

Queensland



**LOCAL GOVERNMENT  
LEGISLATION  
AMENDMENT ACT (No. 2)  
1992**

**Act No. 49 of 1992**

# Queensland



## LOCAL GOVERNMENT LEGISLATION AMENDMENT ACT (No. 2) 1992

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**Local Government Legislation Amendment  
Act (No. 2) 1992**

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**An Act to amend the *City of Brisbane Act 1924* and the *Local Government Act 1936***

*[Assented to 30 November 1992]*

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

## **PART 1—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Local Government Legislation Amendment Act (No. 2) 1992*.

## **PART 2—AMENDMENT OF CITY OF BRISBANE ACT 1924**

### **Amended Act**

2. The *City of Brisbane Act 1924* is amended as set out in this Part.

### **Amendment of s.14A (Electoral wards and election of aldermen therefor)**

3. Section 14A(3) to (7)—

*omit.*

### **Replacement of Subdivision A of Division 4 of Part 2 (First distribution)**

4. Subdivision A of Division 4 of Part 2—

*omit, insert—*

***‘Subdivision A—Division of City for 1994 triennial election***

**‘Distribution for 1994 triennial election**

**‘14B.** For the purposes of the 1994 election of the council, the electoral wards are to be the electoral wards in force immediately before the commencement of the *Local Government Legislation Amendment Act (No. 2) 1992*, unless changed by a complete or partial redistribution of the City.’.

**Replacement of ss.14F–14J and heading**

**5.** Sections 14F to 14J and heading before section 14F—  
*omit, insert—*

***‘Subdivision B—Redistributions***

**‘Appointment of electoral commissioners**

**‘14C.(1)** If there is to be a complete or partial redistribution, 3 electoral commissioners must be appointed by the Governor in Council.

**‘(2)** One of the electoral commissioners is to be appointed chairperson of the electoral commissioners.

**‘(3)** For the purposes of this Division—

**“complete redistribution”** means a redistribution of all of the electoral wards of the City;

**“partial redistribution”** means a redistribution of the electoral wards that is necessary to give effect to an equitable distribution of the City.

**‘Duty of electoral commissioners**

**‘14D.** It is the duty of the electoral commissioners appointed under section 14C to make, in accordance with their appointment, a complete or partial redistribution as provided by this Act.

**‘Equitable division of City**

**‘14E.(1)** For the purposes of a redistribution mentioned in section 14D, there must be determined for the City a quota of electors for each electoral ward.

**‘(2)** A quota is to be determined by dividing the number of electors, as nearly as can be ascertained as at a day declared by the Governor in Council (**“the declared day”**), by the number of electoral wards prescribed under section 14A.

**‘(3)** For the purposes of subsection (2), the number of electors is the number of electors, as certified by the Electoral Commissioner (within the meaning of the *Electoral Act 1992*) by Gazette notice, living in the City who, on the declared day, were enrolled under the *Electoral Act 1992* for an electoral district within, or partly within, the boundaries of the City.

**‘Quota to be observed in division of City into electoral wards**

**‘14F.(1)** The quota determined under section 14E is to be observed in dividing the City into electoral wards.

**‘(2)** However, the quota may be departed from by a margin of not more than 10%.

**‘Further matters to be considered in dividing City into electoral wards**

**‘14G.(1)** In dividing the City into electoral wards, the electoral commissioners must take into account—

- (a) community or diversity of interest; and
- (b) means of communication; and
- (c) physical features; and
- (d) density of population; and
- (e) demographic trends; and
- (f) developmental trends.

**‘(2)** The electoral commissioners must consider any written proposals in relation to the division of the City into electoral wards that are lodged with

them—

- (a) within 21 days of their appointment; or
- (b) by a day (if any) specified in their appointment;

whichever is the later.’.

### **Amendment of s.14K (Existing Council)**

**6.(1)** Section 14K(1)—

*omit ‘14G’, insert ‘14C’.*

**(2)** Section 14K(6)—

*omit ‘registered’ (twice occurring), insert ‘enrolled’.*

### **Amendment of s.14M (Notice of proposed distribution or redistribution)**

**7.(1)** Section 14M (heading)—

*omit ‘distribution or’.*

**(2)** Section 14M(4)(a)—

*omit, insert—*

‘(a) the quota determined under section 14E;’.

**(3)** Section 14M(4)(b)—

*omit, insert—*

‘(b) the name of each electoral ward proposed;’.

### **Amendment of s.14N (Objections)**

**8.(1)** Section 14N—

*omit—*

‘(whether proposed for the purposes of making a complete distribution under sections 14B to 14E both inclusive or a complete or partial redistribution under sections 14F to 14K both inclusive)’.



