

Local Government Reform Implementation Bill 2007

Explanatory Notes

Title of the Bill

Local Government Reform Implementation Bill 2007

Introduction

On 19 April 2007, Parliament determined there was a need for structural reform of local government to create stronger councils with greater capacity to deliver services and infrastructure to Queensland communities.

The Local Government Reform Commission (the Commission) was established to undertake a State-wide review (excluding Brisbane City Council) to address these features of local government in Queensland. The Commission was directed to review Queensland local government with a view to facilitating improved governance and service delivery to Queensland communities over and above current structural arrangements, and maximising existing regional links to enhance the social, environmental and economic future of Queensland communities.

Objectives of the Bill

The primary objective of the Bill is to amend the *Local Government Act 1993* (LGA) to implement a restructure of Queensland local governments that improves the sustainability of, and service delivery to, all Queensland communities. It aims to establish local governments that:

- facilitate optimum service delivery to Queensland communities;
- effectively contribute and participate in Queensland's regional economies;
- better manage economic, environmental and social planning consistent with regional communities of interest; and
- effectively partner with other levels of government to ensure sustainable and viable communities.

The Bill also gives effect to the recommendations of the Local Government Reform Commission, published on 27 July 2007.

The final objective of the Bill is to provide for the transition of existing local governments to new arrangements.

How objectives are achieved

The objective of stronger local governments in Queensland will be achieved by provisions in the Bill which:

- implement the Local Government Reform Commission's recommendations for structural reform involving boundary, class, composition and name changes;
- provide for transition arrangements for local governments, including Local Transition Committees and Interim Chief Executive Officers;
- provide for a Local Government Remuneration Tribunal to divest local councils of the responsibility to determine the remuneration levels of local government elected officials;
- ensure the Electoral Commission of Queensland will conduct the 2008 quadrennial local government elections;
- provide a Local Government Workforce Transition Code of Practice to deal with the impacts of local government reform on council employees and their employment circumstances, in a sensitive and just manner.

Amendments to the LGA are required to give effect to boundary changes of local government and provide for the orderly transition of local governments to new governance arrangements through the transition provisions. The Bill also increases the accountability and transparency of local government through the establishment of the Remuneration Tribunal.

Alternative method of achieving the policy objectives

There are no other viable alternatives to amending the LGA that will achieve the policy objectives.

Estimated cost for Government implementation

A State Government funding package of \$36.22 million will support local government reform to ensure the expected benefits can be realised.

This will include funding for a number of components including:

- funding to councils to associated with cost of transition;
- funding to councils associated with “an employment framework for Local Government Reform in Queensland (Staff Support Package)”;
- funding for the Department of Local Government, Planning, Sport and Recreation to fulfil its role in transition; and
- funding to Local Transition Committees associated with costs of transition.

Consistency with Fundamental Legislative Principles

The Bill has been drafted with regard to fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

The Bill does include provisions which depart from the fundamental legislative principles of the dependency on administrative power and its review, and the sufficiency of regard to the institution of Parliament. The relevant provisions are the intervention powers for the Minister and the establishment of internal electoral boundaries using a regulation.

The provisions for administrative intervention are required to balance the proposed local led implementation process. The establishment of local transition committees to lead reform implementation needs to be balanced with measures to ensure certainty for reform implementation in the event there is failure at the local level. The intervention powers are limited to purposes of implementing the new arrangements and require a threshold of inaction or failure in order to be activated.

The Bill also contains provisions that prevent a local government from conducting a poll in relation to local government reform or its implementation. This applies even though some local governments have legitimately initiated a process under the *Local Government Act 1993*. This provision establishes the Government’s policy that the holding of polls is not an appropriate action for local governments during this reform process.

The provision to exempt the determination of internal boundaries from judicial review is reflective of previous provisions in place for the determinations of the Local Government Reform Commission. It is important for the reform process to be effected by the 15 March 2008 elections and these provisions avoid

Consultation

Consultation has occurred on all or some aspects of the Bill with the Department of Premier and Cabinet, Queensland Treasury, and the Departments of Communities, Justice and Attorney-General, Housing, Employment and Industrial Relations and Natural Resources and Water. The Electoral Commission of Queensland was also consulted about provisions to conduct the 2008 local government elections.

The State Transition Committee established to oversee reform implementation and its members have assisted in the development of various elements of the Bill.

All agencies were asked to advise on agency projects, programs, initiatives or legislation that may be impacted by local government reform. Twenty-one agencies responded outlining a range of matters that were largely administrative or operational in nature. The Department will continue to discuss the ongoing implications of local government reform with all State agencies.

The Commission received more than 47,000 submissions and the Commission's report indicates that it considered the 3,796 detailed submissions that provided suggestions for improving the structure of Queensland's local governments.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 provides the short title to the Act.

Part 2 Amendment of the Local Government Act 1993

Act amended in pt 2

Clause 2 provides that part 2 amends the *Local Government Act 1993*.

Amendment of s 18 (Declaration of classes of local government areas)

Clause 3 amends section 18 (Declaration of classes of local government areas) to insert “region” as a new class of local government. The Local Government Reform Commission identified “region” as an additional class of local government in its Report to the Minister. The term region was applied to new local government areas comprising of two or more existing local governments that did not meet the existing criteria for “city” or “town” as set out in section 7 of the *Local Government Regulation 2005*.

Amendment of s 34 (Local government name)

Clause 4 amends section 34 (Local government name). The amendment provides that a regional local government may be called either –

- (a) Council of the Region of ... (insert name of local government area); or
- (b) (insert name of local government area) Regional Council

Insertion of new ch 3, pt 1B

Part 1B Implementation of whole of Queensland local government boundaries reform

Clause 5 inserts a new Part 1B into the *Local Government Act 1993* to provide for the transition and implementation of new or adjusted local government boundaries following the State’s endorsement of new local government boundaries as recommended by the Local Government Reform Commission.

Division 1 Preliminary

Clause 5 inserts a new Division 1 in the newly created Part 1B of Chapter 3 of the *Local Government Act 1993* that includes the following new provisions:

Insert of new section 159YA Application of pt 1B

New section 159YA provides that part 1B does not apply to Brisbane City Council but does apply to Torres Strait Island local government established under the *Community Services (Torres Strait) Act 1984*.

Insertion of new section 159YB Objectives of pt 1B

New section 159YB sets out three objectives of implementing local government structural reforms. They include Local Government Reform charter as specified in section 159B, to change boundary and governance arrangements and ensure existing local governments can transition smoothly to the new arrangements.

Insertion of new section 159YC (operation of pt 1B in relation to pt1)

New Section 159YC clarifies that the requirements of the *Local Government Act 1993* relating to implementation of reviewable local government matters do not apply to the implementation of reform matters. Refer new Division 3 for more detail about reform implementation matters.

Insertion of new section 159YD (definitions for pt 1B)

New Section 159YD provides a dictionary of terms relating to the creation of new local governments and the adjustment of external boundaries for new and continuing local governments.

Insertion of new section 159YE (changeover day)

New Section 159YE provides that the changeover day for new, adjusted and continuing local government areas is-

- at the conclusion of the last 2008 quadrennial election held under these provisions; or

- an earlier or later date advised (by gazette notice) by the Minister.

Division 2 Establishment of new local government areas and adjustments of local government areas

Clause 5 inserts a new Division 2 in the newly created Part 1B of Chapter 3 of the *Local Government Act 1993* that includes the following new provisions:

Subdivision 1 Preliminary

A new subdivision 1 is created for Division 2, Part 1B of Chapter 3 of the *Local Government Act 1993* and includes the following new sections:

Insertion of new section 159YF (operation of sch 1A)

New section 159YF provides for the identification and constitution of new, adjusted and continuing local government areas in Schedule 1A by way of name and map identification. It provides that maps may be inspected in the office of the Department.

