

# LOCAL GOVERNMENT LEGISLATION AMENDMENT BILL 1994

## EXPLANATORY NOTE

### GENERAL OUTLINE

#### Objective of the Legislation

The Bill amends the *City of Brisbane Act 1924* to provide the chief returning officer and returning officers for Brisbane City Council elections with the necessary powers under the *Electoral Act 1992* to conduct the 1994 triennial elections.

The Bill also amends the *Local Government Act 1993* as follows:—

- to postpone the 1994 triennial elections for the Warwick City Council and the Allora, Glengallan and Rosenthal Shire Councils;
- to correct minor omissions made to the consequential amendments to the *Building Act 1975* contained in the Schedule to the *Local Government Act 1993*.

#### Reasons for the Bill

##### • Conduct of Brisbane City Council Elections

Under the *City of Brisbane Act 1924*, all the provisions of the *Electoral Act 1992*, so far as they can be applied, are applicable to the conduct of every Brisbane City Council election. The *City of Brisbane Act 1924* further provides that the chief returning officer (who is also the town clerk) and the returning officers for the purposes of Council elections have all the powers, authorities and duties conferred and imposed upon a returning officer for State elections.

The *Electoral Act 1992* replaced the *Elections Act 1983* under which previous Council elections were held.

Under the *Electoral Act 1992*, the Electoral Commission is now responsible for certain functions that were previously performed by returning officers for State elections.

As the legislation presently stands, the chief returning officer for Brisbane can no longer perform all the functions necessary for conducting the Brisbane City Council elections as the powers of the chief returning officer are limited to that of a returning officer under the *Electoral Act 1992*.

To rectify the situation, the proposed legislation provides the chief returning officer and returning officers with the necessary powers to conduct the 1994 triennial elections and any subsequent election, in accordance with the *Electoral Act 1992*.

- **Postponement of Certain Local Government Elections**

The Local Government Commissioner is currently examining a reference made by the Minister on 21 January 1994 on reviewable local government matters under the *Local Government Act 1936* dealing with the external boundaries of the City of Warwick and the Shires of Allora, Glengallan and Rosenthal and parts of the Shire of Stanthorpe.

An identical reference was previously considered by the Commissioner and in the final report made to the Minister on these matters, the Commissioner recommended the Areas of the City of Warwick and the Shires of Allora, Glengallan and Rosenthal be abolished and a new Local Government be created by merging the four Areas.

As a result of legal action taken by the Rosenthal Shire Council, the recommendations in the Commissioner's final report were quashed by the Supreme Court on 21 January 1994. The Court's decision resulted from a procedural defect in the Commissioner's review process rather than the merits of the Commissioner's recommendations.

It is proposed to postpone the triennial elections for these Councils (scheduled for 26 March 1994) pending consideration of the Commissioner's recommendations to be made on the reference dated 21 January 1994.

- **Minor Consequential Amendments**

The *Local Government Act 1993* provides for certain consequential amendments to the *Building Act 1975* as a result of the new definitions, terms and provisions in the *Local Government Act 1993*.

Certain minor errors and omissions occurred in those consequential amendments. The proposed legislation rectifies these minor errors and omissions in the amendments to the *Building Act 1975* which are due to commence on 26 March 1994.

### **Estimated Cost for Government Implementation**

There are no additional costs incurred by the Government.

### **Consultation**

The Brisbane City Council and the Local Government Association of Queensland (Inc.) have been consulted on the provisions of the Bill. The Council supports the amendments to the *City of Brisbane Act 1924*. The Association has no objections to the provisions of the Bill.

The Warwick City Council and the Allora, Glengallan and Rosenthal Shire Councils have been advised that it is proposed to introduce legislation to postpone the triennial elections for their respective Councils.

**NOTES ON PROVISIONS****PART 1—PRELIMINARY**

*Clause 1* sets out the short title of the Act.

*Clause 2* provides for the commencement of the Act. In this respect, the amendments to the *City of Brisbane Act 1924* commence retrospectively from 1 February 1994.

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

*Clause 3* provides for the amendment of the *City of Brisbane Act 1924*.

*Clause 4* provides for the powers of the chief returning officer and returning officers when conducting elections for the Brisbane City Council in accordance with the provisions of the *Electoral Act 1992* (to the extent that those provisions can be applied to Council elections).

This is an updating amendment as a result of the enactment of the *Electoral Act 1992* and the repeal of the *Elections Act 1983*. The provisions commence retrospectively from 1 February 1994 to cover any part of the electoral process carried out by the chief returning officer in respect of the conduct of the 1994 triennial elections.

**PART 3—AMENDMENT OF LOCAL GOVERNMENT  
ACT 1993**

*Clause 5* provides for the amendment of the *Local Government Act 1993*.

*Clause 6* provides for the commencement from the date of Royal Assent of those provisions in clause 7 that provide for the postponement of certain local government elections.

*Clause 7* provides for the postponement of the 1994 triennial elections for the Warwick City Council and the Allora, Glengallan and Rosenthal Shire Councils to a date to be determined by regulation.

The provisions of the clause also provide for the facilitation of the holding of the postponed triennial elections e.g. enabling the voters roll for a postponed election to be compiled to a date determined by regulation.

The provisions also invalidate and rationalise those electoral processes that have already been carried out by the returning officers of the respective local governments, e.g. invalidating nominations for candidature and refunding nomination fees.

*Clause 8* provides for certain minor amendments to the consequential amendments to the *Building Act 1975* contained in the Schedule to the *Local Government Act 1993*.