service leave that the person—
 - (a) is entitled to take because of the person's period of employment with the former employer; or
 - (b) would have been entitled to take, because of the person's period of employment with the former employer, if there was no minimum period of employment to be completed before the entitlement accrued.
- (2) The amount—
 - (a) is the amount the former employer would have been required to pay the person if the person had taken the long service leave; and
 - (b) must be paid within a reasonable time of being requested by the new employer.
- (3) A former employer of the person must provide the new employer of the person with the following information relating to the person—
 - (a) the length of accrued long service leave;
 - (b) any special leave taken by the person without salary;
 - (c) any long service leave taken by the person or any amount of cash paid to the person in lieu of long service leave;
 - (d) any undertaking given in relation to long service leave.

Part 4 Authorised person

100 Who may be appointed as authorised persons—Act, s 199

For section 199(2)(b)(ii) of the Act, each of the following types of persons are prescribed—

- (a) a person who contracts with the council to provide services to it for the administration or enforcement of a local government related law;
- (b) a person who is an employee of an entity that contracts with the council to provide services to it for the administration or enforcement of a local government related law;
- (c) a person who is an employee of another local government and who performs duties for the council under an arrangement between the council and the other local government.

Part 5 Register of interests

101 What pt 5 is about

- (1) This part is about the register of interests of the following persons—
 - (a) councillors;
 - (b) chief executive officers;
 - (c) senior contract employees;
 - (d) a person who is related to a councillor, chief executive officer or senior contract employee.
- (2) A person is *related* to a councillor, chief executive officer or senior contract employee (the *primary party*) if—

[s 102]

- (a) the person is the primary party's spouse; or
- (b) the person is totally or substantially dependent on the primary party and—
 - (i) the person is the primary party's child; or
 - (ii) the person's affairs are so closely connected with the affairs of the primary party that a benefit derived by the person, or a substantial part of it, could pass to the primary party.

102 Who maintains registers of interests

- (1) The chief executive officer must maintain a register of interests of the following persons—
 - (a) councillors;
 - (b) senior contract employees;
 - (c) a person who is related to a councillor or senior contract employee.
- (2) The mayor must maintain a register of interests of the following persons—
 - (a) the chief executive officer;
 - (b) a person who is related to the chief executive officer.

103 Contents of registers of interests

- (1) A register of interests of the following persons must contain the financial and non-financial particulars mentioned in schedule 2—
 - (a) councillors;
 - (b) chief executive officers;
 - (c) senior contract employees;
 - (d) a person who is related to a councillor, chief executive officer or senior contract employee.

-
- (2) For subsections (3), (4) and (5), the *relevant person* is a councillor, chief executive officer or senior contract employee.
 - (3) However, the register of interests of a relevant person must contain only the particulars about interests held by the relevant person—
 - (a) alone; or
 - (b) jointly, or in common, with a person who is related to the relevant person.
 - (4) Also, a register of interests of a person who is related to a relevant person must contain only the particulars about interests held by the person—
 - (a) alone; or
 - (b) jointly, or in common, with the relevant person.
 - (5) If a relevant person's interests held jointly, or in common, with a person who is related to the relevant person are included in the register of the relevant person's interests, the interests need not be included in the register of interests of the person who is related to the relevant person.

104 Obligation to notify if interest in register no longer correct

- (1) Subsection (2) applies if a councillor knows—
 - (a) of an interest that must be recorded in a register of interests under section 103 in relation to the councillor or a person who is related to the councillor; or
 - (b) that particulars of an interest recorded in a register under section 103 in relation to the councillor or a person who is related to the councillor are no longer correct.
- (2) The councillor must, in the approved form, inform the chief executive officer of the interest or the correct particulars within 30 days after the councillor knows of the interest or correct particulars.

[s 105]

Maximum penalty—85 penalty units.

- (3) Subsection (4) applies if the chief executive officer knows—
- (a) of an interest that must be recorded in a register of interests under section 103 in relation to the chief executive officer or a person who is related to the chief executive officer; or
 - (b) that particulars of an interest recorded in a register under section 103 in relation to the chief executive officer or a person who is related to the chief executive officer are no longer correct.
- (4) The chief executive officer must, in the approved form, inform the mayor of the interest or the correct particulars within 30 days after the chief executive officer knows of the interest or correct particulars.