Subdivision 2 New local government areas

A new subdivision 2 is created for Division 2, Part 1B of Chapter 3 of the *Local Government Act 1993* and includes the following new sections:

Insertion of new section 159YG (establishment of new local government areas (sch 1A, pt1))

New Section 159YG provides that on changeover day (see Section 159YE for a definition of change-over day) new local government areas are established for parts of the State and identified in Part 1, Schedule 1A and each equivalent existing local government area is abolished. This is in accordance with the recommendations provided in the 2007 Local Government Reform Commission report.

Insertion of new section 159YH (operation of sch 1A, pt 1)

New Section 159YH describes the arrangements of Part 1, Schedule 1A which sets out new local government areas by name, class, area map, electoral arrangements (divided/undivided) and composition. Where an area is divided, all divisions are single member divisions and the division boundaries are shown in an area map stated in a regulation.

Section 159YH also provides a regulation making head of power to amend division boundaries as specified in column 4 of Part 1, Schedule 1A.

Subdivision 3 Adjusted local government areas

A new subdivision 3 is created for Division 2, Part 1B of Chapter 3 of the *Local Government Act 1993* and includes the following new sections:

Insertion of new section 159YI (transfer of transferring areas)

New Section 159YI identifies the transferring local government areas to be excluded from one existing local government area and included in another existing local government area to take effect on changeover day.

Insertion of new section 159YJ (operation of sch 1A, pt 2)

New Section 159YJ provides that Schedule 1A, Part 2 describes the transferring local government areas which on changeover day become adjusted local government areas because of an inclusion or exclusion of a transferring area.

Section 159YJ also provides that Part 2, Schedule 1A describes adjusted local government areas by name, class, area map, electoral arrangements (divided/undivided) and composition. Where an area is divided, all divisions are single member divisions and the division boundaries are shown in an area map stated in a regulation.

Subdivision 4 Continuing local government areas

A new subdivision 4 is created for Division 2, Part 1B of Chapter 3 of the *Local Government Act 1993* and includes the following new sections:

Insertion of new section 159YK (changes applying to continuing local government areas)

New section 159YK provides that each continuing local government area which is divided for electoral purposes, ceases to be divided and that its composition is changed to the composition provided for in Part 3, Schedule 1A.

Insertion of new section 159YL (operation of sch 1A, pt 3)

New section 159YL describes the arrangement of Part 3, Schedule 1A which sets out the continuing local government areas by name, class, area map, electoral arrangements (divided/undivided) and composition. Where an area is divided, all divisions are single member divisions and the division boundaries are shown in an area map stated in a regulation.

Subdivision 5 (Regulations supporting divisions 2-4)

A new subdivision 5 is created for Division 2, Part 1B of Chapter 3 of the *Local Government Act 1993* to limit the scope of regulations on divisional arrangements (new sections 159YM and 159YMA).

Insertion of new section 159YM (Limit of division arrangements regulation)

New Section 159YM limits the provisions of a division arrangements. The regulation may also provide for the identification of another map for internal electoral boundaries but must not affect the external local government area boundary.

Insertion of new section 159YN (Regulation for declaring information about local governments)

New section 159YN provides a head of power to make a regulation to provide for the recording of the information in Schedule 1A.

Subdivision 6 Division boundaries for new, adjusted and continuing local government areas

A new Subdivision 6 is created for Division 2, Part 1B of Chapter 3 of the *Local Government Act 1993* and includes the following new sections:

Insertion of new section 159YO Commissioner to decide division boundaries

New section 159YO requires the Electoral Commissioner to decide division boundaries for areas described in schedule 1A, part 1, 2 or 3, column 4 as 'divided', by 15 September 2007. The section also provides how the commissioner is to undertake public consultation and which information and principles the commissioner must heed when deciding divisions.

Insertion of new section 159YP Review of commissioner's decision

New section 159YP provides that decision by the commissioner in relation to a division is final and conclusive and not subject to judicial or any other review and is not subject to any writ or order by a court or another entity on any ground.

Division 3 Implementation of reform matters

A new Division 3 is created for Part 1B of Chapter 3 of the *Local Government Act 1993* and includes the following new sections:

Insertion of new section 159YQ (reform implementation regulations)

New section 159YQ provides for general regulation making power which will enable a reform matter to come into effect. The matters for which a reform implementation regulation may be made can include, in certain circumstances, those as listed in section 157 (Implementation of reviewable local government matter) of the *Local Government Act 1993*. Subsection 5 of this clause lists other matters for which a reform implementation regulation may be made including:

- continuation of local laws, delegations, employment of staff;
- amendment of existing / establishment of new planning schemes;
- vesting of property changes; and
- empowering the Local Government Grants Commission to apportion assets and liabilities from an existing local government to a new local government.

Division 4 Local transition Committees

A new Division 4 is created for Part 1B of Chapter 3 of the *Local Government Act 1993*.

Subdivision 1 (Local transition committees for new local government areas)

A new subdivision 1 is created for Division 4, Part 1B of Chapter 3 of the *Local Government Act 1993* and includes the following new sections:

Insertion of new section 159YR (Establishment and composition of local transition committees for new local governments)

The purpose of Local Transition Committees is to help transition existing local governments to the period up to the conclusion of the 2008 quadrennial elections. Local Transition Committees will commence from when this Bill receives assent and will cease to operate with the election of new local governments following the March 15 2008 local government quadrennial elections.

A Local Transition Committee will provide advice and recommendations to the new local government on a range of change management issues. Specifically, Local Transition Committees will oversee the development of a Transition Action Plan which will outline to incoming local governments, prioritised activities and projects that the incoming local government will need to undertake to ensure that the momentum of change is not adversely impacted.

Section 159YR provides that a Local Transition Committee will be established for a new local government area by those local governments whose local government area on change-over day, is partly or completely abolished to form part of a new local government area. The changeover day is defined under new section 159YE of this Bill.

New section 159YR also provides that a Local Transition Committee for a new local government area must have the following membership:

- two councillors from each merging local government;
- up to three union representatives as nominated by relevant unions which are the Australian Workers' Union The Australia Services Union and the Queensland Council of Unions; and

- upon appointment, the interim Chief Executive Officer.

A Local Transition Committee may also appoint voting members from the community to represent the views of the community.

The Local Transition Committee is responsible for electing a chairperson from the elected local government representatives.

Insertion of new section 159YS (Guidelines for local transition committees)

A State Transition Committee has been established by the State government to guide the transition of new local government arrangements. The State Transition Committee membership includes:

- State Government Departments
- Local Government Association of Queensland
- Local Government Managers Australia
- Representatives from Aboriginal and Torres Strait Island councils
- Unions representing the local government workforce

New section 159YS provides for the publication of guidelines to assist Local Transition Committees. The State Transition Committee is to be consulted before the guidelines are published.

Section 159YS lists the types of matters to be included in the guidelines.

Insertion new section 159T (Responsibility to act in public interest)

New section 159T is provided to ensure that implementation of local government reforms is done with a primary focus on the public interest of the new local government for the area. This provision makes clear that Local Transition Committee member are to give preference to the public interest where there are matters of conflict with private interest. New section 159YT also allows an existing councillor to put the interest of the new council above that for their current council.

The guidelines to be issued by the Chief Executive Officer of the Department will provide further guidance for Local Transition Committee members on dealing appropriately with any conflicts of interest they may experience. This will help to ensure that private interests are disclosed by members before the committee's deliberations occur.

Insertion of new section 159YU (Functions of local transition committee)

New section 159YU establishes the functions of Local Transition Committees. These functions include:

(a) to appoint an interim chief executive officer for the new local government for the new local government area

This is one of the key responsibilities of Local Transition Committees. The Local Transition Committee is to provide notice to the Chief Executive of the Department about the appointment of an Interim Chief Executive Officer. New Division 6 provides for the appointment of an interim Chief Executive Officer in more detail.

(b) to oversee the implementation of an approved framework for managing industrial relations and workforce transition in the period leading up to the 2008 quadrennial elections

The Local Transition Committee will oversee the implementation of the approved framework for managing industrial relations and workforce transition as endorsed by the State Transition Committee, in the period prior to the conclusion of the 2008 quadrennial local government elections.

