



Queensland

# Local Government (Finance, Plans and Reporting) Regulation 2010

## Subordinate Legislation 2010 No. 124

made under the

*Local Government Act 2009*

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# Chapter 1 Preliminary

## 1 Short title

This regulation may be cited as the *Local Government (Finance, Plans and Reporting) Regulation 2010*.

## 2 Commencement

This regulation commences on 1 July 2010.

## 3 Definitions

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

## 4 What this regulation is about

This regulation is about community planning and financial management for local governments, including—

- (a) engaging the community; and
- (b) planning community growth and development; and
- (c) local government rates and charges; and
- (d) the financial accounts, documents, policies, records and reports of a local government; and
- (e) local government contracts; and
- (f) allocating funds received by the State from the Commonwealth for local government purposes.

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## **Chapter 2            Rates and charges**

### **Part 1                Preliminary**

#### **Division 1           Introduction**

##### **5            What ch 2 is about**

- (1) This chapter is about local government rates and charges.

*Note—*

See chapter 4, part 1 of the Act.

- (2) A provision of this chapter does not apply to the local government area of an indigenous local government to the extent that the provision relies on the valuation of land under the Valuation of Land Act.

#### **Division 2           Interpretation**

##### **6            What is the *value* of land**

The *value*, of land for a financial year, is the unimproved value of the land under the Valuation of Land Act when a liability for payment of rates or charges for the land arises for the financial year.

### **Part 2                Land exempt from rating**

##### **7            Land that is exempt from rating—Act, s 93**

For section 93(3)(j)(ii) of the Act, the following land is exempted from rating—

- 
- (a) land owned by a religious entity if the land is less than 20ha and is used for 1 or more of the following purposes—
    - (i) religious purposes, including, for example, public worship;
    - (ii) the provision of education, health or community services, including facilities for aged persons and persons with disabilities;
    - (iii) the administration of the religious entity;
    - (iv) housing incidental to a purpose mentioned in subparagraphs (i) to (iii);
  - (b) land vested in, or placed under the management and control of, a person under an Act for—
    - (i) a public purpose that is a recreational or sporting purpose; or
    - (ii) a charitable purpose;
  - (c) land used for the purposes of a public hospital if—
    - (i) the public hospital is—
      - (A) part of a private hospital complex; or
      - (B) a private and public hospital complex; and
    - (ii) the land used for the purposes is more than 2ha and is separated from the rest of the complex;
  - (d) land owned by a community organisation if the land is less than 20ha and is used for providing the following—
    - (i) accommodation associated with the protection of children;
    - (ii) accommodation for students;
    - (iii) educational, training or information services aimed at improving labour market participation or leisure opportunities;
  - (e) land used for a cemetery.

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## Part 3 Value of land used for rates

### 8 Rateable value of land

- (1) A local government must calculate the rates for land by using the rateable value of the land.
- (2) The *rateable value* of land for a financial year is the value of the land—
  - (a) for the financial year; or
  - (b) as averaged over a number of financial years.
- (3) A local government may use the value of the land averaged over a number of financial years only if the local government decides, by resolution, to do so.
- (4) The resolution must state whether the local government will use, for deciding the rateable value of the land—
  - (a) the 2-year averaged value of the land; or
  - (b) the 3-year averaged value of the land.
- (5) However, if the value of the land averaged over a number of financial years is more than the value of the land for the financial year, the rates must be calculated using the value of the land for the financial year.

### 9 Working out the 2-year averaged value

- (1) The *2-year averaged value* of land for a financial year is the amount that equals—
  - (a) if the land had a value for the previous financial year—
    - the value of the land for the previous financial year
    - plus the value of the land for the financial year
    - divided by 2; or
  - (b) if the land did not have a value for the previous financial year—

- 
- the value of the land for the financial year
  - divided by 2
  - multiplied by the 2-year averaging number.
- (2) The **2-year averaging number**, for a financial year, is the number calculated to 2 decimal places by using the formula—

$$\frac{T}{2V}$$

where—

*T* is the total of the values of all rateable land in the local government's area for the financial year and the previous financial year.

*V* is the value of all rateable land in the local government's area for the financial year.

## 10 Working out the 3-year averaged value

- (1) The **3-year averaged value** of land for a financial year is the amount that equals—
- (a) if the land had a value for the 2 previous financial years—
- the sum of the value of the land for each of the 2 previous years
  - plus the value of the land for the financial year
  - divided by 3; or
- (b) if the land did not have a value for the 2 previous financial years—
- the value of the land for the financial year
  - divided by 3
  - multiplied by the 3-year averaging number.

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- (2) The **3-year averaging number**, for a financial year, is the number calculated to 2 decimal places by using the formula—

$$\frac{T}{3V}$$

where—

*T* is the total of the values of all rateable land in the local government's area for the financial year and the previous 2 financial years.

*V* is the value of all rateable land in the local government's area for the financial year.

## Part 4 Minimum general rates

### 11 Minimum general rates for land generally

- (1) A local government may fix a minimum amount of general rates.
- (2) The local government may identify parcels of rateable land to which a minimum amount of general rates applies in any way the local government considers appropriate.
- (3) However, a local government must not levy minimum general rates for a parcel of land if—
  - (a) the Valuation of Land Act, section 25, applies to the parcel of land; and
  - (b) the discounted valuation period for the parcel of land has not ended under that section.
- (4) Generally, the same minimum amount of general rates must apply to all rateable land in the local government area.
- (5) However, a local government may fix a different minimum amount of general rates only for—

- 
- (a) if there are different rating categories of rateable land for the local government area, each different rating category; or
  - (b) timeshare property; or
  - (c) any of the following—
    - (i) a mining lease granted for mining for minerals over land that is not larger than 2ha;
    - (ii) a mining lease granted for a purpose that is associated with mining for minerals over land that is not larger than 4ha; or
  - (d) land that is subject to a mining claim, subject to section 13.
- (6) For subsection (5)(a), if a local government fixes a different minimum amount of general rates for different rating categories, the same minimum amount of general rates must apply to all rateable land belonging to a particular rating category.

## **12 Minimum general rates on time shared property**

- (1) This section applies to a local government for fixing a minimum amount of general rates on—
  - (a) land where there is a structure wholly or partially subject to a time share scheme; or
  - (b) a lot included in a community titles scheme under the *Body Corporate and Community Management Act 1997* where there is a structure wholly or partially subject to a time share scheme; or
  - (c) a lot within the meaning of a community titles Act other than the *Body Corporate and Community Management Act 1997* where there is a structure wholly or partially subject to a time share scheme.
- (2) The local government may decide the minimum amount of general rates is to be worked out using the formula—



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$$MA = L \times RU$$

where—

*MA* is the minimum amount.

*L* is the minimum amount of general rates that would, other than for this section, be payable for the land or lot.

*RU* is the number of units of the structure that are subject to the time share scheme and are available at any time for separate exclusive occupation.

### 13 Value of mining claim for fixing minimum general rates

For fixing a minimum amount of general rates for land subject to a mining claim, the value of the mining claim is—

- (a) for a mining claim over land that is 900m<sup>2</sup> or less—\$150; or
- (b) for a mining claim over land that is larger than 900m<sup>2</sup>—\$450.

## Part 5 Differential general rates

### Division 1 Introduction

#### 14 Differential general rates

- (1) A local government may levy general rates that differ for different categories of rateable land in the local government area.
- (2) These rates are called *differential general rates*.
- (3) For example, a local government may decide the amount of the general rates on a parcel of residential land will be more than the general rates on the same size parcel of rural land.

- (4) However, the differential general rates for a category of rateable land may be the same as the differential general rates for another category of rateable land.
- (5) If a local government makes and levies a differential general rate for rateable land for a financial year, the local government must not make and levy a general rate for the land for the year.
- (6) A differential general rate may be made and levied on a lot under a community titles Act as if it were a parcel of rateable land.

## 15 Categorisation of land for differential general rates

- (1) Before a local government levies differential general rates, it must decide the different categories (each a *rating category*) of rateable land in the local government area.
- (2) The local government must, by resolution, make the decision at the local government's budget meeting.
- (3) The resolution must state—
  - (a) the rating categories of rateable land in the local government area; and
  - (b) a description of each of the rating categories.

### *Example—*

A resolution may state that the rating categories, and a description of each of the rating categories, are as follows—

- (a) residential land—land that is used for residential purposes in particular urban centres, rural localities, park residential estates and coastal villages;
- (b) commercial and industrial land—land that is used solely for commerce or industry in particular urban centres and rural localities, other than land used for manufacturing sugar or another rural production industry;
- (c) grazing and livestock land—land that is used, for commercial purposes, for grazing and livestock;
- (d) sugar cane land—land that is used for producing sugar cane;
- (e) sugar milling land—land that is used for manufacturing sugar;

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- (f) rural land—
    - (i) land that is not in an urban centre or locality; or
    - (ii) land that is not used for grazing and livestock; or
    - (iii) land that is not sugar cane land or sugar milling land;
  - (g) other land—any other type of land.
- (4) After the rating categories and descriptions have been decided, the local government must identify the rating category to which each parcel of rateable land in the local government area belongs.
  - (5) The local government may do so in any way it considers appropriate.
  - (6) The fact that some parcels of rateable land are inadvertently not categorised does not stop differential general rates being levied on rateable land that has been categorised.

## **16 Later categorisation**

- (1) This section applies if—
  - (a) the local government discovers that land has inadvertently not been categorised; or
  - (b) land becomes rateable land; or
  - (c) the local government considers that the rating category of a parcel of land should be changed, in view of the description of each rating category; or
  - (d) 2 or more parcels of rateable land are amalgamated into a single parcel of rateable land.
- (2) The local government must decide what rating category the land should be in.
- (3) The decision takes effect—
  - (a) for a decision because of subsection (1)(a)—from the start of the relevant financial year; or
  - (b) for a decision because of subsection (1)(b)—from the day when the land became rateable land; or

- (c) for a decision because of subsection (1)(c)—from the day when the decision is made; or
- (d) for a decision because of subsection (1)(d)—from the day when the survey plan of amalgamation is registered by the registrar of titles.

## **Division 2                    Entering land to categorise land**

### **17        What div 2 is about**

This division is about—

- (a) appointing categorisation officers; and
- (b) the officers' powers to enter land to enable any of the following—
  - (i) the rating categories into which rateable land in a local government area is to be categorised to be decided;
  - (ii) a description for each of the rating categories to be decided;
  - (iii) the rating category for a parcel of rateable land to be identified;
  - (iv) an objection or appeal against the categorisation of rateable land to be decided.

### **18        Appointing categorisation officer**

- (1) The chief executive officer may appoint a qualified person as a categorisation officer for this division.
- (2) For subsection (1), a person is qualified if the person—
  - (a) has the competencies the chief executive officer considers are necessary to perform the functions that are required to be performed by the person under this division; and

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- (b) is any of the following—
  - (i) a person who is authorised by a local government for this division;
  - (ii) a member of the Land Court;
  - (iii) a person who is authorised by a member of the Land Court for this division.
- (3) A categorisation officer’s appointment is subject to—
  - (a) section 20; and
  - (b) the conditions stated in the document that appoints the categorisation officer.

## **19 Identity card for categorisation officer**

- (1) The chief executive officer must give each categorisation officer an identity card.
- (2) A person who stops being a categorisation officer must return the person’s identity card to the chief executive officer, within 21 days after stopping being a categorisation officer, unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—10 penalty units.

## **20 Exercise of power of entry**

- (1) A categorisation officer may enter private property under this division only—
  - (a) with the permission of the occupier of the property; or
  - (b) to ask the occupier of the property for permission to stay on the property to exercise the powers under this division; or
  - (c) with, and in accordance with, a warrant.
- (2) Subject to subsection (6), section 129, other than subsections (2)(b) and (4)(a)(ii), of the Act (the *applied provision*) applies

to a categorisation officer for entering private property under subsection (1)(a) or (b).

- (3) Subject to subsections (4) and (6), sections 130, other than subsections (5) and (6)(a), and 131 of the Act (also the *applied provisions*) apply to a categorisation officer for entering private property under subsection (1)(c).
- (4) However, a magistrate may issue a warrant for entering private property under this division only if—
  - (a) the magistrate is satisfied—
    - (i) the warrant is sought for entering the property under section 17(b); and
    - (ii) the occupier of the property has unreasonably refused a request for permission to enter the property under section 129(2) of the Act as applied under subsection (2); and
  - (b) the warrant states the purpose for which it is issued.
- (5) Subject to subsection (6), sections 126, 136 and 137 of the Act (also the *applied provisions*) apply to a categorisation officer for entering private property under this division.
- (6) The applied provisions apply as if—
  - (a) a reference in the applied provisions to an authorised person were a reference to the categorisation officer; and
  - (b) a reference in the applied provisions, other than section 137 of the Act, to a Local Government Act were a reference to this division; and
  - (c) a reference in the applied provisions to the powers under the Act were a reference to the powers under this division; and
  - (d) a reference in the applied provisions to the powers or action under chapter 5, part 2, division 1 of the Act were a reference to the powers or action under this division.

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*Editor's note—*

Sections 126 (Producing authorised person's identity card), 129 (Entering private property with, and in accordance with, the occupier's permission), 130 (Entering private property with, and in accordance with, a warrant), 131 (Warrants—applications made electronically), 136 (Authorised person to give notice of damage) and 137 (Compensation for damage or loss caused after entry) of the Act

## **21 End of appointment of categorisation officer**

- (1) A person stops being a categorisation officer—
  - (a) at the end of the term of appointment stated in the document that appointed the person; or
  - (b) if the person gives the local government a signed notice of resignation; or
  - (c) if it is a condition of the person's appointment that the person hold another position at the same time—if the person stops holding the other position.
- (2) This section does not limit the ways in which a categorisation officer's appointment ends.

## **Division 3 Notice of categorisation of land**

### **22 Notice to owner of categorisation**

- (1) This section applies if a local government decides to levy differential general rates on rateable land for a financial year.
- (2) The local government must ensure each of the following rate notices (a *relevant rate notice*) is accompanied by, or contains, a rating category statement—
  - (a) the first rate notice for the financial year given to the owner of the land;
  - (b) a later rate notice for the financial year if—

- (i) the owner of the land has changed since the first rate notice for the financial year was issued; or
  - (ii) the rating category for the land has changed since the first rate notice for the financial year was issued.
- (3) However, a rating category statement may also accompany, or be contained in, a rate notice, other than a relevant rate notice.
- (4) The ***rating category statement*** is a document stating—
  - (a) the rating categories for land in the local government area, and a description of each of the rating categories; and
  - (b) the rating category for the land (the ***owner's land***) described in the rate notice accompanying or containing the rating category statement; and
  - (c) that the owner may object to the categorisation of the owner's land only on the ground that the rating category is wrong in reference to the local government's descriptions of the rating categories; and
  - (d) that the owner may object by giving the local government an objection notice within—
    - (i) 30 days after the date when the rate notice was issued; or
    - (ii) a longer period that the local government allows; and
  - (e) that the owner is liable to pay the amount in the rate notice even if the owner gives an objection notice; and
  - (f) that, if the rating category of the owner's land is changed because of the objection, the rates will be adjusted at that time.