Maximum penalty—85 penalty units.

- (5) Subsection (6) applies if a senior contract employee knows—
- (a) of an interest that must be recorded in a register of interests under section 103 in relation to the employee or a person who is related to the employee; or
 - (b) that particulars of an interest recorded in a register under section 103 in relation to the employee or a person who is related to the employee are no longer correct.
- (6) The senior contract employee must, in the approved form, inform the chief executive officer of the interest or the correct particulars within 30 days after the employee knows of the interest or correct particulars.

Maximum penalty—85 penalty units.

105 Who may inspect a register of interests

- (1) A register of interests of a councillor may be inspected by the public.
- (2) Subsection (3) applies to a register of interests of—

-
- (a) the chief executive officer; or
 - (b) senior contract employees; or
 - (c) persons who are related to a councillor, the chief executive officer or a senior contract employee.
- (3) The register of interests is only open to inspection by the following persons—
- (a) a councillor;
 - (b) the chief executive officer;
 - (c) another person permitted by law to have access to information in the register.

106 Access to registers of interests

- (1) This section applies if a person wishes to inspect a register of interests.
- (2) A person seeking access to a register of interests must apply in writing to—
 - (a) for the register of interests of the chief executive officer or persons who are related to the chief executive officer—the mayor; or
 - (b) otherwise—the chief executive officer.
- (3) The chief executive officer or mayor must record—
 - (a) the name and home or business address of each person given access to a register of interests by the chief executive officer or mayor; and
 - (b) the day the access is given.
- (4) If the chief executive officer or mayor gives access to a register of interests, the chief executive officer or mayor must, as soon as practicable, inform the person to whom the register of interests relates of the day the access was given.

[s 107]

107 Public extract of registers of interests

- (1) The council must ensure a public extract of a register of interests for councillors may be inspected by the public—
 - (a) at the council's public office; and
 - (b) on its website.
- (2) A **public extract**, of a register of interests for councillors, is the information included in the register of interests if the information relates to any of the following—
 - (a) gifts received;
 - (b) hospitality benefits received, including sponsored hospitality benefits;
 - (c) memberships of organisations.
- (3) A **gift** is—
 - (a) the transfer of money, other property or other benefit—
 - (i) without consideration; or
 - (ii) for a consideration substantially less than full consideration; or
 - (b) a loan of money or other property made on a permanent or indefinite basis, other than an overdraft facility.
- (4) A person receives a **sponsored hospitality benefit** if—
 - (a) the person, other than in an official capacity—
 - (i) undertakes travel; or
 - (ii) uses accommodation; and
 - (b) a contribution, whether financial or non-financial, for the cost of the travel or accommodation is made by someone other than the person or their spouse.

108 Queries on contents of register of interests

- (1) A person who suspects on reasonable grounds that a register of interests does not contain particulars that should be in the register may inform—
 - (a) if the suspicion relates to the register of interests of the chief executive officer or persons who are related to the chief executive officer—the mayor; or
 - (b) otherwise—the chief executive officer.
- (2) The chief executive officer or mayor must immediately inform the following person (the *informed person*)—
 - (a) if the register of interests relates to a councillor or a person who is related to the councillor—the councillor;
 - (b) if the register of interests relates to the mayor or a person who is related to the mayor—the mayor;
 - (c) if the register of interests relates to the chief executive officer or a person who is related to the chief executive officer—the chief executive officer;
 - (d) if the register of interests relates to a senior contract employee or a person who is related to the senior contract employee—the senior contract employee.
- (3) The informed person must, within 30 days of being informed, establish whether the register of interests should be amended to make it a true record of fact.
- (4) If the informed person establishes that the register of interests does not need to be amended, the person must—
 - (a) complete a statutory declaration stating that the particulars in the register of interests are a true record of fact; and
 - (b) give the statutory declaration to—
 - (i) if the informed person is the chief executive officer—the mayor; or
 - (ii) otherwise—the chief executive officer.