The State Transition Committee has developed a framework for Employment Sub-Committees to be established by each Local Transition Committee. That framework provides for managing industrial relations and workforce transition and it is the Local Transition Committee's responsibility to ensure that the implementation of such occurs.

The Local Transition Committee's Employment Sub-Committee is to develop an Industrial Relations Plan that will form part of the Transition Action Plan. The Industrial Relations Plan is to map key industrial instruments, and identify priorities for the new council relating to the industrial relations environment.

(c) to oversee the preparation of a transition action plan

While the interim chief executive officer is tasked with preparing a Transition Action Plan for a new local government, the Local Transition Committee oversees the development of, and approves, the Plan. Transition Action Plans are provided for in detail in new Division 5. The guidelines to be issued by the chief executive of the Department will guide Local Transition Committees about the content and scope of Transition Action Plans.

(d) to inform the local governments required to be represented on the committee, and the community generally, to promote a full understanding of the processes for establishing the new local government

Local Transition Committees are responsible for informing the community and local governments within their sphere of concern to ensure stakeholders have a full understanding of the processes for establishing the new local government or changed arrangements.

A key role of the Local Transition Committee is to consult with the community and the new local government, or where part of a local government area is being transferred, the adjusted local government. The Local Transition Committee will be the primary distribution and collection points of information relating to the implementation of local government reform.

The guidelines to be provided by the State government will guide the Local Transition Committees about engagement and consultation matters.

(e) approve an interim executive organisational structure for the new local government for the new area

Another key deliverable of the Local Transition Committee is to approve an interim executive organisational structure for the new local government for the new area, or amended area where applicable. The new organisational structure will be presented to the new local government for the area, once it is formed, by the interim chief executive officer. The interim executive organisational structure will assist with staff transitioning to a new local government and will be used as a communication tool for local government staff broadly.

The interim Chief Executive Officer is responsible for preparing the interim executive organisational structure and the Local Transition Committee must approve it.

(f) to provide guidance and support to the local governments required to be represented on the committee for resolving issues in the period leading up to the 2008 quadrennial elections

Local Transition Committees play a role in facilitating solutions to concerns raised by local governments represented on the committee. For example, the Local Transition committee may refer staff issues and matters relating to the impact of the local government reform on employees to the Employment Sub-Committee for advice for the purpose of making recommendations to the local government concerned.

(g) to establish financial and administrative arrangements for its own operation.

Potential establishment, operation and travel expenses could arise from the establishment of a Local Transition Committee. These costs are to be met by the existing local governments. Except in the case of the Interim CEO, Local Transition Committee members will not be entitled to additional remuneration for their function as a member of the Local Transition Committee. The Local Transition Committee guidelines will ensure financial and administrative processes for the Committee's operations are undertaken in consultation with the adjusted local governments to ensure that the processes are compatible with existing systems.

Insertion of new section 159YV (First meeting of local transition committee and public notification)

New section 159YV requires a local transition committee to hold its first meeting as soon as possible after commencement of this section as one of the key deliverables of the local transition committee such as the appointment of the chairperson are required to be notified within 30 days of commencement of this section. The first meeting of the Committee also triggers another deliverable, the appointment of the interim chief executive officer.

To ensure the State Transition Committee can monitor the progress of local transition committees and ensure the effective implementation of the local government reform, Local Transition committees are required to publicly notify their establishment and copy the notice to the chief executive of the Department.

The Local Transition Committee guidelines will provide suggestions about arrangements for the first meeting.

Insertion of new section 159YW (appointment of interim chief executive officer for new local government)

New section 159YW requires a local transition committee to appoint an interim chief executive officer for the new council for a new area within 30 days of the committee's first meeting.

If the interim chief executive officer is an employee of one of the councils represented on the local transition committee, the council must continue to employ the chief executive officer on the terms the committee requires provided the terms are reasonable. However the interim chief executive officer cannot hold two positions concurrently. Upon appointment, the

interim chief executive officer cannot continue to hold an appointment as the chief executive officer of the existing local government.

If the interim chief executive officer is not an employee of an existing local government, the committee must nominate one or more of the local governments to be the employer of the interim chief executive officer. For the Torres Strait Island Regional Council local transition committee, if the interim chief executive officer is not an employee of a represented local government, the Island Coordinating Council must employ the interim chief executive officer.

Insertion new section 159YX (Employment subcommittee)

This provision requires a local transition committee to establish an employment subcommittee and provides for the composition and function of the subcommittee.

One of the roles of the Employment Sub-Committee will be to develop a draft Industrial Relations Plan. The Industrial Relations Plan maps key industrial instruments, and identifies priorities for the new local government relating to the industrial relations environment. This draft Industrial Relations Plan will form part of the Transition Action Plan.

Subdivision 2 (Transferring area local transition committees)

This new subdivision is created within new Division 4, of new Part 1B of Chapter 3 to provide for the establishment, composition and functions of Local Transition Committees for local governments that are transferring areas only (that are not to be new local governments as provided for in this Bill). The new subdivision includes the following new sections:

Insertion of new section 159YY (Establishment and composition of transferring area local transition committees)

This provision lists the councils that are required to establish transferring area local transition committees.

Insertion of new section 159YZ (Functions of transferring area local transition committees)

This provision applies the functions of a local transition committee (with changes) to a transferring area local transition committee. Specifically a transferring area local transition committee must not appoint an interim chief executive officer.

Division 5 Transition action plans

This new Division 5 is created within new Part 1B of Chapter 3 to provide for Transition Action Plans and provides the following new sections:

Insertion of new section 159Z (Transition action plans for new local government area)

New section 159Z provides that it is the responsibility of the interim Chief Executive Officer to prepare a transition action plan to be approved by the local transition committee. The State Transition Committee will supply a transition action plan template to the local transition committee to assist with this requirement.

The aim of the transition action plan is to ensure the new or adjusted local government is in a position to operate effectively from changeover day. The transition action plan will be used by the new or adjusted local government to prioritise and manage change through the transition phase. To ensure the best outcome for the Plan consultation with chief executive officers of merging local governments for the new local government area must be undertaken by the interim chief executive officer.

Insertion of new section 159ZA (Guidelines for transition action plans)

New section 159ZA provides for the Chief Executive of the department to publish guidelines for Transition Action Plans on the department's website. The guidelines and a Transition Action Plan template, prepared by the State Transition Committee will guide Local Transition Committees in the preparation of their Plans. The Transition Action Plan is a key deliverable of the Local Transition Committee and as such, it is necessary for interim Chief Executive Officers to ensure that it is prepared in accordance with the guidelines and using the template as a guide.

The guidelines provide for the Transition Action Plan approval process and detail the process for completing the plans. The scope of the plan, including that the interim organisational structure and the Industrial Relations Plan that will form part of the Transition Action Plan is also outlined in the guidelines.

Division 6 Interim chief executive officers

A new Division 6 is created within Part 1B of Chapter 3 of the *Local Government Act 1993* to provide for the functions of interim Chief Executive Officers during separate phases of the reform process. This division provides the following new sections:

Insertion of new section 159ZB (Functions of interim chief executive officer before changeover day)

New section 159YW provides that an interim Chief Executive Officer must be appointed by the Local Transition Committee within 30 days of the first meeting of the Local Transition Committee. New section 159ZB outlines the functions of the interim Chief Executive Officer prior to changeover day. The definition of *changeover day* is provided in new section 159YE.

The general function of the interim chief executive officer during this period is to oversee all aspects of establishing the new local government. This might require an assessment of the governance arrangements, output and outcomes of the local governments to be merged and development of strategies, a budget and processes to ensure that the affected local governments are appropriately and positively transitioned to the new local government structure.

Specific functions required to be carried out prior to changeover day include developing a draft organisational structure for the new local government, ensuring staff engagement, review and assessment of systems and collaboration with the local transition committee to ensure adequate preparation for the 2008 quadrennial elections.