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## **Division 4                      Objecting to rates category**

### **23            What div 4 is about**

- (1) This division is about an owner of land making an objection, or starting an appeal, relating to the rating category for the land.
- (2) However, the making of an objection, or the starting of an appeal, does not stop the levying and recovery of rates on the land.

### **24            Land owner's objection to rates category**

- (1) This section applies if an owner of rateable land wants to object to the rating category for the land that is stated in a rate notice for the land.
- (2) The only ground for objecting is that the owner considers the land should belong to a different rating category.
- (3) The owner may object by giving the local government an objection notice.
- (4) An ***objection notice*** is a document, in a form approved by the local government, stating—
  - (a) the rating category that the owner claims the land should belong to; and
  - (b) the facts and circumstances on which the owner makes that claim.
- (5) The owner must give the objection notice within—
  - (a) 30 days after the day when the rate notice was issued; or
  - (b) a longer period that the local government allows.

### **25            Decision on a land owner's objection**

- (1) This section applies if the owner of rateable land properly objects to the rating category for the land.

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- (2) The local government's chief executive officer must consider the objection and decide—
    - (a) to change the rating category for the land—
      - (i) to the rating category to which the owner claims in the objection notice the land should belong; or
      - (ii) to another rating category; or
    - (b) not to allow the objection.
  - (3) The chief executive officer must give the owner notice of—
    - (a) the decision; and
    - (b) the reasons for the decision.
  - (4) The chief executive officer must give the notice within 60 days after the objection was made.
  - (5) If the chief executive officer decides to change the rating category of the land, the rating category is taken to have been changed from the start of the period of the rate notice.

## **26 Land owner's appeal against decision**

- (1) This section applies if the owner of rateable land wants to appeal against a decision of—
  - (a) the local government not to allow a longer period for giving an objection notice; or
  - (b) the chief executive officer on the owner's objection to the rating category for the land.
- (2) The owner may appeal by filing an appeal notice in the Land Court registry, within 42 days after the day when the owner received notice of the decision.
- (3) The appeal notice must be in the form approved by the Land Court.
- (4) The owner must give a copy of the filed appeal notice to the local government, within 7 days after the appeal notice was filed.

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- (5) If the owner fails to do so, it does not affect the making of the appeal, or the jurisdiction of the Land Court to decide the appeal, but the court may award costs against the owner for any adjournment that is caused by the owner's failure.

## **27 Decision on a land owner's appeal**

- (1) For an appeal under this division, the Land Court is constituted by 1 member.
- (2) The Land Court—
  - (a) must conduct the appeal with a view to its prompt disposal; and
  - (b) must observe natural justice; and
  - (c) is not bound by the rules of evidence.
- (3) The Land Court may decide to—
  - (a) if the appeal is against the decision of the local government not to allow a longer period for giving an objection notice—
    - (i) allow a longer period for giving an objection notice; or
    - (ii) not allow the appeal.
  - (b) if the appeal is against the decision of the chief executive officer on the owner's objection to the rating category for the land—
    - (i) change the rating category for the land; or
    - (ii) not allow the appeal.
- (4) If the Land Court decides to change the rating category for the land, the rating category is taken to have been changed from the start of the period of the rate notice.

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## Part 6 Special rates and charges

### 28 Levying special rates or charges

- (1) This section applies if a local government decides to levy special rates or charges.

*Note—*

See the Act, section 92(3) (Types of rates and charges), definition *special rates and charges*.

- (2) For levying rates under subsection (1), the local government may fix a minimum amount of the rates.
- (3) The local government's resolution to levy special rates or charges must identify—
- (a) the rateable land to which the special rates or charges apply; and
  - (b) the overall plan for the service, facility or activity to which the special rates or charges apply.
- (4) The **overall plan** is a document that—
- (a) describes the service, facility or activity; and
  - (b) identifies the rateable land to which the special rates or charges apply; and
  - (c) states the estimated cost of carrying out the overall plan; and
  - (d) states the estimated time for carrying out the overall plan.
- (5) The local government must adopt the overall plan before, or at the same time as, the local government first resolves to levy the special rates or charges.
- (6) Under an overall plan, special rates or charges may be levied for 1 or more years before any of the special rates or charges are spent in carrying out the overall plan.

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- (7) If an overall plan is for more than 1 year, the local government must also adopt an annual implementation plan for each year.
- (8) An *annual implementation plan* for a financial year is a document setting out the actions or processes that are to be carried out in the financial year for the service, facility or activity to which the special rates or charges apply.
- (9) The local government must adopt the annual implementation plan before or at the budget meeting for each year of the period for carrying out the overall plan.
- (10) The local government may at any time, by resolution, amend—
  - (a) an overall plan; or
  - (b) an annual implementation plan.
- (11) To remove any doubt, it is declared that a local government may make and levy a special rate or charge for a service, facility or activity whether or not supplied or undertaken by the local government itself, including a service, facility or activity supplied or undertaken by another local government—
  - (a) in the other local government's local government area; and
  - (b) conducted as a joint government activity by the local governments.

## **29 Carrying special rates or charges forward to a later financial year**

- (1) This section applies if a local government does not spend all of the special rates or charges that are raised in a financial year in carrying out an annual implementation plan.
- (2) The local government may carry the unspent special rates or charges forward for spending under an annual implementation plan in a later financial year.

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**30 Surplus special rates or charges after plan is carried out**

- (1) This section applies if—
  - (a) a local government implements an overall plan; and
  - (b) the local government has not spent all the special rates or charges.
- (2) The local government must as soon as practicable pay the unspent special rates or charges to the current owners of the land on which the special rates or charges were levied.
- (3) The payments to the current owners must be in the same proportions as the special rates or charges were last levied.

**31 Surplus special rates or charges after plan is cancelled**

- (1) This section applies if—
  - (a) a local government decides to cancel an overall plan before it is carried out; and
  - (b) the local government has not spent all the special rates or charges.
- (2) The local government must as soon as practicable pay the unspent special rates or charges to the current owners of the land on which the special rates or charges were levied.
- (3) The local government must pay the current owners—
  - (a) if the overall plan identifies the beneficiaries of the plan—in the proportions that the local government, by resolution, decides; or
  - (b) if the overall plan does not identify the beneficiaries of the plan—in the same proportions as the special rates or charges were last levied.
- (4) The local government must decide the proportions having regard to—
  - (a) the proportions in which the special rates or charges were last levied; and

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- (b) the extent to which the rateable land, or the owners of the rateable land, will benefit from or have access to the service, facility or activity.
- (5) The *beneficiaries* of the plan are the owners of the rateable land that will benefit from or have access to the service, facility or activity.

### **32 Returning special rates or charges incorrectly levied**

- (1) This section applies if a rate notice includes special rates or charges that were levied on land to which the special rates or charges do not apply.
- (2) The rate notice is not invalid, but the local government must as soon as practicable return the special rates or charges to the person who paid the special rates or charges.

## **Part 7 Utility charges**

### **33 Utility charges**

- (1) A local government may levy utility charges on any basis the local government considers appropriate.
- (2) For example, utility charges may be levied on the basis of any, or any combination, of the following—
  - (a) the rateable value of land;
  - (b) the use made of—
    - (i) a particular parcel of land; or
    - (ii) a particular structure; or
    - (iii) a class of land or structure;
  - (c) any circumstances that are peculiar to the supply of a service to—

- 
- (i) a particular parcel of land; or
  - (ii) a particular structure; or
  - (iii) a class of land or structure.
- (3) A local government may do 1 or both of the following—
- (a) levy utility charges for services that have been supplied or are to be supplied during part of the financial year and part of another financial year;
  - (b) levy differing utility charges for services that have been supplied or are to be supplied during various periods in 1 or more financial years, and decide the way the charges are to be apportioned.
- (4) However, a local government may only levy utility charges for services—
- (a) supplied in the last financial year; or
  - (b) supplied, or to be supplied, in the current financial year; or
  - (c) to be supplied in the next financial year.

### **34 Utility charges before facilities are constructed**

- (1) A local government may, in a financial year (the *current financial year*), levy utility charges for supplying a water service or sewerage service before the facility for supplying the service has been constructed if—
- (a) the local government reasonably believes the service will be supplied in the next financial year; and
  - (b) the local government—
    - (i) has started constructing the facility; or
    - (ii) intends to start constructing the facility during the next financial year, and has included the funds that are necessary for construction in its annual budget for the current financial year.



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*Note—*

See, however, the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

- (2) The utility charges are not invalid only because the service is not supplied in the next financial year for reasons beyond the local government's control.
- (3) In this section—  
*sewerage service* see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

### **35 Working out utility charges for water services**

- (1) The utility charges for a water service must be charged—
  - (a) wholly according to the water used; or

*Note—*

See, however, the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

  - (b) partly according to the water used, using a 2-part charge.
- (2) A **2-part charge** is a utility charge that is made up of the following 2 parts—
  - (a) a fixed charge for using the infrastructure that supplies the water to a person who is liable to pay the charge (a **consumer**); and
  - (b) a variable charge for using the water, based on the amount of water that is actually used by the consumer.
- (3) The utility charges for the water used must be worked out on the basis of—
  - (a) if the water used is not measured by a water meter—
    - (i) the estimated average water usage of the consumers within a group of consumers who have similar water usage; or
    - (ii) another method that is appropriate to decide a consumer's likely water usage; or

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- (b) if the water used is measured by a water meter—
- (i) an amount for each unit, or part of a unit, of water that is used; or
  - (ii) a fixed amount plus an amount for each unit, or part of a unit, of water that is used over a stated quantity.

*Example for subsection (3)(b)(ii)—*

A local government's utility charges are worked out on the basis of an access charge of \$100 for domestic consumers, and \$600 for commercial consumers, plus a usage charge of \$1 for each kilolitre of water used.

The local government works out that—

- (a) the average usage of domestic consumers was 300kL a year; and
- (b) the average usage of commercial consumers was 2000kL a year.

The utility charges for the year would be—

- (a) \$400 for domestic consumers (i.e. \$100 + [\$1 x 300kL]); and
- (b) \$2600 for commercial consumers (i.e. \$600 + [\$1 x 2000kL]).

- (4) Utility charges for water are not invalid only because the local government does not comply with this part.
- (5) This section does not apply to a local government if the local government adopts the pricing provisions under schedule 1 of the Business Activities Regulation.

## **36 Reading meters for utility charges**

- (1) This section is about the reading of meters for utility charges.
- (2) A local government may, by resolution, decide a meter is taken to have been read during the period that starts 2 weeks before, and ends 2 weeks after, the day on which the meter is actually read.

*Example—*

In calculating utility charges for a period ending on 30 April, if a meter is read on 10 May, the meter reading is taken to be the meter reading on 30 April.

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- (3) This section does not limit a local government's power to make local laws about other aspects of the administration of the metered consumption of a utility service.

*Example—*

A local government may make a local law to provide for water consumption to be estimated on the basis of the best information that is reasonably available if a water meter is found to be malfunctioning or inoperative during any period of consumption.

## **Part 8                      Separate rates and charges**

### **37      Levying separate rates or charges**

- (1) This section applies if a local government decides to levy separate rates or charges.
- (2) For levying rates under subsection (1), the local government may fix a minimum amount of the rates.
- (3) To remove any doubt, it is declared that a local government may levy separate rates or charges for a service, facility or activity, whether or not the service, facility or activity is supplied by the local government.



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- (b) payment of the amount, whether before or after the end of any discount period, does not affect any discount that applies to the rates or charges.

#### **40 Entities to whom rate notice must be given**

A rate notice must be given—

- (a) for services supplied to a structure, or to land that is not rateable land—to the entity who asked for the service to be supplied; and
- (b) in any other case—to the entity who is recorded in the local government’s land record as the owner of the land on which the rates are levied.

*Note—*

See part 13 for more information on the land record.

#### **41 Issue of and period covered by rate notice**

- (1) A rate notice may only be issued—
  - (a) for utility charges, for a period of at least 1 month, that the local government considers appropriate; and
  - (b) for other rates or charges, for the whole or part of a financial year as the local government considers appropriate.
- (2) However, the rate notice for the rates mentioned in subsection (1)(b) must be issued for the same period for all rate payers.
- (3) If a person who is liable to pay rates or charges for a period pays the rates or charges before the local government gives the person a rate notice for the period, the local government is not required to give the person a rate notice for the period.
- (4) However, the local government must, at least once each year, issue a rate notice for each parcel of rateable land for a period of no longer than a financial year.

#### **42 Electronic issue of rate notice**

A rate notice, including a rating category statement contained in or accompanying the notice, may be given electronically to a person if—

- (a) the person has given consent to the notice being given electronically; and
- (b) at the time the notice was given, it was reasonable for the local government to expect the notice would be readily accessible so as to be useable for subsequent reference by the person.

### **Division 2 Adjusting rates or charges**

#### **43 Application of div 2**

This division applies to a local government for adjusting the amount of rates or charges that have already been levied on land because particular changes happen.

#### **44 Land stops being rateable land**

If the land becomes, or stops being, rateable land, the local government must adjust the rates so that the rates are calculated only on the period when the land was rateable land.

#### **45 Change in unimproved value**

If the unimproved value of the land changes under the Valuation of Land Act, the local government must adjust the rates so that the rates are calculated on the new value of the land for the period that starts on the day the change takes effect under that Act.

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#### **46 Change in rating category**

If the land is given a rating category, including a change of rating category, the local government must adjust the general rates so that the rates are calculated on the new or changed rating category for the period that starts on the day the land was given the new or changed rating category.

#### **47 Special rates become or stop being payable**

If the land becomes, or stops being, land on which the local government may levy special rates or charges, the local government must adjust the rates or charges so that the rates or charges are calculated on the period when the land was land on which the local government could levy special rates or charges.

#### **48 Loss of entitlement to occupy land from State**

- (1) This section applies if—
  - (a) a person is entitled to occupy land under a lease, licence or permission given by the State; and
  - (b) the person loses the entitlement, including, for example, because the lease, licence or permission expires or is surrendered or forfeited.
- (2) The local government must adjust the rates or charges so that the rates or charges are calculated only for the period when the person was entitled to occupy the land.

#### **49 Rates or charges paid before adjustment**

If the rates or charges are paid before they are adjusted, the local government—

- (a) if the rates or charges are reduced—must refund the overpaid amount of rates or charges; or
- (b) if the rates or charges are increased—may recover the amount of rates or charges owing.

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## Division 3                      Other matters about levying rates or charges

### 50            Limitation of increase in rates levied

- (1) When a local government resolves to levy rates or charges, it also may resolve to limit the increase in the rates or charges.
- (2) The rates or charges may be limited to not more than—
  - (a) if the rates or charges for the last financial year were for a full year—
    - (i) the rates or charges for the last financial year; or
    - (ii) the rates or charges for the last financial year, increased by a stated percentage; or
  - (b) if the rates or charges levied for the last financial year were not for a full year—
    - (i) the corresponding annual amount for the rates or charges for the last financial year; or
    - (ii) the corresponding annual amount for the rates or charges for the last financial year, increased by a stated percentage.
- (3) The *corresponding annual amount* is the amount worked out by—
  - (a) converting the amount of the rates or charges levied for the last financial year to a daily amount; and
  - (b) multiplying the daily amount by 365.
- (4) The resolution may specify different percentages for—
  - (a) different land or classes of land; or
  - (b) different rates or charges.