[s 109]

109 Improper disclosure of registers of interests

- (1) A person must not knowingly disclose information obtained from a register of interests if it is not a true copy, or a fair summary, of the contents of the register of interests.

Maximum penalty—85 penalty units.

- (2) A person must not knowingly disclose information obtained from a register of interests of the following persons, other than to a person mentioned in section 105(3)—

- (a) a chief executive officer;
- (b) a senior contract employee;
- (c) a person related to a councillor, chief executive officer or senior contract employee.

Maximum penalty—85 penalty units.

Chapter 6 Other provisions

Part 1 Way to hold a hearing

110 Procedural rules for hearings—Act, s 206

For section 206(3) of the Act, a hearing must be held in public unless the investigator directs the hearing is to be held in private.

111 Witness fees—Act, s 207

For section 207(4)(a) of the Act, the witness fees prescribed are the allowances for witnesses and other persons prescribed under the QCAT Act.

Editor's note—

For the witness fees prescribed under the QCAT Act, see the *Queensland Civil and Administrative Tribunal Regulation 2009*, part 4.

Part 2 Superannuation

112 Prescribed associated persons—Act, s 211

- (1) For section 211(4) of the Act, a person prescribed is a person who—
 - (a) was an employee of the council; and
 - (b) was transferred to a new water entity under—
 - (i) a transition document under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*; or
 - (ii) a transfer notice under the *South East Queensland Water (Restructuring) Act 2007*.
- (2) A *new water entity* is—
 - (a) an entity, other than the SEQ Water Grid Manager, established under the *South East Queensland Water (Restructuring) Act 2007*, section 6(1); or
 - (b) a distributor-retailer under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

- (2) By 1 July 2011 the council must, by resolution, adopt—
- (a) a complaints management process that effectively manages complaints from their receipt to their resolution; and
 - (b) written policies and procedures supporting the complaints management process.
- (3) A ***complaints management process*** is a process for resolving complaints about administrative actions of the council that—
- (a) covers all administrative action complaints made to the council; and
 - (b) requires the council to quickly and efficiently respond to complaints in a fair and objective way; and
 - (c) includes the criteria considered when assessing whether to investigate a complaint; and
 - (d) requires the council to inform an affected person of the council's decision about the complaint and the reasons for the decision, unless the complaint was made anonymously.
- (4) The council must—
- (a) record all administrative action complaints; and
 - (b) ensure the public may inspect the complaints management process (including the related policies and procedures) at the council's public office and on its website; and
 - (c) ensure internal reports are occasionally provided to senior management about the operation of the complaints management process; and
 - (d) ensure mechanisms are in place to—
 - (i) identify, analyse and respond to complaint trends; and

[s 115]

- (ii) monitor the effectiveness of the complaints management process (by monitoring the time taken to resolve complaints, for example).
- (5) To remove any doubt, it is declared that in deciding if a complaint is an administrative action complaint it is irrelevant—
- (a) how quickly the complaint was resolved; or
 - (b) to which area of the council the complaint was made; or
 - (c) whether the complaint was a written or verbal complaint; or
 - (d) whether or not the complaint was made anonymously.
- (6) Before 1 July 2011 the council may continue to follow the general complaints process under the repealed *Local Government Act 1993*.

Editor's note—

Under the *City of Brisbane (Finance, Plans and Reporting) Regulation 2010*, section 113 the council must include particular information relating to the complaints management process in the council's annual report.

Part 5 Other provisions

115 Department's address

For schedule of the Act, definition *State office*, the department's address is—

Department of Infrastructure and Planning
Level 12 Executive Building
100 George Street
BRISBANE Q 4000.