Insertion of new section 159ZC (Responsibility of chief executive officer to help interim chief executive officer)

This provision requires the chief executive officer of an existing local government to provide all necessary assistance to the relevant interim chief executive officer of a new local government. The chief executive officer of an existing local government must give the local government's financial statements and other financial information to the interim chief executive officer in a timely manner.

Insertion of new section 159ZD (Functions of interim chief executive officer from changeover day)

New section 159ZD provides that following the local government elections, the interim CEO immediately becomes the acting CEO of the new local government. The acting CEO will retain all the functions held as interim CEO and be employed on the same terms and conditions as employed as the interim CEO. The officer will remain in the position until the new local government appoints a permanent CEO through an open merit selection process. Subsection (3) requires the new local government to act expeditiously to appoint a permanent CEO within six months of changeover day.

Division 7 Employment matters

A new Division 7 is provided in Part 1B of Chapter 3 of the *Local Government Act 1993* to provide for matters relating to the employment of local government staff. This new division provides the following new sections:

Insertion of new section 159ZE (Definition for div 7)

This provision provides definitions for terms used in this division (Employment matters). The definition encompasses long term casual and temporary employees.

Insertion of new section 159ZF (Application for div 7)

New section 159ZF applies Division 7 to:

- Any local government existing from the commencement of the section until three years from the 2008 local government quadrennial elections (16 March 2011). This includes continuing and new local governments that exist on or after the change-over day; and
- a person who is defined as an employee of a local government, other than a chief executive officer.

The provision applies to existing and new local governments to ensure that all local government staff affected by the local government reform process receive maximum employment security through an open, fair, consistent, positive and supportive transition.

Insertion of new section 159ZG (Prohibition on retrenchment because of reform matter implementation)

New section 159G provides that a local government must not terminate an employee's employment with the local government due to the implementation or effect of a reform matter under this Bill. Mayors, councillors, chief executive officers of local governments are excluded from the retrenchment provisions.

Insertion of new section 159ZH (Local government workforce transition code of practice)

New section 159ZA provides for the Minister to approve a workforce transition code of practice to maximise employment security for local government employees affected by the transition to new and adjusted local government areas. The code may establish employment terms and conditions that are consistent with the essential principles of maintaining service delivery levels and minimal disruption to work locations for employees, as well as a range of specified supporting principles.

Local governments are required to conform with the workplace transition code of practice to the extent that the code applies to their local government.

Insertion of new section 159ZI (When workforce transition code of practice takes effect)

New section 159ZI provides for the commencement, and notification of that commencement, of a Workforce Transition Code of Practice. The Minister will give notice of the Workforce Transition Code of Practice by gazettal notice and the code will take effect from the date of the gazettal notice unless a later day is stated in the notice.

To assist local governments affected by the local government reform, the Workforce Transition Code of Practice will be published on the department's website.

Division 8 (2008 quadrennial elections for all local government areas)

New Division 8 of Part 1B of Chapter 3 of the *Local Government Act 1993* provides for the 2008 quadrennial elections for all local government areas. Specifically, it inserts the following new sections:

Insertion of new section 159ZJ (Quadrennial elections in 2008 to be held on 15 March instead of 29 March)

Council elections are held every four years in Queensland. New Section 159ZJ provides that the 2008 quadrennial local government elections (including Brisbane City Council and Aboriginal and Torres Strait Islander Councils) will occur on 15 March 2008 (or a different date fixed by regulation for one or more quadrennial elections) instead of the quadrennial election scheduled for 29 March in accordance with the current provisions of the *Local Government Act 1993*. These elections will be based on new local government areas arising from the reform process and will put in place mayors and councillors for Queensland's new local governments.

Insertion of new section 159ZK (Holding of 2008 quadrennial elections)

New Section 159ZK provides that the 2008 quadrennial local government elections for mayors and councillors (except Brisbane City Council) of new, adjusted and continuing local governments under the local government reform process will be conducted according to the existing provisions of Chapter 5 (Local Government elections) of the *Local Government Act 1993* except for those other provisions mentioned in this Division.

For the 2008 elections, new local governments created through the reform process will be classified as type 1 (new local government), type 2 (adjusted local government) and type 3 (continuing local government).

Insertion of new section 159ZL (Conduct of 2008 quadrennial elections by electoral commission)

New Section 159ZL provides that the 2008 quadrennial local government elections for all new, adjusted and continuing local governments will be conducted by the Electoral Commission of Queensland as the Chief Returning Officer. The Chief Returning Officer will have overall

responsibility for the proper conduct of the elections and has all the powers and functions of a Returning Officer under the *Local Government Act 1993*. More specifically, the Chief Returning Officer will appoint (and give directions) to Returning Officers, Assistant Returning Officers, determine the public elections office for each local government area and approve election forms required for the elections.

The Crime and Misconduct Commission's Report of its Inquiry into the 2004 Gold Coast City Council elections suggested that the legitimacy of a new local government following its election will depend, in part of, upon the integrity of the electoral process. The Electoral Commission of Queensland (ECQ) is recognised by the Queensland electorate as being the independent expert in the conduct of elections.

Insertion of new section 159ZM (Changed application of s 220 for Northern Peninsula Area and Torres Strait Island regional councils)

New Section 159ZM provides that in relation to general qualifications for membership of the Northern Peninsula Area regional council, a person must live in the particular division and for the Torres Strait Island regional council a person is qualified for membership only if the person has lived in the particular division before nomination date.

Insertion of new section 159ZN (Other changes to ch 5 for type 1, 2 and 3 elections)

New section 159ZN provides for other changes to the Chapter 5 (Local government elections) requirements of the *Local Government Act 1993* in relation to all elections conducted under these provisions.

Section 271 of the *Local Government Act 1993* provides that local governments are responsible for expenditure incurred in conducting an election for its area. In section 159ZN subsection 1 clarifies that for type 1, 2 or 3 elections, new, adjusted and continuing local governments must (to the extent the Minister directs) reimburse the State for all costs incurred, including the Electoral Commission of Queensland costs, in conducting the elections.

Subsection 2 suspends the requirement that the Chief Executive Officer is the Returning Officer for the purposes of the 2008 elections.

Subsections 3, 4 and 5 provide that for a new local government area, the Chief Returning Officer must nominate and publicly notify the election

office for the 2008 elections. The election office need not be a public office of an existing local government.

Subsection 6 provides that all nomination deposits must be held in the trust fund of the Electoral Commission of Queensland.

Subsection 7 provides that any candidate's deposits not required to be refunded to the candidate after the conclusion of the election, must be paid into the operating fund of the relevant new, adjusted or continuing local government.

Subsection 8 provides that no action is required to be taken under chapter 5, part 5 (quota requirements for divided local government areas) for any type 1, 2 or 3 local government elections.

Insertion of new section 159ZO (Changed references to particular matters)

New section 159ZO provides that for the application of 441B a reference to the chief executive officer for a type 1 election is taken to be a reference to the interim chief executive officer unless a returning officer has been appointed. This provision informs candidates as to who they should write to register their agreement to comply with the code of conduct for candidates.

Division 9 State intervention powers

New Division 9 of Part 1B of Chapter 3 of the *Local Government Act 1993* provides for state intervention powers for matters relating to the local government reform. Specifically, it provides for the following new sections:

Insertion of new section 159ZP (Definition for div 9)

New section 159ZP defines *local transition committee* to include a *transferring area local transition committee* for this division.

Insertion of new section 159ZQ (Giving of directions under div 9)

New section 159ZQ enables the Minister or the chief executive to give a direction in certain circumstances to ensure that an action or inaction is

performed to achieve an effective and efficient transition of local government to the new local government structure during the reform process. Where a reform matter is not being dealt with in the spirit of the reform transition, the intervention powers provided for in division 9 may be exercised.