(2) Section 14N—

*omit* ‘such distribution or, as the case may be, redistribution’,

*insert* ‘the complete or partial redistribution’.

### **Amendment of s.14O (Report by Commissioners)**

9.(1) Section 14O—

*omit* ‘the distribution or, as the case may be,’.

(2) Section 14O(a)—

*omit, insert*—

‘(a) the quota determined under section 14E;’.

(3) Section 14O(b)—

*omit, insert*—

‘(b) the name of each electoral ward determined by them;’.

### **Amendment of s.14P**

10. Section 14P(2)—

*omit*.

### **Insertion of new s.14R**

11. After section 14Q—

*insert*—

### **‘Non-application of s.4F of Local Government Act 1936 to redistribution before 1994 triennial election**

‘**14R.** Section 4F of the *Local Government Act 1936* does not apply to a redistribution under this Act that is to take effect for the purposes of the 1994 triennial election.’.

**Omission of Schedule 2**

**12.** Schedule 2—

*omit.*

## **PART 3—AMENDMENT OF LOCAL GOVERNMENT ACT 1936**

**Amended Act**

**13.** The *Local Government Act 1936* is amended as set out in this Part.

### **Amendment of s.4F (Meaning of “reviewable local government matter”)**

**14.(1)** Section 4F(1)(a)—

*omit, insert—*

‘(a) creating new areas;

(aa) naming new areas;’.

**(2)** Section 4F(1)(e)—

*omit, insert—*

‘(e) abolishing an area or areas and merging the area or areas with or into an area or areas;’.

**(3)** Section 4F(1)(i)—

*omit ‘a local authority’, insert ‘an area’.*

**(4)** Section 4F(1)(j) and (k) (before ‘changing’)—

*insert ‘determining and’.*

**(5)** Section 4F(2)(definition “**division**”)—

*omit, insert—*

‘**area**’ includes proposed area;

**“division”**—

- (a) in relation to the City of Brisbane—means a ward; and
- (b) includes a division that is a division for the purposes of Part 4 only;’.

**Amendment of s.4H (Functions of Commissioner)**

**15.** Section 4H(2)(b)—

*omit* ‘each local authority mentioned in’,

*insert* ‘to each local authority mentioned in the’.

**Amendment of s.4I (Request by Commissioner for reference)**

**16.** Section 4I(4)(after ‘within 7’)—

*insert* ‘sitting’.

**Amendment of s.4J (Report and recommendations to be obtained before reviewable local government matter implemented)**

**17.(1)** Section 4J(1)—

*omit* ‘changes in relation to’.

**(2)** Section 4J(2)—

*omit* ‘change’, *insert* ‘reviewable local government matter’.

**Amendment of s.4L (Assessment of proposed external boundary alterations)**

**18.(1)** Section 4L (heading)—

*omit, insert*—

**‘Assessment of impact of certain proposals’.**

(2) Section 4L—

*omit* ‘the external boundaries of an area be changed’,

*insert* ‘a reviewable local government matter mentioned in section 4F(1)(a), (b), (d) or (e) be implemented’.

### **Amendment of s.4ZI (Reports to be tabled etc.)**

19.(1) Section 4ZI(2)—

*omit* ‘Boundaries’.

(2) Section 4ZI(2)(a)—

*omit* ‘offices’, *insert* ‘an office’.

### **Amendment of s.5**

20.(1) After section 5(1)(ii)(i)—

*insert*—

‘(j) assign and reassign members of a local authority to divisions of its area for the purposes of Part 4; and

(k) change the class of an area; and

(l) determine and change the composition of a local authority.’.

(2) Section 5(1)(ii)—

*omit*—

**‘Proclamation of City.** The Governor in Council by Proclamation may constitute a Town or a Shire to be a City.’.

(3) Section 5(1)(ii)—

*omit*—

**‘Proclamation of a Town or Shire.** The Governor in Council by Proclamation may constitute a Town to be a Shire or a Shire to be a Town.’.

**(4)** Section 5(1)(iii) to (ix)—

*omit, insert—*

**‘Public notice of proposed recommendation to implement reviewable local government matter**

**‘(1A)** If the Commissioner is considering recommending in a report that a reviewable local government matter be implemented, the Commissioner must first cause public notice to be given, by advertisement published at least once in—

- (a) the Gazette; and
- (b) a newspaper circulating in areas that would be affected by the reviewable local government matter if it were implemented.

