

Local Government and Industrial Relations Amendment Bill 2008

Amendments agreed to during Consideration

1 Clause 10 (Replacement of s 35 (Local governments are bodies corporate etc.))—

At page 21, line 14, after ‘councillors’—

insert—

‘for the time being’.

2 Clause 12 (Replacement of s 38 (Local government’s seal))—

At page 22, lines 28 to 30—

omit, insert—

‘(2) Subsection (1) does not limit section 472 or 483.

Notes—

- 1 A local government may, by resolution, delegate its powers, including powers under section 36, to particular persons under section 472.
- 2 A local government’s delegate may make, vary or discharge a contract’.

3 Clause 15 (Replacement of s 53 (Joint local government’s seal))—

At page 25, lines 17 to 19—

omit, insert—

‘(2) Subsection (1) does not limit section 472 or 483.

Notes—

- 1 A joint local government may, by resolution, delegate its powers, including powers under section 50, to particular persons under section 472 as applied by section 12(1)(b).

- 2 A joint local government's delegate may make, vary or discharge a'.

4 After clause 17—

At page 26, after line 24—

insert—

'17A Insertion of new ch 4, pt 1, div 2A

'Chapter 4, part 1—

insert—

'Division 2A Councillors holding paid State appointment

'226A Meaning of *paid State appointment* for div 2A

- '(1) For this division, a person holds a *paid State appointment* if the person, for reward—
- (a) holds an office under, or is employed by, the State; or
 - (b) holds an appointment to or in or is employed by or in—
 - (i) an entity of the State; or
 - (ii) the parliamentary service of the Legislative Assembly; or
 - (iii) a court or tribunal, or a registry or other administrative office of a court or tribunal, of the State.
- '(2) However, a councillor of a local government does not hold a paid State appointment if—
- (a) an Act requires or expressly permits that the appointment be held by a councillor of a local government, however described; or
 - (b) when the appointment is held by a councillor of a local government, neither the councillor nor any other person is entitled to or is entitled to and receives any reward on account of the councillor holding the appointment.

- ‘(3) For subsection (2)(b), a councillor of a local government is not taken to be entitled to a reward if the councillor irrevocably waives for all legal purposes the entitlement to the reward.
- ‘(4) For a waiver under subsection (3), the councillor must, as soon as practicable after becoming aware of the entitlement—
- (a) waive the entitlement in writing; and
 - (b) give a copy of the waiver to—
 - (i) if the councillor is the mayor of the local government—the chief executive officer of the local government; or
 - (ii) otherwise—the mayor of the local government.
- ‘(5) In this section—
- reward*** does not include—
- (a) an amount decided under part 3; or
Editor’s note—
part 3 (Entitlements and obligations)
 - (b) an amount decided under the deed under the *Superannuation (State Public Sector) Act 1990* in relation to a transferring member within the meaning of section 32A of that Act; or
 - (c) reasonable expenses actually incurred by or for the person for any 1 or more of the following—
 - (i) accommodation;
 - (ii) meals;
 - (iii) domestic air travel;
 - (iv) taxi fares or public transport charges;
 - (v) motor vehicle hire; or
 - (d) an amount (other than an amount paid at the pleasure of the State) paid as a pension, entitlement, remuneration, allowance or otherwise for past service in a paid State appointment.

‘226B Meaning of *class A local government* and *class B local government* for div 2A

- ‘(1) In this division, a *class A local government* is a local government prescribed under a regulation as a class A local government.
- ‘(2) However, if a regulation does not prescribe any local government as a class A local government, a *class A local government* is a local government that, as decided by the remuneration tribunal under section 250AJ, belongs to category 3 or 4.
- ‘(3) In this division, a *class B local government* is a local government prescribed under a regulation as a class B local government.
- ‘(4) However, if a regulation does not prescribe any local government as a class B local government, a *class B local government* is any of the following—
 - (a) Brisbane City Council;
 - (b) a local government that, as decided by the remuneration tribunal under section 250AJ, belongs to category 5 or a higher numbered category.

‘226C Effect on paid State appointment of person’s election as councillor

- ‘(1) If a person who holds a paid State appointment on a full time basis is elected or appointed as the mayor of a class A local government, the person’s paid State appointment is taken to end—
 - (a) if the person is elected other than as mentioned in paragraph (b)—on the day before the day of the poll at which the person is elected; or
 - (b) if the person is elected under section 310(1)(a)—on the day before the day a poll would have been conducted if a poll had been required; or
 - (c) if the person is appointed—on the day before the day the person is appointed.

- ‘(2) If a person who holds a paid State appointment on a full time basis is elected or appointed as a councillor, whether or not the mayor, of a class B local government, the person’s paid State appointment is taken to end—
- (a) if the person is elected other than as mentioned in paragraph (b)—on the day before the day of the poll at which the person is elected; or
 - (b) if the person is elected under section 310(1)(a) or if, for the Brisbane City Council, the person is elected under the *Electoral Act 1992*, section 89—on the day before the day a poll would have been conducted if a poll had been required; or
 - (c) if the person is appointed—on the day before the day the person is appointed.
- ‘(3) Subsections (1) and (2) do not stop a person whose holding of a paid State appointment (the *original appointment*) is ended under subsection (1) or (2)—
- (a) from being appointed to hold the original appointment on a part time basis; or
 - (b) from being appointed to hold another paid State appointment on a part time basis.
- ‘(4) A person appointed as mentioned in subsection (3) is entitled to retain all existing and accruing rights as if the holding of the original appointment, or other paid State appointment, on a part time basis were a continuation of the holding of the original appointment on a full time basis.

‘226D Councillor not to be appointed to paid State appointment

- ‘(1) A person who is the mayor of a class A local government must not be appointed to hold a paid State appointment on a full time basis.
- ‘(2) A person who is a councillor, whether or not the mayor, of a class B local government must not be appointed to hold a paid State appointment on a full time basis.

- ‘(3) An appointment made in contravention of this section is void.’.

5 Clause 28 (Insertion of new ch 19, pt 15)—

At page 35, line 32—

omit, insert—

‘new local government see section 159YD.

‘1298 Constitution of new local government from changeover day to conclusion of 2008 quadrennial election

- ‘(1) This section applies to a new local government.
- ‘(2) Despite section 34, from 15 March 2008 until the end of the day that is the conclusion of the last 2008 quadrennial election held for any councillor for the new local government under chapter 3, part 1B, division 8, the new local government is constituted by the new local government’s chief executive officer.
- ‘(3) In this section—
new local government see section 159YD.’.

6 After clause 32—

At page 37, after line 4—

insert—

‘Division 1A Amendment of Community Services Act 2007

‘32A Act amended in div 1A

‘This division amends the *Community Services Act 2007*.

‘32B Amendment of s 7 (Meaning of *service provider*)

- ‘(1) Section 7(1), after ‘State,’—

insert—

‘or a local government’.

‘(2) Section 7, note—

omit.’.

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