Guidelines will be provided to local transition committees to provide details of the intervention powers included in this new section including the Minister's and the chief executive's powers in this regard. Intervention powers have been established to ensure that the momentum of a positive, fair, efficient and effective transition to the new local government structure occurs.

Insertion of new section 159ZR (Directions by chief executive)

New section 159ZR provides the powers by which a chief executive can intervene regarding a local government reform matter.

Specifically, it is proposed that the chief executive will have the power to intervene to:

- Direct that information regarding a reform matter be provided;
- Direct that a meeting of a local transition committee or group of other persons be held; and
- Direct local government employees.

As a matter of practice, the chief executive will ordinarily direct the chief executive of a local government in the first instance.

The chief executive will only direct an employee of a local government, who is not the chief executive, if the chief executive of the local government refuses the first direction.

Insertion of new section 159ZS (Powers of Minister)

New section 159ZS provides the powers by which the Minister can intervene regarding a local government reform matter.

Specifically, it is proposed that the Minister will have the power to intervene to:

- Direct a change in the composition of a local transition committee;
- Direct that a person is to act in place of a local transition committee;

- Direct that a new group of persons is to act in place of a local transition committee;
- Direct the allocation of employees, assets, liabilities and property of any kind; and
- Direct that particular functions do not apply to, and may not be performed by, a local transition committee.

Insertion of new section 159ZT (Compliance with direction)

New section 159ZT provides that a person to whom a Minister or the chief executive gives a direction to under this division's intervention provisions, must comply with those directions. In the event that a person who is directed by the Minister or the chief executive to undertake an action or to cease an action fails to comply with the direction then the Minister or the chief executive has the power to direct a departmental officer or employee or another person to intervene to ensure compliance with the direction.

Division 10 Special arrangements for transition period

New Division 10 is created in Part 1B of Chapter 3 of the *Local Government Act 1993* to provide for special arrangements regarding the transition period for local governments affected by the local government reform process.

Insertion of new section 159ZV (Definition for div 10)

New section 159ZV inserts a definition for *transition period*.

Insertion of new section 159ZU (Application of div 10)

New section 159ZU provides that Division 10 applies to a local government only if that local government does not become an *adjusted* local government under this part. Refer new section 159YD for a definition of *adjusted local government*). This division does not apply to Ipswich City Council or Torres Shire council.

Insertion of new section 159ZW (Prohibition on major policy decision in transition period)

New section 159ZW prevents a merging local government from making major policy decisions during the transition period. It is important that a merging local government ensures that decisions are not taken which would bind incoming councillors and limit their freedom of action.

The provisions reflect the basic caretaker conventions of State government. As such, the provisions require a local government to avoid implementing major policy initiatives, making significant appointments or entering into major contracts or undertakings during the caretaker period. The basic conventions are directed to the making of decisions, and not to policy announcements. The conventions do not, of course, apply to new policy promises which a councillor may announce as part of its election campaign.

This provision allows a local government, if exceptional circumstances exist, to make a major policy decision during the transition period. However, the local government must notify the Minister of the decision and the exceptional circumstances.

Under chapter 6, part 3 of the *Local Government Act 1993*, local governments can enter into contracts. However, like State government, a merging local government is not to make, vary or discharge a contract during the transition period. A merging local government may need to enter into a contract under section 483 of the *Local Government Act 1993* because of genuine emergency or hardship. Under this type of circumstance, it may be necessary for that local government to apply subsection 2 of this clause.

A major policy decision does not include the appointment of an interim chief executive officer.

Insertion of new section 159ZX (Invalidity of major policy decision in transition period if decision revoked)

New section 159ZX provides that if a merging local government makes a major policy decision during the transition period which subsequently revoked by the Minister it becomes an invalid decision. If the decision is to enter into a contract, the contract becomes null and void. Should this cause a loss or damage to parties to the contract other than the local government concerned, the local government is to compensate those parties. A party or parties that suffer a loss or damage as a result of the Minister revoking a

contract made by a merging local government during the transition period can take court action to obtain compensation from the local government.

Division 11 (Miscellaneous)

A new Division 11 has been created in Part 1B of Chapter 3 of the *Local Government Act 1993* to provide for miscellaneous amendments relating to polls, the State Transition Committee, the expiry of new Part 1B and matters regarding councillor remuneration. Specifically, Division 11 provides the following:

Insertion of new section 159ZY (Polls)

New section 159ZY extends the policy intent of the legislation to the current council amalgamations with a view to ensuring that councils cannot conduct polls and referenda in relation to the current recommendations of the Local Government Reform Commission.

Insertion of new section 159ZZ (State Transition Committee)

New section 159ZZ provides for the chief executive to appoint an advisory committee to provide oversight for the implementation of local government reform.

Insertion of new section 159ZZA (Expiry of pt 1B)

New section 159ZZA provides for the expiration of Part 1B at the end of 31 December 2011 or at an earlier time fixed by regulation.

Clause 6 (Insertion of new ss 236A and 236B)

Clause 6 inserts two sections into Chapter 4, Part 3, Division 1 regarding the remuneration of councillors and the reimbursement of expenses and provision of facilities for councillors of local governments.

Insertion of new section 236A (Remuneration for councillors of local governments)

New section 236A provides that a local government may, by resolution, authorise the payment of remuneration to a councillor. Under the Schedule

2 definition of *councillor*, a councillor also includes a mayor. The remuneration to be paid is as per the remuneration schedule determined by the Local Government Remuneration Tribunal that is to be established under new Division 3 of the new Chapter 4 of the *Local Government Act 1993* (refer new section 250AA). The remuneration to be paid to a councillor under this new section is not to include the reimbursement of expenses or the provision of facilities, which is provided for under new section 236B. If the Local Government Remuneration Tribunal approves a different amount of remuneration under new section 250AL the local government may authorise that payment.

Insertion of new section 236B (Reimbursement of expenses and provision of facilities for councillors of local governments)

Under new section 250AR, a local government is to establish a *reimbursement of expenses* policy, which is to be applied when reimbursing councillors for expenses incurred in carrying out their councillor duties. This new section 236B provides that the reimbursement of expenses and the provision of facilities are to be paid to local government councillors in accordance with the policy established under new section 250AR.

Clause 7 - Amendment of section 237 (Remuneration for service on local government and advisory committees)

Clause 7 amends the existing section 237 so that this section only applies to persons serving on advisory committees. The provisions relating to councillor remuneration have been omitted as councillor remuneration will be determined by the new Local Government Remuneration Tribunal.

Clause 8 - Amendment of s 238A (Councillors may make salary sacrifice arrangements)

Clause 8 amends the definition or *remuneration entitlement* in section 238A(3). This is to allow councillors to salary sacrifice the remuneration determined by the remuneration tribunal.

Clause 9 - Insertion of new ch 4, pt 3, divs 3 and 4

Clause 9 inserts a new chapter 4, part 3, divisions 3 and 4 that establishes an independent tribunal to set remuneration for all Mayors and Councillors in all Queensland local governments (except for Brisbane City). The establishment of an independent and objective body to undertake this role significantly enhances the transparency and public accountability of the

Queensland's local government system. It is an integral part of local government reform.

A tribunal will provide a consistent and transparent remuneration framework for local governments across the State, similar to processes used for determining remuneration for Commonwealth and State members of Parliament. The establishment of a tribunal will divest local governments of the responsibility for setting the fees for its own councillors and mayors. A Local Government Remuneration Tribunal will also bring Queensland into line with most other states which have an independent body to oversee remuneration for local government councillors and mayors.

It is intended that the tribunal be established, its methodology determined and its first determinations made prior to the calling of nominations for 15 March 2008 local government elections. This will allow prospective candidates to be informed of remuneration arrangements prior to the elections.

References to councillors in the notes for clause 9 reflect the definition in the *Local Government Act 1993* that a councillor includes a mayor.

Division 3 (Local Government Remuneration Tribunal)

New Division 3 provides for the establishment, membership, functions and operations of a Local Government Remuneration Tribunal.