**Schedule 1 City of Brisbane—electoral
ward boundaries**

section 5

Electoral ward	Map LGRB 1
Bracken Ridge	Sheet 5
Central	Sheet 6
Chandler	Sheet 7
Deagon	Sheet 8
Doboy	Sheet 9
Enoggera	Sheet 10
Hamilton	Sheet 11
Holland Park	Sheet 12
Jamboree	Sheet 13
Karawatha	Sheet 14
Macgregor	Sheet 15
Marchant	Sheet 16
McDowall	Sheet 17
Moorooka	Sheet 18
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Parkinson	Sheet 21
Pullenvale	Sheet 22
Richlands	Sheet 23
Tennyson	Sheet 24
The Gabba	Sheet 25
The Gap	Sheet 26
Toowong	Sheet 27
Walter Taylor	Sheet 28
Wishart	Sheet 29
Wynnum-Manly	Sheet 30

Schedule 2 Financial and non-financial particulars for registers of interests

section 103(1)

1 Definitions for sch 2

In this schedule—

controlling interest, in shares in a corporation, for a person, means the person is able—

- (a) to dispose of, or to exercise control over the disposal of, the shares; or
- (b) if the shares are voting shares—to exercise, or to control the exercise of, a voting power attached to the shares.

debenture see the Corporations Act, section 9.

holding company, for a corporation, see the Corporations Act, section 9.

nominee corporation means a corporation whose principal business is holding marketable securities as a trustee or nominee.

relevant person means any of the following persons—

- (a) a councillor;
- (b) a chief executive officer;
- (c) a senior contract employee;
- (d) a person who is related to a councillor, chief executive officer or senior contract employee.

securities see the Corporations Act, section 9.

subsidiary, for a corporation, see the Corporations Act, section 9.

2 Controlling interest in corporation

The particulars required for each corporation in which a relevant person is a shareholder or has a controlling interest in shares are—

- (a) the corporation's name; and
- (b) if the shareholding or interest is a controlling interest in the corporation—details of the shareholdings of the corporation in any other corporation; and
- (c) if the shareholding or interest is held in a proprietary company that is the holding company of another corporation—
 - (i) details of the holding company's investments; and
 - (ii) the name of any corporation that is a subsidiary of the holding company; and
 - (iii) the name of any corporation that is a subsidiary of any corporation that is the holding company's subsidiary.

3 Officer of corporation

The particulars required for each corporation of which a relevant person is an officer are—

- (a) the corporation's name; and
- (b) the nature of the office held; and
- (c) the nature of the corporation's activities.

4 Beneficial interest in trust or nominee corporation

The particulars required for each family or business trust or nominee corporation in which a relevant person holds a beneficial interest are—

- (a) the name of, or a description sufficient to identify, the trust, or the corporation's name; and

- (b) the nature of the activities of the trust or corporation; and
- (c) the nature of the interest.

5 Trustee for trust

The particulars required for each family or business trust of which a relevant person is a trustee are—

- (a) the name of, or a description sufficient to identify, the trust; and
- (b) the nature of the trust's activities; and
- (c) the name of each beneficiary of the trust, or, if the trust is a discretionary trust, each class of persons who may benefit under the trust.

6 Partnership and joint venture

The particulars required for each partnership or joint venture in which a relevant person has an interest are—

- (a) the name of, or a description sufficient to identify, the partnership or joint venture; and
- (b) the nature of the partnership's or joint venture's activities; and
- (c) the nature of the interest.

7 Land

The particulars required for all land in which a relevant person has an interest are—

- (a) the suburb or locality of the land; and
- (b) the approximate size of the land; and
- (c) the purpose for which the land is, and is intended to be, used; and
- (d) the nature of the interest.

8 Liability

- (1) The particulars required for each liability, other than department store and credit card accounts, of a relevant person, trust or private company are—
 - (a) the nature of the liability; and
 - (b) the name of the creditor.
- (2) However, subsection (1) does not apply if the debt—
 - (a) is for an amount of \$10000 or less; or
 - (b) arises from the supply of goods or services supplied in the ordinary course of—
 - (i) the relevant person's business; or
 - (ii) the business of the trust or private company.
- (3) In this section—

private company means a proprietary company in which a relevant person holds securities.

trust means a trust of which a relevant person is a beneficiary.

9 Debentures and similar investments

The particulars required for each debenture or similar investment held by a relevant person are—

- (a) the nature of the investment; and
- (b) the name of the corporation in which the investment is made; and
- (c) the nature of the business of the corporation.