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**51 Rates may be levied or adjusted after end of financial year**

A local government may levy rates or charges, or adjust a rates or charges levy in a financial year, even though the resolution for making the rates or charges was made for a previous financial year.

**52 When rates or charges must be paid**

- (1) A local government must decide the date by which, or the period within which, rates or charges must be paid.
- (2) The date by which, or the period within which, the rates or charges must be paid must be—
  - (a) at least 30 days after the rate notice for the rates or charges is issued; and
  - (b) subject to part 10, the same date or period for each person liable to pay the rates or charges.
- (3) The local government must, by resolution, make the decision at its budget meeting.

## **Part 10 Concessions**

**53 Concession for rates or charges**

A local government may grant a rate payer a concession for rates or charges for land only under this part.

**54 Criteria for granting concession**

- (1) The local government may grant the concession only if it is satisfied—
  - (a) the land is owned or occupied by a pensioner; or

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- (b) the land is owned by—
    - (i) an entity whose objects do not include making a profit; or
    - (ii) an entity that provides assistance or encouragement for arts or cultural development; or
  - (c) the payment of the rates or charges will cause hardship to the land owner; or
  - (d) the concession will encourage the economic development of all or part of the local government area; or
  - (e) the concession will encourage land that is of cultural, environmental, historic, heritage or scientific significance to the local government area to be preserved, restored or maintained; or
  - (f) the land is used exclusively for the purpose of a single dwelling house or farming and could be used for another purpose, including, for example, a commercial or industrial purpose; or
  - (g) the land is subject to a GHG tenure, mining tenement or petroleum tenure; or
  - (h) the land is part of a parcel of land (a *parcel*) that has been subdivided and—
    - (i) the person who subdivided the parcel is the owner of the land; and
    - (ii) the land is not developed land.
- (2) In this section—

***GHG tenure*** see the *Greenhouse Gas Storage Act 2009*, section 18(2).

***mining tenement*** see the *Mineral Resources Act 1989*, schedule.

***petroleum tenure*** means—

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- (a) a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*, section 18(3); or
- (b) an authority to prospect or lease under the *Petroleum Act 1923*.

## **55 Types of concession**

The concession may only be of the following types—

- (a) a rebate of all or part of the rates or charges;
- (b) an agreement to defer payment of the rates or charges;
- (c) an agreement to accept a transfer of unencumbered land in full or part payment of the rates or charges.

## **56 Resolutions for granting concession**

- (1) The local government may grant the concession only by—
  - (a) a resolution granting the concession to a stated rate payer; or
  - (b) if the resolution is of a type mentioned in section 55(a) or (b)—a resolution granting the concession to a rate payer who is a member of a stated class of rate payers.
- (2) The local government may make the resolution before the local government levies the rates or charges.
- (3) The local government may make a resolution under subsection (1)(a) only if the rate payer has applied for the concession in a way accepted by the local government.
- (4) If the local government grants a concession by making a resolution under subsection (1)(b), the concession may be granted only to the rate payers whom the local government is satisfied are eligible for the concession.
- (5) The resolution may include conditions for granting the concession to the rate payer.

(6) Without limiting subsection (5), the conditions may include the following—

- (a) a condition requiring the rate payer to show the local government particular information or documents or follow a procedure to be eligible for the concession;

*Examples—*

- a condition requiring the rate payer to produce a health care card or pensioner concession card to show the rate payer's eligibility for the concession for the rates or charges
- a condition requiring the rate payer to enter an agreement to defer payment of rates or charges in a form required by the local government

- (b) a condition limiting the period for which the rate payer is granted the concession.

*Example—*

for a concession on the basis of the rate payer's receipt of a disability support pension, a condition limiting the concession to the period for which the rate payer receives the pension

## **57 Special provision for rebate for land occupied by pensioners**

- (1) The local government may grant a rebate of rates or charges for land occupied only by pensioners only if the land owner agrees to pass the benefit of the rebate on to the pensioners.
- (2) The local government may grant a rebate of rates or charges for land that is occupied by pensioners and other persons, only—
- (a) for that part of the rates or charges that the local government considers is fairly attributable to the part of the land where pensioners have a right to exclusive occupancy; and
- (b) if the land owner agrees to pass the benefit of the rebate on to the pensioners.

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## **58 Refund of rebated rates or charges already paid**

- (1) This section applies if—
  - (a) the local government grants a rebate of the rates or charges to a rate payer or a rate payer who is a member of a class of rate payers; and
  - (b) the rate payer has already paid the rates or charges;
- (2) The local government must refund the amount of the rebated rates or charges to the rate payer.

## **59 Special provision for agreement to defer rates or charges**

- (1) This section applies if a concession to a rate payer for rates or charges includes an agreement to defer the payment of the rates or charges.
- (2) The agreement must state either—
  - (a) for an agreement under which the rates or charges become payable on a particular day—the due date for payment of the rates or charges; or
  - (b) for an agreement under which the rates or charges become payable when an event happens—a description of the event and the due date for payment of the rates or charges in reference to the event.

*Example—*

An agreement provides for general rates for land to be paid at the end of a stated period after the land is transmitted to the rate payer's personal representative or sold.

- (3) The agreement may also include a condition that the rate payer must pay an additional charge in return for the local government agreeing to defer payment of the rates or charges.

## **60 Special provision for agreement to accept land transfer**

- (1) This section applies if a concession to a rate payer for rates or charges includes an agreement to accept a transfer of

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unencumbered land in full or part payment of the rates or charges.

- (2) The agreement must state the due date for payment of the rates or charges.

## Part 11 Paying rates and charges

### 61 Who must pay rates and charges

- (1) Subject to section 96 the following persons are liable to pay rates and charges—
  - (a) for rateable land—the current owner of the land, even if that owner did not own the land during the period to which the rates or charges relate;
  - (b) for a service that is supplied to a structure, or to land that is not rateable land—the entity who asked for the service to be supplied;
  - (c) for previously rateable land—the owner of the land immediately before it stopped being rateable land.
- (2) ***Previously rateable land*** is land that was, but has stopped being, rateable land because—
  - (a) the tenure of a holding is terminated; or
  - (b) the land is surrendered or forfeited to the State; or
  - (c) the land is acquired by the State or the Commonwealth; or
  - (d) the land is exempted from rating; or
  - (e) the property description of the land no longer exists.
- (3) If more than 1 person is liable to pay rates or charges, all the persons are jointly and severally liable to pay the rates or charges.

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## **62 Paying part of rates and charges**

- (1) This section applies if a person—
  - (a) pays the local government an amount that is less than the total of all amounts mentioned in a rate notice; and
  - (b) does not specify which of the amounts that the person is paying.
- (2) The local government must use the amount to pay the amounts mentioned in the rate notice in the following order—
  - (a) overdue rates or charges, starting with the rates or charges that have been overdue the longest;
  - (b) rates or charges stated in the rate notice;
  - (c) amounts, other than rates or charges, that are payable to the local government.

## **63 Paying rates or charges by instalments**

- (1) A local government may decide to allow rate payers to pay rates or charges by instalments.
- (2) The local government must, by resolution, make the decision at its budget meeting.
- (3) The resolution must state—
  - (a) the periods for payment of each instalment of the rates or charges; and
  - (b) any other requirements for paying the rates or charges by instalments.
- (4) The requirements may include a requirement for the rate payer to pay an additional charge in return for paying the rates or charges by instalments.
- (5) The resolution may state a discount for paying an instalment of the rates or charges within the period for paying the instalment.

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**64 Discount for prompt payment of rates or charges**

- (1) A local government may decide to allow a discount for payment of rates or charges before the end of the discount period.
- (2) The *discount period* is a period that ends on or before the due date for payment.

*Examples of discount period—*

- 1 month before the due date for payment
  - a period of 1 month ending 2 weeks before the due date for payment
- (3) The local government must, by resolution, make the decision at its budget meeting.
  - (4) The resolution must state—
    - (a) whether the discount is to be—
      - (i) a fixed amount; or
      - (ii) a percentage of the rates or charges; and
    - (b) if the discount is to be a fixed amount—the amount; and
    - (c) if the discount is to be a percentage of the rates or charges—the percentage; and
    - (d) whether the discount applies only if—
      - (i) other rates or charges are paid; or
      - (ii) an amount, including any interest on the amount, is paid for work that was performed by the local government under a remedial notice issued under the Act; and
    - (e) the discount period.
  - (5) The local government may allow more than 1 discount period for rates or charges only if the local government's resolution—
    - (a) states more than 1 discount period for the rates or charges; and



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- (b) allows a different discount for each discount period.
- (6) The local government may, by resolution, change the discount period to end on a later day (the *new discount day*).
- (7) However, if the discount period is changed under subsection (6), the local government must also, by resolution, change the due date for payment to a later day that is no earlier than the new discount day.
- (8) If the local government decides to allow a discount for a discount period, it must allow the discount to all rate payers who pay the rates or charges before the end of the discount period.
- (9) If a local government is satisfied a rate payer has been prevented, by circumstances beyond their control, from paying the rates or charges in time to get a discount, the local government may still allow the discount.
- (10) A rate payer is not entitled to a discount for paying in full rates or charges for land by the end of a discount period if other rates or charges for the land are overdue.

## **65 Other benefits for prompt payment**

A local government may give a benefit that is not a discount as an inducement for payment of rates or charges before the due date for payment.

*Examples of a benefit—*

- free use of the local government's services, facilities or activities
- an opportunity to win a donated car, holiday or other prize

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## Part 12 Overdue rates and charges

### Division 1 General provisions

#### 66 What are *overdue* rates or charges and when do they become *overdue*

- (1) *Overdue* rates or charges are made up of—
  - (a) either of the following—
    - (i) subject to subparagraph (ii), rates or charges that are not paid by the due date for payment stated in the rates notice;
    - (ii) if a rate payer is granted a concession for rates or charges of a type mentioned in section 55(b) or (c)—rates or charges that are not paid by the due date stated in the agreement to which the concession relates; and
  - (b) if the local government takes the rate payer to court to recover rates or charges and the court orders the rate payer to pay the council's costs—the costs; and
  - (c) the interest, if interest is payable, on the rates or charges, or costs.
- (2) Subject to subsection (3), the rates or charges mentioned in subsection (1)(a)(i) become *overdue* on the day after the due date for payment of the rates or charges stated in the rates notice.
- (3) Subject to subsections (4) to (6), the rates or charges mentioned in subsection (1)(a)(ii) become *overdue* on the day after the due date for payment of the rates or charges stated in the agreement to which the concession relates.
- (4) Subsection (5) applies if—
  - (a) rates or charges are not paid before the due date stated in the rates notice for the rates or charges; and

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- (b) a concession of a type mentioned in section 55(b) or (c) is granted after the due date; and
  - (c) the rates or charges are not paid by the due date stated in the agreement to which the concession relates.
- (5) The rates or charges are taken to have become *overdue* on the day after the due date stated in the rates notice for the rates or charges.
- (6) If an agreement deferring payment of rates or charges includes a condition about when the rates or charges become payable, the rates or charges can become *overdue* only if the condition is satisfied.

*Example—*

An agreement to defer payment of general rates for land provides that the rates become payable within a stated period after the land is sold. The rates or charges can become overdue only if the land is sold.

## **67 Interest on overdue rates or charges**

- (1) Interest is payable on overdue rates or charges—
- (a) at the percentage, of not more than 11% a year, decided by the local government; and
  - (b) from the day the rates or charges become overdue or a later day decided by the local government.
- (2) A local government's decision about the rate of interest, and the date from which interest is payable on overdue rates or charges, must apply equally to all rate payers.
- (3) Interest must be calculated—
- (a) on daily rests and as compound interest; or
  - (b) in another way the local government decides, if an equal or lower amount will be obtained.

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## **Division 2                      Court proceedings for overdue rates or charges**

### **68                      Court proceedings for overdue rates or charges**

- (1) A local government may recover overdue rates or charges by bringing court proceedings for a debt against a person who is liable to pay the overdue rates or charges.
- (2) If the local government does so, but does not recover all of the overdue rates or charges from the person, the local government may recover the remaining overdue rates or charges from any other person who is liable to pay the overdue rates or charges (for example, a joint owner).
- (3) If a court orders a person to pay overdue rates or charges, and the person fails to comply with the court order, the person is not liable to imprisonment for the failure.

### **69                      Selling or acquiring land ends liability for overdue rates or charges**

If a local government sells or acquires land for overdue rates or charges, the local government can not start or continue any court proceedings to recover the overdue rates or charges.

## **Division 3                      Selling or acquiring land for overdue rates or charges**

### **Subdivision 1              Preliminary**

#### **70                      What div 3 is about**

This division is about the power of a local government to sell or acquire land for overdue rates or charges.

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## **71 Reference to *market value***

- (1) A reference in this division to the *market value* of land includes a reference to the market value of the land and any improvements on the land.
- (2) A written report about the market value of land from a valuer registered under the *Valuers Registration Act 1992* who is not an employee of the local government is evidence of the market value of the land.

## **Subdivision 2 Selling land for overdue rates or charges**

### **72 Selling land that is subject to a State encumbrance**

- (1) This section applies if—
  - (a) a local government intends to sell land under this subdivision; and
  - (b) the land is subject to a State encumbrance.
- (2) A *State encumbrance* is an encumbrance on land that gives the State or a government entity an interest in the land, including, for example—
  - (a) a mortgage; or
  - (b) an interest that arises under a Housing Act contract.
- (3) The local government must give the State or government entity that has the interest in the land under the State encumbrance a notice of the local government's intention to sell the land, before the local government sells the land.
- (4) The local government may sell the land only—
  - (a) subject to the State encumbrance; or
  - (b) free of the State encumbrance to the extent, and on any conditions (the *sale conditions*), to which the State or government entity agrees.

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- (5) If the land is subject to an interest arising under a Housing Act contract, the local government may sell the land free of the interest only if the sale conditions include a condition that the local government pays the State an amount for—
- (a) the State’s interest in the land; and
  - (b) any amount that is owing to the State under the contract.

### **73 Selling land that is subject to other restrictions**

- (1) This section applies if—
- (a) a local government intends to sell land under this subdivision; and
  - (b) the land is held on a tenure that requires the holder of the land to have—
    - (i) particular qualifications; or
    - (ii) the agreement or permission of a particular government entity.
- (2) The local government may sell the land only to a person who has—
- (a) the particular qualifications; or
  - (b) the agreement or permission of the government entity.