Subdivision 1 (Establishment, functions and membership)

New subdivision 1 provides for the establishment, functions and member of the Local Government Remuneration Tribunal to be established under the new Chapter 4, Part 3, Division 3 of the *Local Government Act 1993*.

Insertion of new section 250AA (Establishment of Local Government Remuneration Tribunal)

New section 250AA provides for a Local Government Remuneration Tribunal to be established.

Insertion of new section 250AB (Functions)

New section 250AB sets out the functions of the Local Government Remuneration Tribunal. The functions are:

- To establish categories of local governments – provisions guiding this are set out in new sections 250AH, 250AI and 250AJ.
- To assign each local government to an established category.
- For each category, determine a level of remuneration for councillors.
- To carry out other functions as directed by the Minister.

Insertion of new section 250AC (Members of remuneration tribunal)

New section 250AC provides for the appointment of a chairperson and two members to the Local Government Remuneration Tribunal. Each member is to be appointed by the Governor in Council for a term not more than 3 years.

Eligibility requirements for members of the remuneration tribunal are extensive knowledge and experience in 1 or more of the following:

- local government,
- public administration,
- law,
- public finance,
- industrial relations,
- community affairs.

Governor in Council may also appoint members if they have knowledge and experience considered appropriate for the tribunal.

New section 250AC also provides for when a person stops being a member of the tribunal. Provisions include resignation by the member, not being reappointed, removal by Governor in Council for misbehaviour or physical or mental incapacity and the disqualification provisions set out in new section 250AD.

Insertion of new section 250AD (Disqualification from membership)

New section 250AD provides that a person cannot become or continue as a member of the tribunal if they are or become

- A councillor;
- A local government employee;
- A director of a significant business entity (as defined in Schedule 2 of the *Local Government Act 1993*);
- A contractor or consultant engaged by a local government; and
- bankrupt

New section 250AD also provides that a person is disqualified if they are or have been convicted of an indictable offence and the conviction is not a spent conviction (as defined in Schedule 2 of the *Local Government Act 1993*).

Insertion of new section 250AE (Remuneration and appointment conditions of members)

New section 250AE provides for remuneration and appointment conditions for tribunal members. The remuneration, allowances and terms and conditions of appointment for members are decided by Governor in Council. Members are eligible for reappointment.

The section includes specific remuneration provisions for a member of the tribunal that is a commissioner appointed under the *Industrial Relations Act 1999*. Commissioners appointed under the *Industrial Relations Act 1999* receive remuneration as determined by the Salaries and Allowances Tribunal and will not receive additional remuneration for their role as a member of the remuneration tribunal. They will however, be entitled to receive reimbursement of expenses reasonably incurred in performing the functions of a member of the remuneration tribunal.

Subdivision 2 (Staffing arrangements and meetings)

New subdivision 2 of Division 3 of new Chapter 4, Part 3 provides for staffing and meeting arrangements of the remuneration tribunal.

Insertion of new section 250AF (Work performance arrangements)

New Section 250AF makes provision for administrative support for the tribunal. The tribunal and the chief executive of the Department may make arrangements for public service employees to support the tribunal. This arrangement allows flexibility to provide administration support on an 'as needs' basis.

Insertion of new section 250AG (Conduct of meetings)

New section 250AG allows the tribunal to hold meetings at the times and places it decides, with any member being able to call a meeting. These provisions are subject to requirements for:

- 7 days written notice to members; and
- a meeting to be held within 14 days after the Minister requests the tribunal to discuss a local government matter.

Subdivision 3 (Categorising local governments)

New subdivision 3 of Division 3 of new Chapter 4, Part 3 provides for how the tribunal is to categorise local governments.

Insertion of new section 250AH (Establishing categories of local governments)

New section 250AH requires the tribunal to establish categories of local governments for the purpose of deciding remuneration for local government councillors (including mayors and deputy mayors).

Insertion of new section 250AI (Criteria for establishing categories)

New section 250AI lists criteria which must be considered by the tribunal in determining local government categories. They are:

- the size, geographical and environmental terrain, population, demography, and distribution of population of the local government area;
- the diversity of communities, cultural diversity, economic and community development, levels of infrastructure and industry within the local government area

- the extent of services provided by the local government; and
- the number and workload of councillors including whether they are full time or part time.

The tribunal may have regard to other matters it considers relevant to the effectiveness, efficiency and sustainability of local governments.

New section 250AI also provides for a regulation to specify other criteria for a tribunal to consider in categorising local governments.

Insertion of new section 250AJ (Deciding and reviewing categories of local governments to which local governments belong)

New section 250AJ requires the tribunal to assign each local government to a category that it has determined under section 250AH, having regard to the criteria used to establish the categories.

The tribunal is required to review the categories at least every 4 years to determine whether the categories and the assignment of local governments need amending. The 4 yearly reviews will coincide with the quadrennial local government elections. This is to ensure that categories are appropriately reviewed, and where necessary, reapplied to local governments before local government elections to inform candidates of proposed councillor remuneration.

Subdivision 4 (Remuneration schedule)

New subdivision 4 of Division 3 of new Chapter 4, Part 3 provides for the remuneration schedule to be determined by the tribunal.

Insertion of new section 250AK (Deciding remuneration)

New section 250AK requires the tribunal to determine remuneration for each category of local governments. Remuneration is defined for this purpose as any fees or allowances paid to the councillor by the local government. It is intended to provide compensation for the time and effort they spend on council business. It is not intended to provide for expenses or to compensate for the provision of facilities and local governments will be able to make separate provision for appropriate reimbursement of expenses of office incurred by councillors and to provide facilities to assist with their duties.

The tribunal is to make an annual determination on fees for both councillors and mayors in each of the local government categories. The determination of fees is to be set out in a schedule that lists the remuneration amounts for each local government category and is to be known as the remuneration schedule.

The tribunal in making this determination is required to consider provisions of the *Local Government Act 1993* for councillor entitlements and responsibilities and what the community expects is appropriate remuneration for councillors. The determination is to be announced on or before 1 December each year.

Insertion of new section 250AL (Discretion to vary remuneration in exceptional circumstances)

New section 250AL provides for a local government to apply for a variation (less or more) of the amount prescribed for it in the tribunal's remuneration schedule. In its submission to the tribunal, a local government would need to specify the exceptional circumstances which warrant the variation from the scheduled amount. The remuneration tribunal may consider the application and approve a variation of the payment amount from that in the remuneration schedule.

Subdivision 5 (Inquiries conducted by remuneration tribunal)

New subdivision 5 of Division 3 of new Chapter 4, Part 3 provides for how the tribunal may inform itself in making remuneration determinations.

Insertion of new section 250AM (Remuneration tribunal may make inquiries)

New section 250AM provides that the tribunal can make the inquiries it considers necessary.

Insertion of new section 250AN (Conduct of inquiries)

New section 250AN allows the tribunal to conduct inquiries in a way that it considers appropriate and makes it clear that the conduct of its inquiries is not bound by legal forms or rules of evidence.

In conducting an inquiry into a particular matter, eg a review of local government categories, the tribunal is required to invite submissions from local governments, interested groups and persons and members of the public and to advise of the period in which submissions must be made. The

tribunal in making a decision about the matter must have regard to any submission made within this period. This allows affected parties to contribute to the tribunal's determinations.

Insertion of new section 250AO (Membership of remuneration tribunal changes during inquiry)

New section 250AO provides that the work of the tribunal continues even if there is a change in the members comprising the tribunal. It ensures the work of the tribunal is not compromised by changes of membership.

Subdivision 6 (Reports)

New subdivision 6 of Division 3 of new Chapter 4, Part 3 sets out reporting requirements for the tribunal.

Insertion of new section 250AP (Remuneration tribunal reports)

New section 250AP requires the tribunal to prepare a written report each year about local government categories, the assignment of local governments to each category, the remuneration schedule and any exceptional circumstances approvals. The report is to be signed by each member and must be given to the Minister within 7 days of making a decision about the remuneration schedule.