10 Savings and investment accounts

The particulars required for each savings or investment account of a relevant person held with a financial institution are—

- (a) the nature of the account; and
- (b) the name of the institution.

11 Gifts totalling more than \$500

- (1) The particulars required for each gift, or all gifts totalling, more than \$500 in amount or value given to a relevant person by another person (a *donor*) are—
 - (a) the donor's name; and
 - (b) the amount or value of each gift.
- (2) Subsection (1) does not apply to a gift from a donor who is—
 - (a) a person who is related to the relevant person; or
 - (b) someone else who is related by blood or marriage to the relevant person; or
 - (c) the relevant person's friend.
- (3) However, the relevant person must be satisfied there can not be the perception of a conflict of interest, financial or otherwise, relating to the gift that could conflict with a duty the person has under the Act.

12 Sponsored hospitality benefit

The particulars required for each sponsored hospitality benefit received by a relevant person are—

- (a) the source of the contribution for the travel or accommodation; and
- (b) the purpose of the benefit.

13 Membership of political party, body or association, or trade or professional organisation

The particulars required for each political party, body or association, or trade or professional organisation of which a relevant person is a member are its name and address.

14 Other assets with value more than \$5000

- (1) The particulars required for each other asset of a relevant person with a value of more than \$5000 are sufficient details of the asset to identify it.

- (2) This section does not apply to the following—
- (a) household and personal effects;
 - (b) a motor vehicle used mainly for personal use;
 - (c) superannuation entitlements.

15 Other sources of income more than \$500 a year

The particulars required for each other source of income more than \$500 a year received by the following are sufficient details of the income to identify it—

- (a) a relevant person;
- (b) a proprietary company, or trust, in which the relevant person holds securities.

16 Other financial or non-financial interests

- (1) The particulars required for each other interest of a relevant person are sufficient details of the interest to identify it.

- (2) In this section—

interest, of the relevant person, means a financial or non-financial interest—

- (a) of which the relevant person is aware; and
- (b) that raises, appears to raise, or could raise, a conflict between the relevant person's duty under the Act and the holder of the interest.

Schedule 3 Dictionary

section 3

accrued right to long service leave, for chapter 5, part 3, division 4, see section 96(2).

appeal board see section 79.

expenses reimbursement policy see section 51(2).

foreshore means land between the high-water mark and low-water mark during ordinary spring tides.

former employer, for chapter 5, part 3, division 4, see section 96(3)(b).

former employment, for chapter 5, part 3, division 4, see section 96(3)(b).

gift see section 107(3).

leader of the opposition means the councillor who is recognised by the council as the Leader of the Opposition.

mall traffic permit see section 22(1).

mall traffic restriction see section 20(1).

new employer, for chapter 5, part 3, division 4, see section 96(3)(a).

new employment, for chapter 5, part 3, division 4, see section 96(3)(a).

recreational vehicle means a bicycle or wheeled recreational device under the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

Examples of recreational vehicles—

rollerblades, skateboards and scooters

registered operator, of a vehicle, see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

related see section 101(2).

shareholder delegate see the *City of Brisbane (Beneficial Enterprises and Business Activities) Regulation 2010*, schedule 2.

sponsored hospitality benefit see section 107(4).

vehicle see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

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). However, no amendments have commenced operation on or before that day. Future amendments of the City of Brisbane (Operations) Regulation 2010 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	1 July 2010	

5 List of legislation

City of Brisbane (Operations) Regulation 2010 SL No. 172

made by the Governor in Council on 1 July 2010

notfd gaz 1 July 2010 pp 921–2

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2010 (see s 2)

exp 1 September 2020 (see SIA s 54)

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

6 List of annotations

CHAPTER 7—AMENDMENT OF STATE PENALTIES ENFORCEMENT REGULATION 2000

ch 7 (ss 116–123) om R1 (see RA ss 7(1)(k) and 40)

7 Table of corrected minor errors

under the Reprints Act 1992 s 44

Provision	Description
106(4)	om ‘give’ ins ‘gives’

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