**‘(1B)** The notice must specify—

- (a) the general effect of the proposed recommendation; and
- (b) that particulars of the proposed recommendation, including reasons and views and, where appropriate, any relevant maps, are open to inspection by all persons at—
  - (i) the office of the Commissioner at Brisbane; and
  - (ii) the public office of each local authority that would be affected by the reviewable local government matter if it were implemented; and
- (c) that submissions in relation to the matter—
  - (i) may be made in writing to the Commissioner at a specified address; and
  - (ii) must specify the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (d) a day on or before which the particulars and any maps may be inspected and submissions made.

**‘(1C)** The specified day must not be earlier than 30 days after—

- (a) the publication of the advertisement in the Gazette; or
- (b) the publication or first publication of the advertisement in the newspaper;

whichever is the later.

‘(1D) The particulars and any maps must be kept open to inspection as specified in the advertisement.

‘(1E) Submissions in relation to the matter must be made as specified in the advertisement.

**‘Commissioner’s role when submissions received**

‘(1F) The Commissioner must consider all submissions properly made in relation to the proposed implementation of a reviewable local government matter.

‘(1G) The Commissioner may vary the proposed recommendation of which public notice was given under subsection (1A).

‘(1H) However, the Commissioner may substantially vary the proposed recommendation only if the Commissioner gives public notice of the varied proposed recommendation under subsection (1A).

‘(1I) The Commissioner’s report must include a summary of the submissions.

‘(1J) The submissions must be given to the Minister when the report under Part 2A is given to the Minister.

**‘Implementation not to be substantially different from  
Commissioner’s recommendation**

‘(1K) A reviewable local government matter may be implemented only if it does not vary substantially from the Commissioner’s recommendation.

**‘Effect of Local Government Legislation Amendment Act (No. 2) 1992  
on matters referred before commencement**

‘(1L) Section 5(1A) to (1K) applies to a reviewable local government matter that has been referred to the Commissioner before the commencement of the *Local Government Legislation Amendment Act (No. 2) 1992*.

‘(1M) However, the provisions of this Act in force immediately before the commencement of the *Local Government Legislation Amendment Act (No. 2) 1992* continue to apply to a reviewable local government matter that is the subject of a report by the Commissioner received by the Minister

before the commencement instead of the provisions of this Act (other than this subsection) in force after the commencement.

**‘Orders in council**

**‘(1N)** An order in council made under this section is subordinate legislation.’.

**Amendment of s.6**

**21.(1)** Section 6(1)(i)(1st sentence)—

*omit—*

‘as the Governor in Council from time to time declares by Order in Council’,

*insert* ‘as is determined from time to time under section 5’.

**(2)** Section 6(1)(i)(2nd paragraph commencing with the word ‘If’)—

*omit, insert—*

‘If, immediately before the commencement of the *Local Government Legislation Amendment Act (No. 2) 1992*, a town is divided for the purposes of Part 4, the division and the number of members assigned to each division continues after the commencement until varied under this Act.’.

**(3)** Section 6(1)(ii)(1st sentence)—

*omit—*

‘as the Governor in Council from time to time declares by Order in Council’,

*insert* ‘as is determined from time to time under section 5’.

**(4)** Section 6(1)(ii) (2nd paragraph)—

*omit, insert—*

‘If, immediately before the commencement of the *Local Government Legislation Amendment Act (No. 2) 1992*, a shire is divided for the purposes of Part 4, the division and the number of members assigned to each division continues after the commencement until varied under this

Act.’.

### **Amendment of s.7**

**22.** After section 7(6)—

*insert—*

#### **‘Equitable division of area**

**‘(6A)** In relation to each divided area and each area proposed to be divided, a quota of electors must be determined for each member to be elected for a division of the area.

**‘(6B)** The quota is to be determined by dividing the number of electors for the whole area, as nearly as can be ascertained, by the number of members (other than the chairperson) determined or proposed for the area.

**‘(6C)** For the purposes of subsection (6B), the number of electors is the number of electors living in the area who are enrolled under the *Electoral Act 1992* for an electoral district within, or partly within, the boundaries of the area.

#### **‘Quota to be observed in division of area and assignment of members**

**‘(6D)** The quota determined under subsection (6B) is to be observed in dividing the relevant area and in the assignment or reassignment of members to divisions of the area.

**‘(6E)** However, the quota may be departed from by a margin of—

- (i) if the area has more than 10 000 electors—not more than 10%; and
- (ii) in the case of any other area—not more than 20%.