Insertion of new section 250AQ (Notification and tabling of report)

New section 250AQ requires the Minister to publish in the gazette the following elements of the tribunal's report – the local government categories and the local governments assigned to each category and the remuneration schedule. This provides a public record of the remuneration provision for all councillors and notifies local governments of remuneration provisions for its councillors.

The full report of the tribunal is required to be tabled in Parliament. Tabled reports are key accountability documents and the principal way in which entities report on their determinations to Parliament and the wider community.

Division 4 (Reimbursement of expenses and provision of facilities)

New Division 4 of new Chapter 4, Part 3 provides for the reimbursement of expenses and provision of facilities for local government councillors.

Insertion of new section 250AR (Requirement to adopt expenses reimbursement policy)

New section 250AR requires each local government to adopt an expenses reimbursement policy that will be used to determine how expenses incurred through the performance of their work in office will be provided to councillors. The policy must also outline the provision of facilities to be made available to councillors, such as a vehicle, mobile telephone and laptop.

This provision complements the remuneration payable to councillors as determined by the Local Government Remuneration Tribunal. The remuneration schedule does not take into account reimbursement of expenses to councillors or make allowances to provide facilities for councillors.

Insertion of new section 250AS (Amending expenses reimbursement policy)

New section 250AS provides that a local government can amend its expenses reimbursement policy. The need may arise where the cost of expenses change or where a councillor's scope of work changes and so the policy may require amending. A local government must give public notice of any amendment to its expenses reimbursement policy.

Insertion of new section 250AT (Notification of adoption of expenses reimbursement policy)

Section 250AT sets out the requirement for public notice of an expenses reimbursement policy or an amendment of it. The public notice must be published in a local newspaper as soon as practicable after the adoption of the policy or an amendment.

Insertion of new section 250AU (Meetings in public about expenses reimbursement policy)

New section 250AU makes it clear that the adoption or amendment of an expenses reimbursement policy must occur in a council meeting that is open to the public. A local government is prevented from making a resolution under section 463 of the *Local Government Act 1993* (Public notice of meetings) to adopt or amend an expenses reimbursement policy in a closed meeting.

Clause 10 - Amendment of s 534 (Content of report about other issues of public interest)

Clause 10 amends the requirements for a local government's annual report by requiring a local government to report on the payment of expenses or the provision of facilities to councillors.

Clause 11 – Amendment of s 867 (Step 2- ensure proposed law satisfactorily deals with any State interest)

This clause provides discretion to the Minister to exempt a local government from complying with steps 3 to 7 of the local law making process prescribed in chapter 12, part 2, division 3 when the local government proposes a local law that makes only insubstantial amendments to a local law. A ministerial exemption is no longer required for minor amendments to local laws as defined in Schedule 2 – Dictionary.

Clause 12 (Insertion of new ch 12, pt 2, div 6)

This clause inserts an additional division (Division 6 Anti-competitive provisions of existing local laws and existing subordinate local laws) into chapter 12, part 12.

**Division 6 Anti-competitive provisions of
existing local laws and existing
subordinate local laws**

New Division 6 of Part 2 of new Chapter 12 provides for the anti-competitive provisions of existing local laws and existing subordinate local laws. Specifically it provides for the following:

Insertion of new section 893A (Application of div 6)

This provision describes the application of chapter 12, part 2, division 6.

Insertion of new section 893B (Definitions for div 6)

This section provides definitions used in chapter 12, part 2, division 6.

Insertion of new section 893C (Expiry of local laws and subordinate local laws unless local government complies with division)

This section provides that a local government's local laws and subordinate local laws which contain anti-competitive provisions and are not reviewed pursuant to this division by 31 December 2010 will expire and thereafter local laws and subordinate local laws which contain anti-competitive provisions and are not reviewed pursuant to the division will expire 31 December in 2020, 2030 and so on.

Insertion of new section 893D (Review of anti-competitive provisions in local laws and subordinate local laws)

This section requires a local government to review its local laws and subordinate local laws and identify any provision of the laws that it considers may be a possible anti-competitive provision.

Insertion of new section 893E (Public interest test of anti-competitive provisions)

This section requires a local government to undertake a public interest test for any possible anti-competitive provisions of its local laws (including subordinate local laws). For each provision, the test must recommend either that the provision should be retained as it is not anti-competitive, or for a provision found to be anti-competitive, that the provision in either whole or part or in its current form or another, be retained in the public interest, or not be retained.

It is in the public interest if the benefits of a provision to the community as a whole outweigh the costs and if restricting competition in the way provided in the provision is the most appropriate way of achieving the objectives of the local law or subordinate local law.

Insertion of new section 893F (Local government to decide on test and report process)

For each public interest test of a possible anti-competitive provision, this section requires a local government to decide how the test is to be conducted and the matters with which the test report must deal. The local government's decision must also provide for a consultation process for the public interest test and state how the process is to be used in the test.

A regulation may prescribe requirements for public interest tests and test reports.

Insertion of new section 893G (Public interest test report to be presented to local government meeting)

This provision details the immediacy with which a completed public interest test report, regarding anti-competitive provisions, must be presented to a meeting of the local government.

Insertion of new section 893H (Local government to resolve whether to implement recommendations of public interest test)

Following presentation of a completed public interest test report (regarding anti-competition provisions) to a meeting of a local government, a local government must determine whether to implement or decline the recommendations of the public interest test.

Should a local government's decision be contrary to that of the recommendations contained in the public interest test, the local government include in the contrary resolution a statement of reasons for finding that the benefits of the provision to the community as a whole outweigh the cost and the most appropriate way of achieving the objectives of the local law or subordinate local law is by restricting competition in the way provided in the provision.

The local government must provide a copy of the contrary resolution to the Minister.

Insertion of new section 893I (Public interest test reports open to inspection)

For the purpose of transparency and accountability, a local government must make its public interest test report available and accessible for inspection by the public.

Insertion of new section 893J (Repeal or amendment of anti-competitive provision)

In the event that a local government resolves to repeal or amend an anti-competitive provision contained in a local law or subordinate local law, the local government is required under this provision to resolve to make a new local law (or new subordinate local law) that repeals or amends the anti-competitive provision in question. This provision further provides the required steps to be taken by the local government for this process.

Insertion of new section 893K (Timing for resolution and implementation)

Where a local government has conducted a public interest test regarding anti-competitive provisions in its local laws, the local government is required to resolve whether to implement recommendations of that public interest test.

This provision requires a local government to make its resolution, and if necessary implement it, on or before the expiry date of the review date. Failure to make a required resolution and if necessary implement it, will cause the local law or subordinate local law to expire.

Insertion of new section 893L (Regulation about public interest tests and public interest test reports)

This provision details the elements which may be contained within a regulation concerning public interest tests and public interest test reports.

Clause 13 (Amendment of ch 12, pt 4, hdg)

This amendment provides for the inclusion of consolidated local laws and consolidated subordinate local laws.

Clause 14 (Insertion of new s 897B)

This provision allows a local government to prepare and adopt a certified consolidated version of a local law - which in effect incorporates the original local law with all its amendments in one legally-binding and recognised bundle.

The provision also exempts a local government for complying with part 2 when making minor amendments to local laws or subordinate local laws if

the local government consolidates the amendment into an existing local law or subordinate local law.

Further, this provision will allow local governments to use certified copies of consolidated local laws for public, evidentiary and internal use.

Clause 15 (Amendment of s 898 (Proof of local laws and subordinate local laws))

This amendment provides for certified copies consolidated local laws and consolidated subordinate local laws to be evidence of the content of local law or subordinate local law.

Clause 16 (Amendment of s 899A (Definitions for pt 5))

(1) This provision amends the expiry date, by which a local government must have completed the review of its local laws, to 2010 and provides for subsequent expiry dates every 10 years thereafter.