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

- (1) This section applies if—
- (a) there are overdue rates or charges on land; and
  - (b) the liability to pay the overdue rates or charges is not the subject of court proceedings; and
  - (c) some or all of the overdue rates or charges have been overdue for at least—
    - (i) generally—3 years; or

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- (ii) if the rates or charges were levied on vacant land or land used only for commercial purposes, and the local government has obtained judgment for the overdue rates or charges—1 year; or
  - (iii) if the rates or charges were levied on a mining claim—3 months.
- (2) The local government may, by resolution, decide to sell the land.
- (3) If the local government does so, the local government must, as soon as practicable, give all interested parties a notice of intention to sell the land.
- (4) A ***notice of intention to sell*** is a document, signed by the chief executive officer, stating—
  - (a) that the local government has, by resolution, decided under this section to sell land for overdue rates or charges; and
  - (b) the day on which the resolution was made; and
  - (c) the terms of the resolution; and
  - (d) a description of the location and size of the land, as shown in the local government’s land record; and
  - (e) details of the overdue rates or charges for the land, as at the date of the notice, including details of the period for which the rates or charges have been unpaid; and
  - (f) details of the interest that is owing on the overdue rates or charges, as at the date of the notice, including—
    - (i) details of the rate at which interest is payable on the rates or charges; and
    - (ii) a description of the way the interest is calculated; and

- (g) the total amount of overdue rates or charges and the interest, as at the date of the notice; and
- (h) a copy, or a general outline, of sections 75 to 78.

## **75 When procedures for selling land must be started**

- (1) This section applies if—
  - (a) a local government decides to sell land under this subdivision for overdue rates and charges and gives the registered owner of the land a notice of intention to sell the land; and
  - (b) the overdue rates or charges are not paid in full within—
    - (i) generally—3 months after the local government gives the notice of intention to sell the land; or
    - (ii) if the rates or charges were levied on a mining claim—1 month after the local government gives the notice of intention to sell the land.
- (2) The local government must start the procedures under section 76 for selling the land within 6 months after the local government gives the notice of intention to sell the land.
- (3) However, the local government must end the procedures if the local government is paid—
  - (a) the amount of the overdue rates or charges; and
  - (b) all expenses that the local government incurs in attempting to sell the land.

## **76 Procedures for selling land**

- (1) This section sets out the procedures that a local government must follow when selling land for overdue rates or charges.
- (2) The local government must first offer the land for sale by auction.
- (3) The local government must prepare an auction notice.



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- (4) An **auction notice** is a document stating—
  - (a) the time and place of the auction; and
  - (b) a full description of the land.
- (5) At least 14 days, but not more than 35 days, before the day of the auction, the local government must—
  - (a) give a copy of the auction notice to everyone who was given a notice of intention to sell the land; and
  - (b) advertise the auction notice in a newspaper that is circulating generally in the local government area; and
  - (c) display the auction notice in a conspicuous place in the local government’s public office, until the day of the auction; and
  - (d) display the auction notice in a conspicuous place on the land unless it is not reasonably practicable to do so because the land is in a remote location or difficult to access.
- (6) However, if—
  - (a) the land is a building unit; and
  - (b) it is not practicable to display the auction notice in a conspicuous place on the land;the notice may be displayed in a conspicuous part of the common property for the building units.

## **77 Conduct of auction**

- (1) The local government must set a reserve price for the auction that is at least—
  - (a) the market value of the land; or
  - (b) the higher of the following—
    - (i) the amount of overdue rates or charges on the land;
    - (ii) the value of the land.

- (2) If the reserve price is not reached at the auction, the local government may enter into negotiations with the highest bidder at the auction to sell the land by agreement.
- (3) However, the price for the land under the agreement must be more than the highest bid for the land at the auction.
- (4) If the highest bidder at the auction does not agree to buy the land, the land is taken to have been sold at the auction to the local government for the reserve price.
- (5) However, subsection (4) does not apply if the land is held on a tenure the local government is not competent to hold.

## **78 Procedures after sale of land to local government**

- (1) This section applies if land is taken to have been sold at auction to the local government under section 77(4).
- (2) The local government must give the registrar of titles a general request form.
- (3) A *general request form* is a form that—
  - (a) is approved for a general request lodged in the land registry; and
  - (b) requests the local government be registered as owner of the land.
- (4) After receiving the general request form, the registrar of titles must register the transfer of the interest of the registered owner to the local government free of all encumbrances.
- (5) The registrar of titles may register the transfer even though the general request form is not accompanied by the instrument of title for the land.
- (6) Also, the registrar of titles—
  - (a) need not inquire whether the local government has complied with this subdivision; and

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

## **79 Application of proceeds of sale**

- (1) The local government must use the proceeds of the sale of the land in the following order—
- (a) to pay any amount agreed for the release of a State encumbrance under section 72(4)(b) or (5);
- (b) to pay the expenses of the sale;
- Examples of expenses of the sale—*
- administrative costs incurred by the local government
  - body corporate fees
  - land taxes owing on the day of sale
- (c) to pay the overdue rates or charges for the land;
- (d) to pay any other amounts relating to the land that the owner of the land owed the local government immediately before the sale;
- (e) to pay any rates or charges, other than overdue rates or charges, for the land;
- (f) to pay any registered encumbrances, other than State encumbrances, in order of their priority under the Land Title Act;
- (g) to pay the person who owned the land immediately before the sale.
- (2) If any of the proceeds of sale remain unclaimed after 2 years, the local government must pay the proceeds to the public trustee as unclaimed money.

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**80 Local government's failure to comply with this subdivision**

- (1) This section applies if a local government fails to comply with this subdivision.
- (2) No person may make a claim against an indemnity fund that is administered by the State for—
  - (a) any dealing with the land under this subdivision; or
  - (b) the registration of an interest in the land under this subdivision.
- (3) However, this section does not protect—
  - (a) the local government from liability for any loss that is caused by the local government's failure to comply with this subdivision; or
  - (b) a person who commits fraud or wilful default from liability for any loss that is caused by the person's fraud or wilful default.

**Subdivision 3 Acquiring land for overdue rates or charges**

**81 Application of sdiv 3**

This subdivision applies if—

- (a) there are overdue rates or charges on land in a local government area; and
- (b) the liability to pay the overdue rates or charges is not the subject of court proceedings; and
- (c) some of the overdue rates or charges have been overdue for at least 3 years; and
- (d) the person who is liable to pay the overdue rates or charges has an interest in the land that a corporation is not prohibited from holding (for example, a life interest in land); and

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- (e) either of the following applies—
  - (i) the total amount of the overdue rates or charges is more than the value of the land and the land is considered to be—
    - (A) valueless; or
    - (B) of so little value that, if it were sold, the proceeds of the sale would be less than the amount of the overdue rates or charges;
  - (ii) the total amount of the overdue rates or charges is more than the market value of the land.

## **82 Requirements for notice of intention to acquire land**

- (1) The local government may, by resolution, decide to acquire the land.
- (2) If the local government does so, the local government must, as soon as practicable, give all interested parties a notice of intention to acquire the land.
- (3) A *notice of intention to acquire* is a document, signed by the chief executive officer, stating—
  - (a) that the local government has, by resolution, decided to acquire land for overdue rates or charges, under this section; and
  - (b) the day on which the resolution was made; and
  - (c) the terms of the resolution; and
  - (d) a description of the location and size of the land, as shown in the local government's land record; and
  - (e) details of the overdue rates or charges for the land, as at the date of the notice, including details of the period for which the rates or charges are unpaid; and
  - (f) details of the interest that is owing on the overdue rates or charges, as at the date of the notice, including—
    - (i) details of the rate at which interest is accruing; and

- (ii) a description of the way that the interest is calculated; and
- (g) the total amount of the overdue rates or charges and the interest, as at the date of the notice; and
- (h) a copy of this section and a general outline of the owner's rights to pay the overdue rates or charges.

### **83 Time to start procedures to acquire**

- (1) This section applies if—
  - (a) a local government gives under section 82 a notice of intention to acquire land for overdue rates or charges; and
  - (b) the overdue rates or charges are not paid in full within 6 months after the local government gives the notice of intention to acquire the land.
- (2) The local government may start the procedures for acquiring the land.
- (3) However, the local government must end the procedures for acquiring the land if the local government is paid—
  - (a) the amount of the overdue rates or charges; and
  - (b) all expenses that the local government incurs in attempting to acquire the land.

### **84 Acquisition procedures**

- (1) This section sets out the procedures that a local government must follow when acquiring land for overdue rates or charges.
- (2) The local government must—
  - (a) discharge the overdue rates or charges for the land; and
  - (b) give the registrar of titles a request, in the appropriate form, to record the local government as the registered owner of the land.

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- (3) After receiving the request, the registrar of titles must record the local government as the registered owner of the land free of all encumbrances other than any State encumbrances.
- (4) The registrar of titles—
  - (a) may record the local government as the registered owner of the land even if the request is not accompanied by the instrument of title for the land; and
  - (b) need not inquire whether the local government has complied with this subdivision; and
  - (c) is not affected by actual or constructive notice of any failure by the local government to comply with this subdivision.
- (5) When the registrar of titles has recorded the local government as the registered owner of the land, the local government must remove the reference to the land from the land record.
- (6) In this section—

*appropriate form* see schedule 2 of the Land Title Act.

## **Division 4                      State pays overdue rates or charges**

### **85            Satisfaction on termination of tenure**

- (1) This section applies if—
  - (a) a local government is owed rates or charges on land; and
  - (b) the tenure of a holding is terminated for all or part of the land; and
  - (c) the State receives an amount from an incoming holder of all or part of the land.
- (2) After retaining any amount owing to the State, the State may pay the local government an amount for the rates or charges.

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## Part 13                      Land record of local government

### Division 1                  Land record

#### 86      What pt 13 is about

- (1) This part is about a local government's land record.
- (2) A local government uses a land record to identify who is responsible for paying rates or charges for land.

#### 87      Land record to be kept

- (1) A local government must keep a land record.
- (2) A *land record* contains the following information for each parcel of rateable land in its area—
  - (a) the name and postal address of the owner of the land;
  - (b) a description of the land, including its location and size;
  - (c) the value of the land and the date the valuation took effect;
  - (d) information about rates or charges for the land, including about the following—
    - (i) the type and amounts of rates or charges levied on the land;
    - (ii) if differential general rates are levied—the rating category of the land;
    - (iii) the date of each levy and the due date for payment;
    - (iv) the period for which the rates or charges are levied;
    - (v) the financial year to which the rates or charges apply;



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- (vi) concessions granted or discounts given for payment of rates or charges;
  - (vii) payment of rates or charges by instalments;
  - (viii) any overdue rates or charges, accrued interest on overdue rates or charges and the interest rate applying to overdue rates or charges;
  - (ix) the date when rates or charges are paid;
- (e) any other information that the local government considers appropriate.

## **88 Public may inspect land record**

- (1) The public may inspect the land record kept by a local government.
- (2) However, if the chief executive (valuations) has given the local government a notice under section 73A of the Valuation of Land Act about a protected person, the local government must not include the name and postal address of the protected person in the land record when the record is open to inspection.
- (3) The following persons may inspect particulars of land in the land record free of charge—
  - (a) an owner, lessee or occupier of—
    - (i) the land; or
    - (ii) adjoining land;
  - (b) the agent of an owner, lessee or occupier of—
    - (i) the land; or
    - (ii) adjoining land.
- (4) The agent must produce, to the local government, written evidence of the agent's appointment.
- (5) Any other person may inspect the land record after paying the reasonable fee decided by the local government.

(6) In this section—

*chief executive (valuations)* means the chief executive of the department in which the Valuation of Land Act is administered.

*protected person* means a person for whose benefit the chief executive (valuations) has made a suppression direction under section 75B(2) of the Valuation of Land Act, while the direction continues to have effect.

## 89 Amending a land record

- (1) The chief executive officer must ensure the particulars contained in the land record are amended whenever necessary to ensure the land record is correct and up to date.
- (2) If an amendment of the land record changes the rates or charges that are or may be levied on land, the chief executive officer must, as soon as practicable, give the rate payer a QCAT information notice for the amendment.
- (3) A local government must give a QCAT information notice for an amendment of a land record only if required under subsection (2).
- (4) Subsection (2) does not apply to an amendment of the land record that is made because of an annual valuation of all rateable land in a local government area by the valuation authority.
- (5) In this section—

*QCAT information notice* means a notice complying with the QCAT Act, section 157(2).

## 90 Evidence of land record

- (1) In any court proceedings in which the liability for rates or charges is relevant, a certified extract of the land record is evidence that—

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- (a) the valuation recorded in the extract was properly made; and
  - (b) the information about the rates or charges recorded in the extract is correct; and
  - (c) the person recorded in the extract as the owner of the land is liable to pay the rates or charges levied on the land.
- (2) In this section—
- A *certified extract* is a document that—
- (a) purports to be a copy of an entry in the land record; and
  - (b) is certified by the chief executive officer to be a true copy of the entry in the land record.

## **Division 2                      Review of decisions by QCAT to amend land record**

### **91            Who may apply for review**

A person dissatisfied with an amendment of a land record, other than a removal of land that has been acquired by a local government, may apply, as provided under the QCAT Act, to QCAT for a review of the amendment.

### **92            Powers of QCAT on review**

In deciding the review, QCAT may—

- (a) confirm the amendment; or
- (b) set aside the amendment and order the particulars previously contained in the land record be restored.

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## Division 3                      Change in ownership of land

### 93            Definitions for div 3

In this division—

*change of owner notice*, for land, means a document stating—

- (a) the description of the land; and
- (b) the date the owner of the land changed; and
- (c) the reason the owner changed, including, for example, because the land has been sold; and
- (d) the full name and address of the previous owner of the land; and
- (e) the full name and address of the new owner of the land.

*new owner*, of land, means the person who owns the land immediately after the owner of the land changes.

*previous owner*, of land, means the person who owned the land immediately before the owner of the land changed.

### 94            Notice of change of owner of land for sale or other ownership changes for land

- (1) This section applies if the owner of land changes—
  - (a) because the land is sold; or
  - (b) for another reason, including, for example, if the land, or an entitlement to occupy the land, is forfeited or surrendered to the State.
- (2) The new owner of the land must give the local government notice of the change of owner within 30 days after the change, unless the new owner has a reasonable excuse.

Maximum penalty—5 penalty units.

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- (3) The new owner may comply with subsection (2) by giving the following documents to the registrar of titles—
  - (a) a properly completed combined form for the change of owner of the land;
  - (b) the instrument of transfer of the land.
- (4) However, subsection (2) does not prevent the previous owner of the land giving the local government the notice about the change of owner for the land.
- (5) In this section—

*combined form* means a form that—

  - (a) gives information required by this section; and
  - (b) may be given to the registrar of titles.

## **95 Local government to record change of owner**

If a local government receives a change of owner notice under this division, it must record the details of the new owner in the land record unless the local government has reason to believe that the notice is false.

## **96 Previous owner can continue to be liable to pay rates or charges**

If a local government does not receive a change of owner notice under this division, the previous owner of the land continues to be liable to pay all rates or charges on the land, including interest on overdue rates or charges, if any, until—

- (a) the change of owner notice is given under this division;  
or
- (b) the local government otherwise records the details of the new owner in the land record.



## **Part 2                      Financial management documents**

### **Division 1                Annual budget**

#### **98            Requirements for annual budget**

- (1) A local government must prepare a budget for its operating fund for each financial year.
- (2) The budget must be prepared on an accrual basis.