**‘(6F)** If, after the commencement of the *Local Government Legislation Amendment Act (No.2) 1992*, the Commissioner takes action under section 5 that requires the determination of a quota of electors, the quota must be determined as nearly as is practicable at the time public notice relating to the action is given under section 5.’.



**Insertion of new ss.7A–7C**

23. After section 7—

*insert—*

**‘Review of electoral arrangements for 1994 triennial elections in certain circumstances**

**‘7A.(1)** If the area of a local authority is divided for the purposes of Part 4 at the commencement of the *Local Government Legislation Amendment Act (No. 2) 1992*, the local authority must review the following matters (“**electoral matters**”)—

- (a) division of its area;
- (b) the assignment of members to divisions;
- (c) the composition of the council.

**‘(2)** The review must take into account—

- (a) community or diversity of interest; and
- (b) means of communication; and
- (c) physical features; and
- (d) density of population; and
- (e) demographic trends; and
- (f) developmental trends.

**‘(3)** The local authority must resolve to—

- (a) adopt as its proposal no change to electoral matters (“**a proposal for no change**”); or
- (b) adopt a proposal to change an electoral matter (“**a proposal for change**”).

**‘(4)** A local authority not mentioned in subsection (1) may resolve as provided in subsection (3)(b) if it has taken into account the matters mentioned in subsection (2).

**‘(5)** A local authority must give written notice of the resolution to the Minister before—

- (a) 26 February 1993; or
- (b) if the Minister before 26 February 1993 allows a later day—that day.

**‘(6)** A local authority that passes a resolution under subsection (3) must certify, in writing, to the Minister that—

- (a) if the effect of the resolution being implemented would be that the area would be divided for the purposes of the 1994 triennial election—the number of electors for each member for each division is within the quota for the area after allowance is made for the margin permitted by section 7(6E); and
- (b) the matters mentioned in subsection (2) have been properly taken into account.

**‘(7)** For the purpose of calculating whether the number of electors for each member is within the quota for the area after allowance is made for the margin permitted by section 7(6E), the local authority must base its calculation on the number of electors in its area, and in each division or proposed division, on a day after 30 October 1992 fixed by the local authority.

**‘(8)** In the case of a proposal for change, the Minister must refer the proposal to the Commissioner under section 4H and may include any other electoral matter in the reference.

**‘(9)** In the case of a proposal for no change, the Minister may refer the proposal to the Commissioner under section 4H and may include any electoral matter in the reference.

**‘(10)** If a proposal is for, or includes, division of the area or the assignment or reassignment of members to divisions of the area, the Commissioner must examine whether the proposal complies with the quota for the area after allowance is made for the margin permitted under section 7(6E).

**‘(11)** The Commissioner may consider whether any of the matters mentioned in subsection (2) have been properly taken into account in relation to a proposal.

**‘(12)** Part 2A (other than sections 4K and 4M) applies to a proposal or electoral matter referred to the Commissioner under subsection (8) or (9).

‘(13) However, any public notice of the proposed recommendation for a change to an electoral matter need not include reasons or views for the proposed recommendation.

‘(14) A report by the Commissioner under section 4M may specify reasons for the recommendations and views contained in the report.

**‘Divided local authority that fails to comply with s.7A**

‘7B.(1) If a local authority—

- (a) is required to take action under section 7A; and
- (b) fails to give notice to the Minister under section 7A(5) of a resolution;

the area of the local authority becomes undivided for the purposes of Part 4 for the purposes of the triennial election of the council due to be held in 1994 and for subsequent elections.

‘(2) The Minister must notify, by Gazette notice, the fact that the local authority has become undivided for the purposes of Part 4.

‘(3) Subsection (1) ceases to apply to the local authority if the area later becomes, under section 5, divided for the purposes of Part 4.

**‘Effect on divisions for other purposes**

‘7C. If—

- (a) at the commencement of the *Local Government Legislation Amendment Act (No. 2) 1992*, the area of a local authority is divided into divisions for purposes other than of Part 4; and
- (b) an order in council is made under section 5 following a resolution mentioned in section 7A(5), or section 7B applies, so that—
  - (i) the area is undivided for the purposes of Part 4; or
  - (ii) the divisions of the area for the purposes of Part 4 do not correspond with the divisions mentioned in paragraph (a);

then—

- (c) the divisions mentioned in paragraph (a) continue until 1 July

1994 for all purposes other than of Part 4; and

- (d) on 1 July 1994—
  - (i) if the area is divided by order in council—the local authority becomes divided for all purposes of this Act; or
  - (ii) if the area is undivided by order in council or by the application of section 7B—the local authority becomes undivided for all purposes under this Act.’.