(2) This provision amends the date by which a local government may commence review of its local laws (first review date) to 1 January 2008 and provides for subsequent review dates every 10 years thereafter.

The effect of these provisions is to align the dates for when a local government must review its local laws and review its local laws for anti-competitive provisions.

Clause 17 (Omission of ch 19, pt 1, div 4 (anti-competitive provisions of existing local laws and existing subordinate local laws))

This amendment repeals chapter 19, part 1, division 4 which has been made redundant by the inclusion of chapter 12, part 2, division 6.

Clause 18 (Insertion of new ch 19, pt 12)

This amendment inserts an additional part (Part 12 Transition provisions for *Local Government Reform Act 2007*) into chapter 19.

Part 12 Transition provisions for Local Government Reform Act 2007

Part 12 provides for the transition provisions relating to the *Local Government Reform Act 2007* and provides the following:

Insertion of new section 1274 (Review of anti-competitive provisions of local laws and subordinate local laws made in 2007)

This provision exempts local laws and subordinate local laws made in the year prior to a review period between 1 January 2007 and 1 December 2007 from the requirement to be reviewed for possible anti-competitive provisions by 31 December 2010. Such local laws must be reviewed by 1 January 2020 to avoid expiry.

Insertion of new section 1275 (Public office for new local government)

New section 1275 provides for the establishment of a public office of a new local government established after the changeover day of the local government reform process. The establishment of the new public office is to occur within 1 year after the change-over day. Refer Clause 159YE for a definition of *changeover day*.

Section 37 of the *Local Government Act 1993* provides that a local government must keep premise for use as its public office. The public office must be in the local government's area or within a reasonable distance outside its area. The public office is used to display certain instruments (i.e. minutes of council meetings) required to be publicly displayed under the *Local Government Act 1993*.

Where two or more local governments are abolished and a new local government is formed, two or more public offices may exist from changeover day. New section 1275 will ensure that the existing public offices of a new local government are consolidated to one public office to ensure that the public within the new local government area can easily access information provided by local government.

One year is being provided to new local governments to establish one public office to ensure easy accessibility of information for the public in the new local government area. In the transition phase, there may exist duplicate copies of instruments (i.e. local laws) that relate specifically to

only one particular area within the local government, and as such, it would be time-consuming and frustrating for members of the public in one district of a local government area to have to travel to an entirely different district within the new local government area to view an instrument. Therefore, it is intended that the consolidation of instruments such as local laws will occur simultaneously with the consolidation of two or more public offices that may exist in a new local government area.

Clause 19 (Insertion of new schs 1A - 1C)

Clause 19 inserts new schedules in the *Local Government Act 1993* to reflect the changes proposed as per the recommendations of the 2007 Local Government Reform Commission report. The schedules show the new local governments, the adjusted local governments and continuing local governments.

Schedule 1A Local government reform implementation

Part 1, Schedule 1A identifies new local government areas by name, class, area map, electoral arrangements (divided/undivided) and composition, as per the recommendations made in the 2007 Local Government Reform Commission report.

Part 2, Schedule 1A identifies transferring local government areas who on changeover day become adjusted local governments. The Schedule identifies adjusted local government areas by name, class, area map, electoral arrangements (divided/undivided) and composition.

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Column 1	Column 2	Column 3	Column 4	Column 5
Local government	Class	Area map	Number of councillors assigned to each division	Total number of councillors (including mayor)
Diamantina	shire	LGRB 00	area not divided	5
Doomadgee	shire	LGRB 00	area not divided	5
Etheridge	shire	LGRB 00	area not divided	5
Flinders	shire	LGRB 00	area not divided	5
Hinchinbrook	shire	LGRB 00	area not divided	7
Hope Vale	shire	LGRB 00	area not divided	5
Kowanyama	shire	LGRB 00	area not divided	5
Lockhart River	shire	LGRB 00	area not divided	5
Mapoon	shire	LGRB 00	area not divided	5
McKinlay	shire	LGRB 00	area not divided	5
Mount Isa	city	LGRB 00	area not divided	7
Murweh	shire	LGRB 00	area not divided	5
Napranum	shire	LGRB 00	area not divided	5
Palm Island	shire	LGRB 00	area not divided	5
Paroo	shire	LGRB 00	area not divided	5
Pormpuraaw	shire	LGRB 00	area not divided	5
Quilpie	shire	LGRB 00	area not divided	5
Redland	city	LGRB 00	area not divided	11
Richmond	shire	LGRB 00	area not divided	5
Torres	shire	LGRB 00	area not divided	5
Winton	shire	LGRB 00	area not divided	5
Woorabinda	shire	LGRB 00	area not divided	5
Wujal Wujal	shire	LGRB 00	area not divided	5
Yarrabah	shire	LGRB 00	area not divided	5

Part 3, Schedule 1A identifies new, adjusted, and continuing local government areas by name, class, area map, electoral arrangements (divided/undivided) and composition, as per the recommendations of the 2007 Local Government Reform Commission report and decisions taken

by the government to alter a number of names and electoral arrangements based on advice from local government.

Schedule 1B Composition of new transitional committees for particular new local governments

The schedule details variation to the transitional committees for Cassowary Coast Regional Council and Torres Strait Island Regional Council.

The variation to composition for the Cassowary Coast Regional Council reflects the fact that it has an administrator appointed at the time of introduction into Parliament.

The variation to composition for the Torres Strait Island Regional Council is required due to the large number of previous councils and to provide a workable number of members whilst ensuring representation for each island community.

Schedule 1C Composition of transferring area local transition committees

Schedule outlines details of membership of local transition committees for areas to be transferred through the local government reform process. These alter from other transitional committees in that they provide for chief executive officers of the relevant councils to participate on the local transition committees. There is no interim CEO to be appointed to these councils.

20 Amendment of sch 2 (Dictionary)

Schedule 2 of the *Local Government Act 1993* is amended by insertion of further definitions relating to consolidated local laws, electoral commission, minor amendment, the reform commission and transition periods.

The amendment to the definition for '*drafting certificate*' removes the requirement that a '*lawyer*' must sign a drafting certificate stating that a proposed interim local law, proposed local law or subordinate local law has been drafted in sufficient accordance with drafting standards prescribed under a regulation for the law.

Part 3 (Amendment of City of Brisbane Act 1924)

Part 3 amends the *City of Brisbane Act 1924* because the *Local Government Act 1993* provisions relating to elections for Brisbane City Council do not apply.

Clause 21 (Act amended in pt 3)

Part 3 amends the *City of Brisbane Act 1924* because the *Local Government Act 1993* provisions relating to elections for Brisbane City Council do not apply.

Clause 22 (Insertion of new pt 2, div 5A)

Clause 22 inserts a new Division 5A into Part 2 of the *City of Brisbane Act 1924* to provide for the 2008 quadrennial elections.

Division 5A Special Provisions for 2008 quadrennial elections

New Division 5A provides for Brisbane City Council 2008 quadrennial elections to be in line with quadrennial local government elections for all other local governments with respect to the date of the election and that the electoral commission must conduct them.

Insertion of new section 17B (Quadrennial elections in 2008 to be held on 15 March instead of 29 March)

This section provides for the date of the Quadrennial elections to be held on 15 March and that this date can be varied by regulation.

Insertion of new section 17C (Conduct of 2008 quadrennial elections by electoral commission under s 17A)

This section provides that the electoral commission must conduct the elections under 17A.

Insertion of new section 17D (Expiry of div 5A)

This section provides provides for the expiry of the division on 31 December 2008 or at an earlier time fixed by regulation.

Schedule (Minor amendments)

The schedule amends the *Local Government Act 1993* as follows:

1 Section 159E(1)(d) ‘other than as that division is applied under section 159Z’- is omitted.**2 Chapter 18, Part 2-**

Section 1205B Provision for amended s 428 provides that the word *omit* is taken never to have been included in the amending provisions. This amendment also provides that section 1205B expires at the end of the day after it commences. This section is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies. A definition for *amending provision* is also included in this amendment.