#### **99            Budget contents**

- (1) The budget must include statements of the following for the financial year for which it is prepared and the next 2 financial years—
  - (a) financial position;
  - (b) cash flow;
  - (c) income and expenditure;
  - (d) changes in equity.
- (2) The statement of income and expenditure must state each of the following—
  - (a) rates and utility charges excluding discounts and rebates;
  - (b) contributions from developers;
  - (c) fees and charges;
  - (d) interest;
  - (e) grants and subsidies;
  - (f) depreciation;
  - (g) finance costs;

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- (h) net result;
  - (i) the estimated costs of—
    - (i) the local government’s significant business activities carried on using a full cost pricing basis; and
    - (ii) the activities of the local government’s commercial business units; and
    - (iii) the local government’s significant business activities.
- (3) The budget must include each of the following (the *relevant measures of financial sustainability*) for the financial year for which it is prepared and the next 9 financial years—
- (a) asset consumption ratio;
  - (b) asset sustainability ratio;
  - (c) interest coverage ratio;
  - (d) net financial liabilities ratio;
  - (e) operating surplus ratio;
  - (f) working capital ratio.
- (4) The budget must be consistent with the following documents of the local government—
- (a) its long-term financial forecast;
  - (b) its financial plan;
  - (c) its 5-year corporate plan;
  - (d) its annual operational plan;
  - (e) its long-term community plan.
- (5) In this section—
- commercial business unit* see section 25(2) of the Business Activities Regulation.



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## **100 Adoption and amendment of the budget**

- (1) A local government must adopt its budget for a financial year—
  - (a) after 31 May in the year before the financial year; and
  - (b) before—
    - (i) 1 September in the financial year; or
    - (ii) a later day decided by the Minister.
- (2) The annual budget must comply with section 99 when it is adopted.
- (3) If the budget does not comply with section 99 when it is adopted, the adoption of the budget is void.
- (4) The local government may, by resolution, amend the budget for a financial year at any time before the end of the financial year.
- (5) However, the budget must continue to comply with section 99 when the amendment is adopted.
- (6) If the budget is amended and does not comply with section 99, the amendment of the budget is void.

## **101 Unauthorised spending**

- (1) Subject to subsections (2) to (5), a local government may spend money in a financial year before adopting its budget for the financial year only if the local government provides for the spending in the budget for the financial year.
- (2) The local government may spend money, not authorised in its budget, for genuine emergency or hardship.
- (3) However, the local government must make a resolution about spending the money before, or as soon as practicable after, the money is spent.
- (4) The resolution must state how the spending is to be funded.

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- (5) If the local government's budget for a financial year is amended after the money is spent, the amendment must take the spending into account.

## **Division 2                      General purpose financial statement**

### **102      Preparation of general purpose financial statement**

- (1) A local government must prepare a general purpose financial statement for each financial year.
- (2) The general purpose financial statement must be prepared in accordance with the following documents (each a *relevant accounting document*) published by the Australian Accounting Standards Board—
- (a) Australian Accounting Standards;
  - (b) Statements of Accounting Concepts;
  - (c) Interpretations;
  - (d) Framework for the Preparation and Presentation of Financial Statements.

*Editor's note—*

The relevant accounting documents are available on the Australian Accounting Standards Board's website at <[www.aasb.com.au](http://www.aasb.com.au)>.

## **Division 3                      Community financial report**

### **103      Preparation of community financial report**

- (1) A local government must prepare a community financial report for each financial year.
- (2) The community financial report for a financial year must—

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- (a) contain a summary and an analysis of the local government's financial performance and position for the financial year; and
- (b) be consistent with the general purpose financial statement for the financial year; and
- (c) include the relevant measures of financial sustainability for the financial year; and
- (d) be in a form that can be easily understood by the community.

## **Division 4                      Long-term financial forecast**

### **104      Preparation of long-term financial forecast**

- (1) A local government must, at least annually, prepare a long-term financial forecast.
- (2) The long-term financial forecast must—
  - (a) contain a forecast of the following for each year during the period of the forecast—
    - (i) income;
    - (ii) expenditure;
    - (iii) the value of assets, liabilities and equity; and
  - (b) include the following documents covering each year of the period of the forecast—
    - (i) a statement of financial position;
    - (ii) a statement of cash flow;
    - (iii) a statement of income and expenditure;
    - (iv) a statement of changes in equity.
- (3) The long-term financial forecast must also state the relevant measures of financial sustainability for the period of the forecast.

- (4) The long-term financial forecast must cover a period of at least 10 years and be reviewed annually.
- (5) The local government must consider the long-term financial forecast before planning new borrowings.

## **Division 5            Asset register**

### **105    Non-current physical assets to be recorded**

A local government's asset register must record its non-current physical assets.

## **Division 6            Revenue statement**

### **106    Preparation of revenue statement**

- (1) A local government must prepare a revenue statement each financial year.
- (2) The revenue statement must be adopted—
  - (a) after 31 May in the year before the financial year; and
  - (b) before—
    - (i) 1 September in the financial year; or
    - (ii) a later day decided by the Minister.
- (3) The local government may, by resolution, amend the revenue statement at any time before the financial year ends.
- (4) However, the revenue statement can not be amended to change the general rates decided at the budget meeting for the financial year.

### **107    Revenue statement contents**

- (1) The revenue statement must state—

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- (a) if the local government levies differential general rates—
    - (i) the rating categories for rateable land in the local government area; and
    - (ii) a description of each rating category; and
  - (b) if the local government levies special rates or charges for a joint government activity—a summary of the terms of the joint government activity; and
  - (c) if the local government fixes a cost-recovery fee—the criteria used to decide the amount of the cost-recovery fee; and
  - (d) if the local government conducts a business activity on a commercial basis—the fees the local government receives for the activity.
- (2) The revenue statement for a financial year must include the following information for the financial year—
- (a) an outline and explanation of the measures that the local government has adopted for raising revenue, including an outline and explanation of—
    - (i) the rates and charges to be levied in the financial year; and
    - (ii) the concessions for rates and charges to be granted in the financial year;
  - (b) whether the local government has made a resolution limiting an increase of rates and charges.

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## **Part 3                      Planning and accountability documents**

### **Division 1                Annual report**

#### **Subdivision 1        Preparation**

##### **108    Preparation of annual report**

- (1) The local government must prepare an annual report for each financial year.
- (2) The annual report must be adopted before—
  - (a) 30 November in the year after the end of the financial year; or
  - (b) a later day decided by the Minister.

#### **Subdivision 2        Contents**

##### **109    What sdiv 2 is about**

This subdivision explains what an annual report for a financial year must contain.

*Note—*

See also sections 32 and 176 of the Business Activities Regulation for additional requirements for annual reports for local governments conducting significant business activities and sections 98 and 99 of that regulation for additional requirements for annual reports for corporate entities of local governments.

##### **110    General purpose financial statement**

The annual report for a financial year must contain—

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- (a) the general purpose financial statement for the financial year, audited by the auditor-general; and
- (b) the auditor-general's audit report about the general purpose financial statement.

### **111 Community financial report**

The annual report for a financial year must contain the community financial report for the financial year.

### **112 Relevant measures of financial sustainability**

The annual report for a financial year must state—

- (a) the relevant measures of financial sustainability for the financial year for which the report has been prepared and the next 9 financial years; and
- (b) an explanation of the local government's financial management strategy that is consistent with the long-term financial forecast.

### **113 Resolutions**

The annual report for a financial year must contain—

- (a) a copy of the resolutions made during the year under sections 42(5) and 45(1) of the Operations Regulation; and

*Editor's note—*

sections 42 (Remuneration schedule) and 45 (Requirement to adopt expenses reimbursement policy or amendment) of the Operations Regulation

- (b) a list of any resolutions made during the year under section 154(3).

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## 114 Councillors

- (1) The annual report for a financial year must contain particulars of—
  - (a) the total remuneration paid to each councillor during the year; and
  - (b) the total superannuation contributions paid during the year for each councillor; and
  - (c) the expenses incurred by, and the facilities provided to, each councillor during the year under the local government's expenses reimbursement policy; and
  - (d) a copy of the local government's expenses reimbursement policy; and
  - (e) the number of local government meetings that each councillor attended during the year; and
  - (f) the total number of the following during the year—
    - (i) orders and recommendations made under section 180(2) or (4) of the Act;
    - (ii) orders made under section 181 of the Act; and
  - (g) each of the following during the year—
    - (i) the name of each councillor in relation for whom an order or recommendation was made under section 180 of the Act or an order was made under 181 of the Act;
    - (ii) a description of the misconduct or inappropriate conduct engaged in by each of the councillors;
    - (iii) a summary of the order or recommendation made for each councillor; and
  - (h) the number of each of the following during the year—
    - (i) complaints about the conduct or performance of councillors assessed as frivolous or vexatious under section 177(4) of the Act;



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- (ii) complaints referred to the department's chief executive under section 177(5)(a) of the Act;
  - (iii) complaints referred to the mayor under section 177(5)(b) of the Act;
  - (iv) complaints referred to the department's chief executive under section 177(6) of the Act;
  - (v) complaints assessed by the chief executive officer as being about official misconduct;
  - (vi) complaints heard by a conduct review panel;
  - (vii) complaints heard by the tribunal;
  - (viii) complaints dealt with by the chief executive officer under section 177(8) of the Act.
- (2) In this section—
- expenses reimbursement policy* see section 44(2) of the Operations Regulation.

## **115 Administrative action complaints**

- (1) The annual report for a financial year must contain—
- (a) a statement about the local government's commitment to dealing fairly with administrative action complaints; and
  - (b) a statement about how the local government has implemented its complaints management process, including an assessment of the local government's performance in resolving complaints under the process.
- (2) The annual report must also contain particulars of—
- (a) the number of the following during the year—
    - (i) administrative action complaints made to the local government;
    - (ii) administrative action complaints resolved by the local government under the complaints management process;

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- (iii) administrative action complaints not resolved by the local government under the complaints management process; and
  - (b) the number of administrative action complaints under paragraph (a)(iii) that were made in a previous financial year.
- (3) In this section—
- complaints management process* see section 119(3) of the Operations Regulation.

## **116 Overseas travel**

The annual report for a financial year must contain the following information about any overseas travel made by a councillor or local government employee in an official capacity during the financial year—

- (a) for a councillor—the name of the councillor;
- (b) for a local government employee—the name of, and position held by, the local government employee;
- (c) the destination of the overseas travel;
- (d) the purpose of the overseas travel;
- (e) the cost of the overseas travel;
- (f) any other information about the overseas travel the local government considers relevant.

## **117 Expenditure on grants to community organisations**

The annual report for a financial year must contain a summary of—

- (a) the local government's expenditure for the financial year on grants to community organisations; and
- (b) expenditure from each councillor's discretionary fund, including—

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- (i) the name of each community organisation to which an amount was allocated from the fund; and
- (ii) the amount and purpose of the allocation.

## **118 Reserves and controlled roads**

- (1) The annual report for a financial year must contain a note about each of the following that the local government controls at any time during the financial year—
  - (a) land that is a reserve under the Land Act;
  - (b) roads that the local government does not own.
- (2) A note about a reserve must state the area of the reserve that the local government controls, including land that the local government has leased to someone else.
- (3) A note about roads must state the total length of roads the local government controls and does not own.

*Example of a note for this section—*

The local government controls—

- (a) 100ha of parks (including 10ha that are leased to sporting clubs) on land that is a reserve under the Land Act; and
- (b) 700km of roads the council does not own.

## **119 Other contents**

- (1) The annual report for a financial year must contain—
  - (a) an assessment of the local government’s performance in implementing its long-term community plan, 5-year corporate plan and annual operational plan; and
  - (b) particulars of other issues relevant to making an informed assessment of the local government’s operations and performance in the financial year; and
  - (c) details of any action taken for, and expenditure on, a service, facility or activity—

- (i) supplied by another local government under an agreement for conducting a joint government activity; and
  - (ii) for which the local government levied special rates or charges for the financial year; and
  - (d) the number of invitations to change tenders under section 177(7) during the year; and
  - (e) a list of the registers kept by the local government; and
  - (f) a summary of all concessions for rates and charges granted by the local government; and
  - (g) the report on the internal audit for the year; and
  - (h) a statement about the local government's activities during the year to implement its plan for equal opportunity in employment; and
  - (i) the names of the local government's shareholder delegates for its corporate entities; and
  - (j) a summary of investigation notices given in the year under section 137 of the Business Activities Regulation for competitive neutrality complaints; and
  - (k) the local government's decisions in the year on—
    - (i) the referee's recommendations on any complaints under section 145(3) of the Business Activities Regulation; and
    - (ii) the Queensland Competition Authority's recommendations under section 158(5) of the Business Activities Regulation.
- (2) In this section—
- shareholder delegate* see section 76(1) of the Business Activities Regulation.

## **Division 2                      5-year corporate plan**

### **120      Preparation of 5-year corporate plan**

- (1) A local government must prepare a 5-year corporate plan for each period of 5 financial years.
- (2) The local government must adopt the 5-year corporate plan in sufficient time before the start of the first financial year that is covered by the plan to allow a budget and annual operational plan that are consistent with the corporate plan to be adopted for the financial year.
- (3) The chief executive officer must present a written assessment of the local government's progress towards implementing the 5-year corporate plan at meetings of the local government held at regular intervals of not more than 1 year.
- (4) The local government may, by resolution, amend its 5-year corporate plan at any time.
- (5) The local government must discharge its responsibilities in a way that is consistent with the 5-year corporate plan.

### **121      5-year corporate plan contents**

The 5-year corporate plan must—

- (a) outline the strategic direction of the local government;  
and
- (b) state—
  - (i) the performance indicators for measuring the local government's progress in achieving its vision for the future of the local government area as stated in its long-term community plan; and
  - (ii) how the implementation of the long-term community plan will be progressed for the period of the 5-year corporate plan.

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## **Division 3                      Annual operational plan**

### **122      Preparation and adoption of annual operational plan**

- (1) A local government must prepare and adopt an operational plan for each financial year.
- (2) The chief executive officer must present a written assessment of the local government's progress towards implementing the annual operational plan at meetings of the local government held at regular intervals of not more than 3 months.
- (3) The local government may, by resolution, amend its annual operational plan at any time before the end of the financial year.
- (4) The local government must discharge its responsibilities in a way that is consistent with the annual operational plan.

### **123      Annual operational plan contents**

The annual operational plan must—

- (a) be consistent with the annual budget; and
- (b) state how the local government will—
  - (i) progress the implementation of the 5-year corporate plan during the period of the annual operational plan; and
  - (ii) manage operational risks.

## **Division 4                      Long-term community plan**

### **124      What div 4 is about**

This division is about the requirements for a local government's long-term community plan for providing strategic direction for the local government's planning processes for at least 10 financial years.

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## **125 Process for preparing a long-term community plan**

The local government must prepare the long-term community plan consistently with the following process—

- *intelligence gathering phase*

The local government—

- (a) considers current and emerging trends, issues and relationships that affect the local government and the community; and
- (b) identifies key descriptive data about the community by gathering and analysing data obtained from surveys, focus groups and existing forecasts, plans and proposals; and
- (c) analyses and evaluates relevant internal data, external data and the key descriptive data; and
- (d) identifies areas for which more information is required.

- *community input phase*

The local government engages with the community, in a way that is consistent with the community engagement policy, to identify and prioritise the planning themes on which the development of the long-term community plan is based.

- *community vision phase*

The local government develops its vision for the future of the local government area having regard to its engagement with the community.

- *community validation phase*

The local government—

- (a) reviews the vision for the local government area; and
- (b) prepares a draft long-term community plan; and

- (c) engages with the community about its vision for the local government area, the planning themes on which the development of the long-term community plan is based and the draft long-term community plan.
- *policy and adoption phase*  
The local government—
  - (a) considers the impact of the draft long-term community plan on its long-term financial forecast, financial plan, and long-term asset management plan; and
  - (b) finalises and adopts the long-term community plan.

## **126 Adoption of long-term community plan**

- (1) The local government must adopt the long-term community plan but only if it is satisfied the plan—
  - (a) outlines the engagement process undertaken by the local government with the community in the development of the plan; and
  - (b) complies with the requirements under section 127.
- (2) The long-term community plan continues in force—
  - (a) for the period of at least 10 financial years stated in the long-term community plan; or
  - (b) until the earlier adoption of a new long-term community plan.
- (3) The local government may join with 1 or more other local governments to prepare a long-term community plan and adopt the plan for its local government area.

## **127 Long-term community plan contents**

- (1) The long-term community plan must state—



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- (a) how the local government engaged with the community in preparing the plan and the extent to which the engagement was consistent with the local government's community engagement policy; and
- (b) how the local government has considered and incorporated local and regional issues that affect, or may in the future affect, the local government area, including issues relating to the following—
  - (i) economic development;
  - (ii) environmental management;
  - (iii) governance;
  - (iv) social wellbeing.

*Examples—*

- art and culture development
  - cultural and linguistic diversity
  - housing
  - population change
  - community health
- (2) The plan may include separate provisions applying differently to different areas within the local government area.

## **128 Community engagement for reviewing long-term community plan**

- (1) This section applies to each of the following annual reviews of the implementation of the long-term community plan carried out by the local government—
  - (a) the annual review for the fifth year after the plan is first adopted;
  - (b) at least 1 annual review within each subsequent period of 5 years while the plan is in force.

- (2) The local government must, for carrying out the annual review, engage with the community in a way that is consistent with its community engagement policy.
- (3) The report on the results of the annual review must state—
  - (a) how the local government engaged with the community for carrying out the review; and
  - (b) the extent to which the engagement was consistent with the local government’s community engagement policy.

## **129 Changing long-term community plan**

- (1) The local government may change the long-term community plan—
  - (a) at any time to—
    - (i) correct an error in the plan; or
    - (ii) make a change, other than a change of substance, in the plan; or
  - (b) as a result of an annual review of the plan, but only if the local government has engaged with the community about the proposed change in a way that is consistent with its community engagement policy.
- (2) The change must be adopted by a resolution of the local government.
- (3) A resolution for a change under subsection (1)(b) must state—
  - (a) the reasons for changing the long-term community plan; and
  - (b) how the local government engaged with the community about the change and the extent to which the engagement is consistent with the local government’s community engagement policy.
- (4) A long-term community plan prepared jointly with another local government under section 126(3) may be changed only

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if the change is adopted by a resolution of each local government that prepared the plan.

## **Division 5                      Community engagement policy**

### **130      Community engagement policy**

- (1) A local government must prepare and adopt a policy (a *community engagement policy*) describing how the local government engages with the community about—
  - (a) preparing, reviewing and changing its long-term community plan; and
  - (b) any other matters mentioned in the policy relevant to establishing or reviewing the performance of its system of financial management.
- (2) The local government may, by resolution, change the community engagement policy.

## **Division 6                      Financial plan**

### **Subdivision 1                  General requirements**

#### **131      Financial plan requirements**

- (1) A local government must prepare and adopt a financial plan.
- (2) The financial plan must be consistent with the following—
  - (a) the long-term financial forecast;
  - (b) the long-term community plan;
  - (c) the long term asset management plan.
- (3) For applying the financial plan to a decision about an investment, the local government must consider the whole of life costing for the investment.

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## **Subdivision 2      Requirements for policies outlined    in plan**

### **132      Investment policy**

- (1) A local government must prepare an investment policy each financial year.
- (2) The investment policy must—
  - (a) identify the local government's—
    - (i) philosophy and strategy for investment; and
    - (ii) overall risk philosophy; and
    - (iii) investment objectives and expectations; and
  - (b) state—
    - (i) procedures for achieving the goals related to investment stated in the policy; and
    - (ii) how to follow the procedures.

### **133      Debt policy**

- (1) A local government must prepare a debt policy each financial year.
- (2) The debt policy must state—
  - (a) the new borrowings planned for the current financial year and the next 9 financial years; and
  - (b) the time over which the local government plans to repay existing and new borrowings.

### **134      Revenue policy**

- (1) A local government must prepare a revenue policy each financial year.
- (2) The revenue policy must state—

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- (a) the principles that the local government intends to apply in the financial year for—
    - (i) levying rates and charges; and
    - (ii) granting concessions for rates and charges; and
    - (iii) recovering overdue rates and charges; and
    - (iv) cost-recovery fees; and
  - (b) if the local government intends to grant concessions for rates and charges—the purpose for the concessions; and
  - (c) the extent to which physical and social infrastructure costs for a new development are to be funded by charges for the development; and
  - (d) the amount of each reserve to be kept in the operating fund and the way in which the local government intends to ensure funding is available to support the purpose of each reserve.
- (3) The revenue policy may state guidelines that may be used for preparing the local government’s revenue statement.
  - (4) The local government must adopt the revenue policy in sufficient time before the start of the financial year to allow an annual budget that is consistent with the revenue policy to be adopted for the financial year.
  - (5) The local government may amend the revenue policy at any time before the end of the financial year.

## **Division 7                      Long-term asset management plan**

### **135      Preparation of long-term asset management plan**

- (1) A local government must prepare and adopt a long-term asset management plan.
- (2) A long-term asset management plan continues in force—
  - (a) for the period of at least 10 years stated in the plan; or

- (b) until the earlier adoption of a new long-term asset management plan.

### **136 Long-term asset management plan contents**

The long-term asset management plan must—

- (a) provide for strategies to ensure the sustainable management of the assets mentioned in the local government's asset register and infrastructure of the local government; and
- (b) state the estimated capital expenditure for renewing, upgrading and extending the assets for the period covered by the plan; and
- (c) be integrated with the long-term financial forecast.

## **Part 4 Community grants**

### **137 Grants to community organisations**

The local government may give a grant to a community organisation only—

- (a) if the local government is satisfied—
  - (i) the grant will be used for a purpose that is in the public interest; and
  - (ii) the community organisation meets the criteria stated in the community grants policy; and
- (b) in a way that is consistent with the local government's community grants policy.

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### **138 Community grants policy**

- (1) The local government must prepare and adopt a policy about local government grants to community organisations (a *community grants policy*).
- (2) The community grants policy must state—
  - (a) the criteria for a community organisation to be eligible for a grant from the local government; and
  - (b) the procedure for approving a grant to a community organisation; and
  - (c) the criteria for a councillor to decide how to allocate the councillor's discretionary funds to particular community organisations that have applied for the funds.

## **Part 5 Spending**

### **139 Entertainment and hospitality**

- (1) The local government may spend money on entertainment or hospitality only—
  - (a) if the entertainment or hospitality is in the public interest; and
  - (b) in a way that is consistent with the local government's entertainment and hospitality policy.
- (2) *Entertainment or hospitality* includes, for example—
  - (a) entertaining members of the public in order to promote a local government project; and
  - (b) providing food or beverages—
    - (i) to a person who is visiting the local government in an official capacity; or

- (ii) for a conference, course, meeting, seminar, workshop or another forum that is held by the local government for its councillors, local government employees or other persons; and
- (c) paying for a councillor or local government employee to attend a function as part of the councillor's or employee's official duties or obligations as a councillor or local government employee.

#### **140 Entertainment and hospitality policy**

- (1) The local government must prepare and adopt a policy about the local government's spending on entertainment or hospitality (an *entertainment and hospitality policy*).
- (2) The entertainment and hospitality policy must state—
  - (a) the types of entertainment or hospitality the local government considers to be in the public interest; and
  - (b) the types of entertainment or hospitality that may, or may not, be paid for with a credit card that is issued in the name of the local government; and
  - (c) the procedure for approving spending on entertainment or hospitality.

#### **141 Advertising spending**

- (1) The local government may spend money on advertising only—
  - (a) if—
    - (i) the advertising is to provide information or education to the public; and
    - (ii) the information or education is provided in the public interest; and
  - (b) in a way that is consistent with the local government's advertising spending policy.



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- (2) **Advertising** is promoting an idea, goods or services to the public for which a fee is paid.

#### **142 Advertising spending policy**

- (1) The local government must prepare and adopt a policy about the local government's spending on advertising (an **advertising spending policy**).
- (2) The advertising spending policy must state—
- (a) the types of advertising the local government considers provide information or education to the public; and
  - (b) the types of information or education the local government considers are in the public interest to provide; and
  - (c) conditions limiting the level of spending on advertising in the 3 month period immediately before an election for the local government; and
  - (d) the procedure for approving spending on advertising.

#### **143 Procurement policy**

- (1) A local government must prepare and adopt a policy about procurement (a **procurement policy**) for each financial year.
- (2) The procurement policy must include details of the principles, including the sound contracting principles, that the local government will apply in the financial year for purchasing goods and services.



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- (3) The local government must ensure each copy costs no more than the cost to the local government of making the copy available for purchase.

## **Part 7                      Local government funds and accounts**

### **Division 1                Trust fund**

#### **145    Trust fund**

- (1) A local government must establish a trust fund.
- (2) A *trust fund* is a fund that is credited with trust money.
- (3) *Trust money* is money that is—
  - (a) paid to the local government in trust for a person; or
  - (b) paid to the local government as a deposit; or
  - (c) required by an Act to be credited to a trust fund; or
  - (d) interest accrued on money that was paid to the local government under paragraphs (a) to (c), whether or not the money was required to be paid to the local government, unless the local government and the depositor have agreed the interest accrued should be paid to an entity other than the local government.
- (4) A local government must deposit trust money in a financial institution account.
- (5) A local government must not allow a financial institution account in which trust money has been deposited to be overdrawn at any time.
- (6) The local government must, at least monthly, reconcile the assets of the trust fund with the liabilities of the trust fund.

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## 146 Transferring money to or from a trust fund

- (1) A local government may transfer trust money from a trust fund only under this section.
- (2) The local government may transfer trust money from a trust fund—
  - (a) to, or for, the person who is entitled to the money, according to law; or
  - (b) as required by the relevant Act under which the money was paid into the trust fund.
- (3) If the purpose for which an amount of trust money was credited to the trust fund no longer exists, the local government may, if it has resolved the purpose no longer exists, transfer the amount from the trust fund to the operating fund.
- (4) If an amount of trust money is mistakenly paid into the operating fund, the local government must transfer the amount to the trust fund as soon as practicable, but in any case within 5 working days, after the local government becomes aware the amount has been paid into the wrong fund.
- (5) If an amount that is not trust money is mistakenly paid into the trust fund, the local government must transfer the amount to the operating fund as soon as practicable, but in any case within 5 working days, after the local government becomes aware that the amount has been paid into the wrong fund.
- (6) Money that is trust money under section 145(3)(d) may be transferred from the trust fund to the operating fund at any time.

## Division 2 Operating fund

### 147 Operating fund

- (1) A local government must—
  - (a) establish a fund (the *operating fund*); and

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- (b) credit the operating fund with all money received by the local government other than trust money.
- (2) The local government may debit the operating fund for amounts relating to the local government's operations, including capital expenditure.
- (3) The local government must deposit money to be credited to the operating fund in a financial institution account.

#### **148 Creating a reserve**

- (1) A local government may create a reserve in the operating fund by—
  - (a) including the reserve in its annual budget; or
  - (b) a resolution.
- (2) The purpose of the reserve must be stated in—
  - (a) the annual budget or an amendment of the annual budget; or
  - (b) the resolution that adopts or amends the annual budget; or
  - (c) the resolution mentioned in subsection (1)(b).

#### **149 Transfers to or from an operating fund reserve**

- (1) A local government may transfer money to or from a reserve in the operating fund only under this section.
- (2) The local government may make a transfer to or from a reserve in the operating fund only if it—
  - (a) resolves to make the transfer; or
  - (b) includes the transfer in its annual budget.
- (3) If a transfer is to be made for a purpose that is not the purpose of the reserve, the local government must state the purpose of the transfer in—
  - (a) the resolution to make the transfer; or

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- (b) the resolution that adopts the annual budget in which the transfer is included.
  - (4) If the purpose for which the reserve was created no longer exists, the local government may close the reserve.

## **Division 3                      Discretionary funds**

### **150      Requirements about discretionary funds—Act, s 109**

- (1) This section prescribes requirements for—
  - (a) a local government for making discretionary funds available; and
  - (b) a councillor for using discretionary funds.
- (2) A local government must, within 20 business days after adopting its budget for a financial year, publish a notice (the *availability notice*) stating—
  - (a) the amount in the local government’s discretionary funds budgeted for use by each councillor for the financial year; and
  - (b) that community organisations may apply for allocation of the funds; and
  - (c) how to apply for allocation of the funds.
- (3) The availability notice must be—
  - (a) published on the local government’s website; and
  - (b) displayed in a conspicuous place in the local government’s public office.
- (4) A councillor of the local government—
  - (a) must not allocate the councillor’s discretionary funds for capital works of the local government; and
  - (b) may allocate the funds only to community organisations that have applied for the funds in the way stated in the availability notice; and



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- (a) if the local government meets less frequently than monthly—at each meeting of the local government; or
  - (b) otherwise—at a meeting of the local government once a month.
- (3) The financial report must state the progress that has been made in relation to the local government’s budget for the period of the financial year up to a day as near as practicable to the end of the month before the meeting is held.

### 153 Statement of estimated financial position

- (1) The chief executive officer must present the local government’s annual budget meeting with a statement of estimated financial position.
- (2) A *statement of estimated financial position* is a document stating the financial operations, and financial position, of the local government for the previous financial year.
- (3) However, if the budget meeting is held in June, the statement—
  - (a) must relate to the financial operations for the financial year when the budget meeting is held until the latest day to which the document can reasonably be compiled; and
  - (b) must contain an estimate of the financial operations from the day when the budget meeting is held until the end of the financial year.
- (4) The statement must—
  - (a) be prepared on an accrual basis; and
  - (b) state the estimated income and expenditure stated in the adopted annual budget for the financial year; and
  - (c) state—
    - (i) the actual income and expenditure for the financial year; or





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- (4) For subsection (2), the following assets that are controlled by the local government do not have a value for a local government's general purpose financial statement—
- (a) land that is a reserve under the Land Act;
  - (b) a road that is not owned by the local government.

## Part 10 Auditing

### Division 1 Internal audit function

#### Subdivision 1 Internal auditing and reporting

##### 155 Internal audit

- (1) A local government must carry out an internal audit each financial year.
- (2) **Internal audit** is the assessment and evaluation of the control measures that the local government has adopted, or is to adopt, to manage the risks (**operational risks**) to which the local government's operations are exposed.
- (3) The local government must—
  - (a) prepare an internal audit plan for the internal audit for each financial year; and
  - (b) monitor the implementation of the plan.
- (4) In preparing the internal audit plan the local government must—
  - (a) evaluate the operational risks; and
  - (b) have regard to the relevant accounting documents.

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- (5) The local government's *internal audit plan* is a document stating—
- (a) the way in which the operational risks have been evaluated; and
  - (b) the most significant operational risks identified from the evaluation; and
  - (c) the control measures that the local government has adopted, or is to adopt, to manage the most significant operational risks; and
  - (d) the way in which the local government has had regard to the relevant accounting documents in preparing the plan.

## **156 Internal audit progress report**

- (1) A local government must prepare an internal audit progress report for the internal audit for each financial year.
- (2) The local government's *internal audit progress report* is a document stating—
- (a) the control measures that the local government has adopted that were assessed by the internal audit; and
  - (b) the way in which the internal audit was carried out; and
  - (c) the observations of the person carrying out the internal audit, including, for example, whether the person considers that the control measures have been successful in managing the risks to which they relate; and
  - (d) any recommendations of the person who conducted the audit about—
    - (i) any action that may be taken to improve the success of the control measures; or
    - (ii) alternative control measures that the local government may adopt for managing the risks that the local government's operations are exposed to and the action that may be taken to give effect to the alternative control measures; and

- (e) a summary of the chief executive officer's response to the internal audit including—
    - (i) the action the local government intends to take in response to the recommendations mentioned in paragraph (d); and
    - (ii) when the action is intended to be taken; and
  - (f) a summary of the actions taken by the local government in response to the recommendations in the internal audit progress reports for the preceding 2 financial years.
- (3) The local government must give its audit committee, if it has one, or its chief executive officer—
- (a) the internal audit progress report; and
  - (b) at least twice during the year after the internal audit is carried out, each of the following documents—
    - (i) a summary of the recommendations stated in the report;
    - (ii) a summary of the actions that have been taken by the local government in response to the recommendations;
    - (iii) a summary of any actions that have not been taken by the local government in response to the recommendations.

## **Subdivision 2      Audit committee**

### **157      Application of sdiv 2**

This subdivision applies to an audit committee whether it is established by a large local government or another local government.

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### **158 Prescribed class for large local government—Act, s 105**

For the Act, section 105(3), definition *large local government*, a large local government is a local government belonging to a remuneration category of 3 or a higher number mentioned in the remuneration schedule.

*Note—*

Under section 105(2) of the Act a large local government is required to establish an audit committee.

### **159 Audit committee composition**

- (1) The audit committee of a local government must—
  - (a) consist of at least 3 and no more than 6 members; and
  - (b) include—
    - (i) 2, but no more than 2, councillors appointed by the local government; and
    - (ii) at least 1 member who has significant experience and skills in financial matters.
- (2) The chief executive officer can not be a member of the audit committee but can attend meetings of the committee.
- (3) The local government must appoint 1 of the members mentioned in subsection (1)(b)(i) as chairperson.

### **160 Audit committee meetings**

- (1) The audit committee of a local government must—
  - (a) meet at least twice each financial year; and
  - (b) review each of the following matters—
    - (i) the internal audit plan for the internal audit for the current financial year;
    - (ii) the internal audit progress report for the internal audit for the preceding financial year including the

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- recommendations in the report and the actions to which the recommendations relate;
- (iii) a draft of the local government's general purpose financial statement for the preceding financial year before the statement is certified under section 161(2) and given to the auditor-general for auditing;
  - (iv) the auditor-general's report about the local government's general purpose financial statement for the preceding financial year; and
- (c) as soon as practicable after a meeting of the committee, give the local government a written report about the matters reviewed at the meeting and the committee's recommendations about the matters.
- (2) At a meeting of the audit committee—
- (a) a quorum is at least half the number of members of the committee; and
- Examples—*
- 1 If the committee consists of 4 members, a quorum is 2.
  - 2 If the committee consists of 5 members, a quorum is 3.
- (b) either—
- (i) the chairperson presides; or
  - (ii) if the chairperson is absent, the member chosen by the members present as chairperson for the meeting, presides.
- (3) The audit committee may, for performing its functions under subsection (1)(b), seek information or advice from the person who has carried out the internal audit.
- (4) The chief executive officer must present the report mentioned in subsection (1)(c) at the next meeting of the local government.

## **Division 2                      External auditing**

### **161      Auditing of general purpose financial statement by auditor-general**

- (1) A local government's general purpose financial statement for a financial year must be given to the auditor-general for auditing—
  - (a) as soon as practicable after the end of the financial year; and
  - (b) no later than 15 September of the next financial year.
- (2) The general purpose financial statement must be accompanied by a certificate in the approved form given by the mayor and chief executive officer, certifying that the statement—
  - (a) has been prepared in accordance with the relevant accounting documents; and
  - (b) accurately reflects the local government's financial performance and position for the financial year.
- (3) If the Minister considers a local government has not been able to give the auditor-general its general purpose financial statement under subsection (1) because of extraordinary circumstances, the Minister may, by notice to the local government, extend the time by which the statement must be given.

### **162      Presentation of auditor-general's report**

- (1) This section applies if the auditor-general gives the mayor of a local government a copy of the auditor-general's report about the local government's general purpose financial statement.
- (2) The mayor must present a copy of the report at the next ordinary meeting of the local government.

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## Part 11 Other matters

### 163 Required amounts for insurances—Act, s 107

The required amounts for the insurances maintained by a local government are as follows—

- (a) for public liability insurance—\$300000000;
- (b) for professional indemnity insurance—\$100000000.

### 164 Notice of payment of notional GST

A local government must, no later than 15 September in each financial year, give the Minister a notice stating that the local government has paid notional GST for the previous financial year.

## Chapter 4 Contracting

### Part 1 Introduction

#### 165 What ch 4 is about

- (1) This chapter is about a local government's contracting activities.
- (2) *Contracting activities* are activities for the making of a contract for—
  - (a) the carrying out of work; or
  - (b) the supply of goods or services; or
  - (c) the disposal of non-current assets.



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- (3) However, this chapter does not apply to a local government making a contract of employment with a local government employee.

## **Part 2 Strategic contracting procedures**

### **166 What pt 2 is about**

- (1) This part allows a local government to take a strategic approach to its contracts.
- (2) A *strategic approach* is an approach that identifies potential opportunities, while managing adverse risks.
- (3) However, this part applies to a local government only if it decides to apply the part.
- (4) This part does not apply to a contract for the disposal of land.
- (5) For all other contracts, this part provides an alternative to part 3.

### **167 Power to choose strategic approach**

- (1) A local government may, by resolution, decide to apply this part to its contracts.
- (2) However, the local government may do so only after it—
  - (a) has considered the costs and benefits of complying with this part; and
  - (b) has given the public notice of the proposed resolution.
- (3) The notice must—
  - (a) state the proposed resolution; and
  - (b) state the day and time of the meeting where the resolution is to be considered; and

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- (c) be published in a newspaper that circulates generally in the local government area at least 4 weeks before the meeting.

## **168 Effect of choice**

- (1) If a local government decides to apply this part to its contracts, it must comply with this part from—
  - (a) generally—the day on which the resolution is passed; or
  - (b) if the resolution states a later day for complying—the later day.
- (2) The later day must not be more than 1 year after the resolution is passed.
- (3) The passing of the resolution does not of itself affect a contractual obligation or right of the local government.
- (4) Subsection (5) applies if, immediately before the day on which the local government passes the resolution, the local government—
  - (a) had, under part 3, invited tenders or quotes for a contract; and
  - (b) had received tenders or quotes in response to the invitation; and
  - (c) had not accepted, or had decided not to accept, any of the tenders or quotes.
- (5) Part 3 continues to apply to the contracts as if the resolution had not been passed.
- (6) The local government may, by a later resolution, decide this part no longer applies to the local government.
- (7) If the local government does so, it must continue to comply with this part for any contract that was made when this part did apply to the local government.

## 169 Contracting plans

- (1) This section applies if a local government decides to apply this part to its contracts.
- (2) Each financial year, the local government must make and adopt a contracting plan.
- (3) A **contracting plan** is a document stating—
  - (a) the types of contracts that the local government proposes to make in the financial year; and
  - (b) how the sound contracting principles are to be applied to the local government's contracting activities; and
  - (c) how the local government will measure the application of the sound contracting principles; and
  - (d) the principles and strategies for performing the contracts; and
  - (e) a policy about proposed delegations for the contracts; and
  - (f) a market assessment for each type of contract; and
  - (g) the contracts that the local government considers will be significant (a **significant contract**) having regard to the market assessment; and
  - (h) a policy about the making of a significant contracting plan under section 170.
- (4) A **market assessment** is an assessment of the relative cost and difficulty in securing supply under each type of contract.
- (5) A contracting plan must be consistent with and support the achievement of the strategic directions stated in the corporate plan.
- (6) The local government must make the resolution to adopt a contracting plan before the local government adopts the annual budget for the financial year.

- (7) The local government may, by resolution, amend a contracting plan at any time before the end of the financial year to which the plan relates.
- (8) The local government must allow the public to inspect and buy copies of the contracting plan at the local government public office.

## **170 Significant contracting plans**

- (1) This section applies if the contracting plan identifies any significant contracts.
- (2) The local government must make a significant contracting plan for each contract before the contract starts.
- (3) A *significant contracting plan* is a document stating—
  - (a) the objectives of the significant contract; and
  - (b) how the objectives support the asset disposal plan; and
  - (c) how the objectives are to be achieved; and
  - (d) how achievement of the objectives will be measured; and
  - (e) any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and
  - (f) proposed contractual arrangements for the activity; and
  - (g) a risk analysis of the market in which the contract is to happen.
- (4) The objectives must be consistent with the local government's contracting plan.
- (5) The local government may, by resolution, amend a significant contracting plan at any time before the end of the financial year to which the plan relates.

## **171 Contracting activities manual**

- (1) A local government must make and adopt a contract manual.

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- (2) A *contract manual* is a document that sets out the procedures for how the local government is to carry out all contracts.
- (3) The contract manual must—
  - (a) apply the sound contracting principles; and
  - (b) be consistent with, and support, the achievement of the strategic direction stated in the corporate plan; and
  - (c) if the local government has adopted a contracting plan—be consistent with the contracting plan; and
  - (d) include a policy about how the local government is to deal with any non-current assets that have a value of less than the amount mentioned in section 173(6).

## **Part 3                      Default contracting procedures**

### **Division 1                      Introduction**

#### **172      What pt 3 is about**

- (1) This part is about the requirements that a local government must comply with before entering into a contract, unless the local government decides to apply part 2 to its contracts.
- (2) This part applies to a contract for the disposal of land other than trust land, or an interest in trust land, that is the subject of a deed of grant in trust under which an indigenous local government is the trustee.

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## Division 2                      Entering into particular contracts

### 173      What div 2 is about

- (1) This division explains what a local government must do before it enters into—
  - (a) a medium-sized contract; or
  - (b) a large-sized contract; or
  - (c) a valuable non-current asset contract.
- (2) A *medium-sized contract* is a contract worth \$15000 or more but less than \$150000.
- (3) A *large-sized contract* is a contract worth \$150000 or more.
- (4) A *valuable non-current asset contract* is a contract for the disposal of a valuable non-current asset.
- (5) A *valuable non-current asset* is—
  - (a) land; or
  - (b) another non-current asset that has an apparent value that is equal to or more than the limit set by the local government.
- (6) The limit set by the local government can not be more than the following amount—
  - (a) for land—\$1;
  - (b) for plant or equipment—\$5000;
  - (c) for another type of non-current asset—\$10000.

### 174      Medium-sized contract—quotes needed first

- (1) A local government can not enter into a medium-sized contract unless the local government first invites written quotes for the contract.

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- (2) The invitation must be given to at least 3 persons who the local government considers can meet the local government's requirements, at competitive prices.
- (3) The local government may decide not to accept any of the quotes it receives.
- (4) However, if the local government does decide to accept a quote, the local government must accept the quote most advantageous to it having regard to the sound contracting principles.
- (5) This section is subject to division 3.

**175 Large-sized contract—tenders needed first**

- (1) A local government can not enter into a large-sized contract unless the local government first invites written tenders for the contract under section 177.
- (2) This section is subject to division 3.

**176 Valuable non-current asset contract—tenders or auction needed first**

- (1) A local government can not enter into a valuable non-current asset contract unless it first—
  - (a) invites written tenders for the contract under section 177; or
  - (b) offers the non-current asset for sale by auction.
- (2) This section is subject to division 4.

**177 Tender process**

- (1) This section is about how a local government must invite written tenders for—
  - (a) a large-sized contract; or
  - (b) a valuable non-current asset contract.
- (2) The local government must either—

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- (a) invite written tenders under subsection (4); or
    - (b) invite expressions of interest under subsection (5), before considering whether to invite written tenders under subsection (6)(b).
  - (3) However, the local government may invite expressions of interest under subsection (5) only if the local government—
    - (a) decides, by resolution, that it would be in the public interest to invite expressions of interest before inviting written tenders; and
    - (b) keeps a record of its reasons for making the resolution.
  - (4) The invitation for tenders must—
    - (a) be made by an advertisement in a newspaper that circulates generally in the local government area; and
    - (b) allow written tenders to be given to the local government for at least 21 days after the advertisement is published.
  - (5) The invitation for expressions of interest must—
    - (a) be made by an advertisement in a newspaper that circulates generally in the local government area; and
    - (b) allow written expressions of interest to be given to the local government for at least 21 days after the advertisement is published.
  - (6) If the local government invites expressions of interest under subsection (5), the local government may—
    - (a) prepare a shortlist from the persons who respond to the invitation for expressions of interest; and
    - (b) invite written tenders from those persons.
  - (7) If—
    - (a) an invitation to tender under subsection (4) or (6)(b) states that the local government might later invite all tenderers to change their tenders to take account of a change in the tender specifications; and



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(b) the local government does change the tender specifications;

the local government may invite all the persons who submitted a tender to change their tender to take account of the change, before making a decision on the tenders.

- (8) A local government may decide not to accept any tenders it receives.
- (9) However, if the local government does decide to accept a tender, the local government must accept the tender most advantageous to it, having regard to the sound contracting principles.

### **Division 3                    Exceptions for medium and large-sized contracts**

#### **178    What div 3 is about**

This division explains when a local government may enter into—

- (a) a medium-sized contract without first inviting written quotes; or
- (b) a large-sized contract without first inviting written tenders.

#### **179    Exception if quote or tender consideration plan prepared**

- (1) A local government may enter into a medium-sized contract or large-sized contract without first inviting written quotes or tenders if the local government—
- (a) decides, by resolution, to prepare a quote or tender consideration plan; and
- (b) prepares and adopts the plan.
- (2) A *quote or tender consideration plan* is a document stating—
- (a) the objectives of the plan; and

- (b) how the objectives are to be achieved; and
- (c) how the achievement of the objectives will be measured; and
- (d) any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and
- (e) the proposed terms of the contract for the goods or services; and
- (f) a risk analysis of the market from which the goods or services are to be obtained.

### **180 Exception for contractor on approved contractor list**

- (1) This section applies to a medium-sized contract or large-sized contract for services.
- (2) A local government may enter into the contract without first inviting written quotes or tenders if the contract is made with a person who is on an approved contractor list.
- (3) An *approved contractor list* is a list of persons who the local government considers to be appropriately qualified to provide the services.
- (4) The local government must put together the approved contractor list by—
  - (a) inviting expressions of interest from suitably qualified persons, by an advertisement in a newspaper that circulates generally in the local government area; and
  - (b) allowing expressions of interest to be given to the local government for at least 21 days after the invitation is advertised; and
  - (c) choosing persons for the approved contractor list on the basis of the sound contracting principles.

### **181 Exception for register of pre-qualified suppliers**

- (1) This section applies to a medium-sized contract or large-sized contract for the supply of goods or services.

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- (2) A local government may enter into the contract without first inviting written quotes or tenders if the contract is entered into with a supplier from a register of pre-qualified suppliers.
- (3) A local government may establish a register of pre-qualified suppliers of particular goods or services only if—
  - (a) the preparation and evaluation of invitations every time that the goods or services are needed would be costly; or
  - (b) the capability or financial capacity of the supplier of the goods or services is critical; or
  - (c) the supply of the goods or services involves significant security considerations; or
  - (d) a precondition of an offer to contract for the goods or services is compliance with particular standards or conditions set by the local government; or
  - (e) the ability of local business to supply the goods or services needs to be discovered or developed.
- (4) A *pre-qualified supplier* is a supplier who has been assessed by the local government as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements.

## **182 Exception for a preferred supplier arrangement**

- (1) This section applies to a medium-sized contract, or a large-sized contract, for goods or services if a local government—
  - (a) needs the goods or services—
    - (i) in large volumes; or
    - (ii) frequently; and
  - (b) is able to obtain better value for money by accumulating the demand for the goods or services; and
  - (c) is able to describe the goods or services in terms that would be well understood in the relevant industry.

- (2) A local government may enter into a contract for the goods or services without first inviting written quotes or tenders if the contract is entered into with the preferred supplier under a preferred supplier arrangement that is made in compliance with subsections (3) to (7).
- (3) A local government must invite persons to tender for a preferred supplier arrangement.
- (4) The invitation to tender for a preferred supplier arrangement must—
  - (a) be made by an advertisement in a newspaper that circulates generally in the local government area; and
  - (b) allow tenders to be given to the local government for at least 21 days after the advertisement is published; and
  - (c) describe the terms of the preferred supplier arrangement.
- (5) When selecting a person to be the preferred supplier under a preferred supplier arrangement, the local government must have regard to the sound contracting principles.
- (6) The local government must ensure the terms of the preferred supplier arrangement allow the contract to be cancelled for the poor performance of the preferred supplier.
- (7) A preferred supplier arrangement may be entered into for a term of more than 2 years only if the local government is satisfied it will get better value for doing so.

### **183 Exception for LGA arrangement**

- (1) A local government may enter into a contract for services without first inviting written quotes or tenders if the contract is entered into under an LGA arrangement.
- (2) An *LGA arrangement* is an arrangement that—
  - (a) has been entered into by—
    - (i) LGAQ Ltd.; or

*Note—*

See section 287 of the Act.

- (ii) a company (the *associated company*) registered under the Corporations Act, if LGAQ Ltd. is its only shareholder; and
- (b) if LGAQ Ltd. or the associated company were a local government, would be, either—
  - (i) a contract with an independent supplier from a register of pre-qualified suppliers established under section 181(3) by LGAQ Ltd. or the associated company; or
  - (ii) a preferred supplier arrangement entered into with an independent supplier under section 182.
- (3) An *independent supplier* is an entity other than a subsidiary (a *relevant subsidiary*) of LGAQ Ltd. or the associated company under the Corporations Act.
- (4) Despite subsection (2)(b), an *LGA arrangement* may include a contract with a relevant subsidiary from a register of pre-qualified suppliers or a preferred supplier arrangement with a relevant subsidiary if the arrangement is approved by the Minister.
- (5) For deciding whether to approve an LGA arrangement under subsection (4), the Minister—
  - (a) must have regard to the sound contracting principles; and
  - (b) may ask LGAQ Ltd. or the associated company to give the Minister information or documents relevant to the arrangement.

*Examples of relevant information or documents—*

- information or documents relating to assessment of the relevant subsidiary's suitability to be on the register of pre-qualified suppliers or the tender process for the preferred supplier arrangement
- information or documents relating to the potential impact of the arrangement on local government employees

## **184 Other exceptions**

A local government may enter into a medium-sized contract or large-sized contract without first inviting written quotes or tenders if—

- (a) the local government resolves it is satisfied that there is only 1 supplier who is reasonably available; or
- (b) the local government resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tenders; or
- (c) a genuine emergency exists; or
- (d) the contract is for the purchase of goods and is made by auction; or
- (e) the contract is for the purchase of second-hand goods; or
- (f) the contract is made with, or under an arrangement with, a government body.

## **Division 4 Exceptions for valuable non-current asset contracts**

### **185 Exceptions for valuable non-current asset contracts**

- (1) A local government may dispose of a valuable non-current asset other than by tender or auction if—
  - (a) the valuable non-current asset—
    - (i) was previously offered for sale by tender or auction but was not sold; and
    - (ii) is sold for more than the highest tender or auction bid that was received; or
  - (b) the valuable non-current asset is disposed of to—
    - (i) a government body; or
    - (ii) a community organisation; or
  - (c) for the disposal of land—



- (c) the purpose of the contract.

*Example—*

the particular goods or services to be supplied under the contract

## Part 5 Other matters

### 187 Entering into a contract under a delegation

- (1) A local government may, by resolution (the *delegation resolution*), delegate power to make, amend or discharge a contract for the local government.
- (2) The delegate may make, amend or discharge a contract (the *contractual action*) for the local government if—
  - (a) the local government's expenditure because of the contractual action has been provided for in the approved annual budget for—
    - (i) the financial year when the contractual action is taken; or
    - (ii) the financial year in which the delegation resolution is made, if the expenditure is within the limits stated in the resolution; or
  - (b) the contractual action has been taken because of genuine emergency or hardship.
- (3) The delegate may take the contractual action in the same way as an individual.
- (4) This section does not affect another law that requires—
  - (a) an approval, consent or permission to be obtained; or
  - (b) a procedure to be complied with for taking the contractual action.



## Chapter 5 Grants commission

### 188 What ch 5 is about

This chapter is about the way the grants commission performs its responsibilities as a Local Government Grants Commission under the Local Government (Financial Assistance) Act.

### 189 Recommendations

- (1) In preparing recommendations to the Minister about the allocation of the financial assistance amount, the grants commission may inform itself in any way that it considers appropriate.
- (2) The *financial assistance amount* is the amount the State is entitled to receive from the Commonwealth under the Local Government (Financial Assistance) Act for financial assistance for local government purposes.
- (3) The grants commission may ask for submissions from any local governing body.
- (4) When the grants commission makes a recommendation to the Minister, the Minister may—
  - (a) accept the recommendation; or
  - (b) refer the recommendation back to the grants commission and ask it—
    - (i) to reconsider its recommendation or a part of it; or
    - (ii) to consider a matter raised by the Minister about the recommendation.
- (5) The Minister must give the grants commission reasons for asking it to do something under subsection (4)(b).
- (6) After doing what it is asked to do under subsection (4)(b), the grants commission must consider whether any change should

be made to its recommendation and resubmit its recommendation to the Minister with or without change.

- (7) A member of the grants commission may submit a minority recommendation to the Minister.

#### **190 Allocation and distribution of financial assistance amount**

- (1) The Minister must have regard to the grants commission's recommendations about the allocation of the financial assistance amount.
- (2) When the financial assistance amount is received from the Commonwealth, it must be distributed among local governing bodies as allocated by the Minister.

#### **191 Public may attend public hearings**

Members of the public may attend a public hearing that the grants commission is required to hold under the Local Government (Financial Assistance) Act unless in the grants commission's opinion it is in the public interest not to allow members of the public to attend the hearing.

## **Chapter 6 Transitional provisions**

#### **192 Amendment of annual budget for 2010–2011 financial year**

- (1) This section applies to the annual budget of a local government for the 2010–2011 financial year if—
  - (a) the local government adopted the budget under the 1993 Act; or

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- (b) the local government belongs to the special remuneration category under the remuneration schedule and adopts the budget under section 100(1).
- (2) Despite section 99, the budget is not required to comply with section 99(3).
- (3) Despite section 100(5) and (6), if the budget is amended, it does not fail to comply with section 99 only because it does not comply with section 99(3).

### **193 Requirements for reporting complaints for 2010–2011 financial year**

- (1) This section applies, despite section 101, to a local government’s annual report for the 2010–2011 financial year.
- (2) If the local government has continued to follow the general complaints process under the 1993 Act for a period, the annual report must include the number of complaints resolved under the process during the period.

*Note—*

Under section 119(6) of the Operations Regulation, a local government may continue to follow the general complaints process under the repealed Act before 1 July 2011.

### **194 Long-term community plan**

- (1) Despite section 126, a local government is not required to prepare and adopt a long-term community plan until 1 December 2011.
- (2) However, a local government may, before 1 December 2011, adopt another of its documents (a ***comparable document***) as its long-term community plan if—
  - (a) the comparable document complies with section 104(4)(a) of the Act; and
  - (b) the local government is reasonably satisfied the comparable document would comply with sections

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126(1)(a) and 127, if the provisions applied to the comparable document.

## Schedule Dictionary

### section 3

*2-year averaged value* see section 9(1).

*3-year averaged value* see section 10(1).

*5-year corporate plan*, for a local government, means its 5-year corporate plan adopted under section 120.

*Accounting Standard AASB 116* means Accounting Standard AASB 116 issued by the Australian Accounting Standard Board.

*advertising* see section 141(2).

*advertising spending policy* see section 142(1).

*annual budget*, for a local government, means its annual budget under chapter 3, part 2, division 1.

*annual implementation plan*, for a local government, see section 28(8).

*annual report*, for a local government, means its annual report under chapter 3, part 3, division 1.

*asset consumption ratio* see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

*asset sustainability ratio* see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

*auditor-general's report* means a report under the *Auditor-General Act 2009*, section 40.

*Business Activities Regulation* means the *Local Government (Beneficial Enterprises and Business Activities) Regulation 2010*.

*categorisation officer* means a person appointed under section 18.

***change of owner notice***, for chapter 2, part 13, division 3, see section 93.

***community engagement policy***, for a local government, see section 130(1).

***community financial report***, for a provision about a local government, means its community financial report under section 103.

***community grants policy*** see section 138(1).

***community organisation*** means—

- (a) an entity that carries on activities for a public purpose; or
- (b) another entity whose primary object is not directed at making a profit.

***community service obligations*** see section 22 of the Business Activities Regulation.

***community titles Act*** means—

- (a) the *Body Corporate and Community Management Act 1997*; or
- (b) the *Building Units and Group Titles Act 1980*; or
- (c) the *Integrated Resort Development Act 1987*; or
- (d) the *Mixed Use Development Act 1993*.

***concession***, for rates or charges, means a concession granted under chapter 2, part 10.

***contracting activities***, for chapter 4, see section 165(2).

***contracting plan*** see section 169(3).

***control measure***, for managing a risk, means a measure that may be adopted for managing the risk.

***court proceedings*** means proceedings in a court having jurisdiction for the recovery of a debt in the amount claimed.

***differential general rates*** see section 14(2).

***discount period*** see section 64(2).

***due date for payment***, for rates or charges, means—

- (a) the due date stated in the rate notice by which the rates or charges must be paid; or
- (b) if a concession defers payment of the rates or charges under section 55(b)—the due date stated in the agreement to defer payment of the rates or charges under the concession; or
- (c) if a concession accepts a transfer of unencumbered land in full or part payment of the rates or charges under section 55(c)—the due date stated in the agreement to accept the transfer.

***entertainment and hospitality policy*** see section 140(1).

***financial assistance amount*** see section 189(2).

***financial institution account*** means an account with a financial institution.

***Financial Management (Sustainability) Guideline 2009*** means the document of that name published by the department.

*Editor's note—*

The document may be obtained from the department's head office at 100 George Street, Brisbane and is available on the department's website at <[www.dip.qld.gov.au](http://www.dip.qld.gov.au)>.

***government body*** is—

- (a) the State, a government entity, a corporate entity, or another local government; or
- (b) another Australian government, an entity of another Australian government; or
- (c) a local government of another State.

***interest coverage ratio*** see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

***interested parties***, for chapter 2, part 12, division 3, are—

- (a) the owner of the land; and

- (b) the holder of any registered interest in the land; and
- (c) any encumbrancee, lessee or trustee of the land who has given the local government notice of their interest in the land.

**internal audit** see section 155(2).

**internal audit plan** see section 156(5).

**internal audit progress report** see section 142(2).

**land record** see section 87(2).

**large-sized contract** see section 173(3).

**market value**, of land for chapter 2, part 12, division 3, see section 71.

**medium-sized contract** see section 173(2).

**meter** includes any measuring device.

**net financial liabilities ratio** see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

**new owner**, for chapter 2, part 13, division 3, see section 93.

**notice** means a written notice.

**notice of intention to acquire**, for land, see section 82(3).

**notice of intention to sell**, for land, see section 74(4).

**objection notice** see section 24(4).

**operating fund** see section 147(1)(a).

**operating surplus ratio** see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

**Operations Regulation** means the *Local Government (Operations) Regulation 2010*.

**overall plan** see section 28(4).

**overdue**, for rates or charges, see section 66.

**pensioner** means a person who is the holder of a pensioner concession card issued by the department of the



Commonwealth responsible for administering the *Social Security Act 1991* (Cwlth) or the *Veterans' Entitlements Act 1986* (Cwlth).

***preferred supplier arrangement*** means a preferred supplier arrangement under section 182.

***pre-qualified supplier*** see section 181(4).

***previous owner***, for chapter 2, part 13, division 3, see section 93.

***procurement policy*** see section 143(1).

***rateable value*** see section 8(2).

***rate notice*** see section 38(2).

***rate payer*** is a person who is liable to pay rates or charges.

***rating category*** see section 15(1).

***rating category statement*** see section 22(4).

***registered interest***, in land, means an interest in the land that has been registered by the registrar of titles.

***relevant accounting document*** see section 102(2).

***relevant measures of financial sustainability*** see section 99(3).

***remuneration schedule*** means the remuneration schedule prepared under section 42 of the Operations Regulation.

*Editor's note—*

At the commencement of this section, the remuneration schedule was available for inspection on the department's website at <[www.dip.qld.gov.au](http://www.dip.qld.gov.au)>.

***reserve***, for an operating fund, means a reserve under section 148.

***significant contract*** see section 169(3)(g).

***State encumbrance*** see section 72(2).

***statement of estimated financial position*** see section 153(2).

***strategic approach*** see section 166(2).

***trust fund*** see section 145(2).

*trust money* see section 145(3).

*valuable non-current asset* see section 173(5).

*valuable non-current asset contract* see section 173(4).

*Valuation of Land Act* means the *Valuation of Land Act 1944*.

*value*, of land, see section 6.

*water service* see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

*working capital ratio* see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

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#### ENDNOTES

- 1 Made by the Governor in Council on 17 June 2010.
- 2 Notified in the gazette on 18 June 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Infrastructure and Planning.

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