Queensland

Local Government Act 1993

Reprinted as in force on 1 July 2009

Reprint No. 12H

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Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Local Government Act 1993

[as amended by all amendments that commenced on or before 1 July 2009]

An Act to provide for local government, and for related purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Local Government Act 1993*.

Part 2 Objects

2 Objects of this Act

The objects of this Act include—

(a) providing a legal framework for an effective, efficient and accountable system of local government; and

(b) recognising a jurisdiction of local government sufficient to allow a local government to take autonomous responsibility for the good rule and government of its area with a minimum of intervention by the State; and

(c) providing for community participation in the local government system; and

(d) defining the role of participants in the local government system; and

(e) establishing an independent process for ongoing review of certain important local government issues.

Part 3 Interpretation

3 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

4 Meaning of *owner* of land

(1) An ***owner*** of land is—

(a) a registered proprietor of freehold land; or

(b) a purchaser of land to be held as freehold land that is being purchased from the State under an Act; or

(ba) a purchaser of land under a housing Act contract; or

(bb) a person who has a share in land that the person bought under a housing Act contract; or

(c) a lessee of land held from the State, and a manager, overseer or superintendent of the lessee who lives on the land; or

(d) a holder of—

(i) a mining claim or lease; or

(ii) land mentioned in the *Mineral Resources Act 1989*, schedule, definition *owner*; or

(e) a lessee under any of the following Acts—

- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004*
- *Greenhouse Gas Storage Act 2009*; or

(f) a lessee of land held from a government entity or local government; or

(g) the holder of—

(i) an occupation permit under an Act, a stock grazing permit under an Act or a permit prescribed by regulation; or

(ii) a permit to occupy under the *Land Act 1994*; or

(iii) a permission to occupy from the chief executive of the department responsible for the administration of the *Forestry Act 1959*; or

(h) a licensee under the *Land Act 1994*; or

(i) for land on which there is a structure subject to a time share scheme—the person notified to the local government concerned as the person responsible for the administration of the scheme as between participants in the scheme; or

(j) another person who—

(i) is entitled to receive the rent for the land; or

(ii) would be entitled to receive the rent for the land if it were leased at a rack-rent.[1]

(2) However, an owner does not include the State or a government entity except so far as it is liable under an Act to pay a rate.

5 Meaning of *conclusion* of local government election

(1) The ***conclusion*** of the election of a councillor, other than a councillor of the Brisbane City Council, is—

(a) if the councillor is elected at an election of all councillors of the local government—the day on which the last declaration of a poll conducted in the election is displayed in the local government's public office as required by this Act; or

(b) if the councillor is elected at a by-election and—

1 Rack-rent of land is a rent for the land that is the highest possible rent for the land. It implies that the land is leased commercially.

(i) a poll is conducted—the day on which the declaration of the poll is displayed in the local government's public office as required by this Act; or

(ii) a poll is not conducted—the day after the nomination day for the by-election; or

(c) if, because the number of candidates nominated for election is the same or less than the number of councillors to be elected, the councillor is elected (other than at a by-election) and—

(i) 1 or more polls are conducted in the local government area—the day on which the last declaration of a poll conducted in the local government area is displayed in the local government's public office as required by this Act; or

(ii) no poll is conducted in the local government area—6p.m. on the day that a poll would otherwise have been required under this Act to be conducted.

(2) The ***conclusion*** of the election of a councillor of the Brisbane City Council is—

(a) for a quadrennial election—when the names of all candidates elected are published in the gazette; or

(b) for a by-election whether or not a poll is conducted—when the name of the candidate elected is published in the gazette.[2]

6 Meaning of *material personal interest*

(1) A person has a ***material personal interest*** in an issue if the person has, or should reasonably have, a realistic expectation that, whether directly or indirectly, the person or an associate stands to gain a benefit or suffer a loss, including a benefit or loss as a director of a significant business entity under chapter

2 The *Electoral Act 1992*, section 123(2)(c) provides for publication in the gazette of the name of each candidate elected. That section is applied to the conduct of Brisbane City Council elections—see the *City of Brisbane Act 1924*, section 17(5).

8, part 7 that is, or is to become, an LGOC, depending on the issue's outcome.

(2) An ***associate*** is any of the following persons—

(a) a spouse or other member of the person's household;

(b) an entity (other than a government entity) of which the person or the person's nominee is a member;

(c) a partner of the person;

(d) an employer (other than a government entity) of the person;

(e) a person prescribed by regulation.

(3) However, a person does not have a material personal interest in an issue—

(a) if the issue is about—

(i) the remuneration of councillors or members of a local government committee or directors of significant business entities that are, or are to become, LGOCs; or

(ii) salary, wages or other remuneration of local government employees; or

(iii) the terms on which goods, services or facilities are to be offered by the local government for use or enjoyment of the public in its area; or

(iv) the making or levying of a rate, or the fixing of a regulatory fee, by the local government; or

(v) a planning scheme of general application in the local government's area; or

(vi) provision of superannuation entitlements or accident insurance for councillors or employees of the local government; or

(b) if the interest is merely—

(i) as an elector, ratepayer or resident of the local government's area; or

(ii) as a user of goods, services or facilities supplied, or to be supplied, by the local government (whether

under a contract or otherwise) as a member of the public in common with other members of the public; or

(iii) as a member of a non-profit, charitable or religious organisation involving no personal gain or loss to the person; or

(iv) as a member of another entity in which the member does not have personal financial interest; or

(c) merely because the person—

(i) is an employee of the State or a government entity; or

(ii) is a candidate for election or appointment as mayor or deputy mayor of the local government or chairperson, deputy chairperson, member or delegate member of any of its committees or a director of a significant business entity that is, or is to become, an LGOC or the shareholder's delegate for an LGOC; or

(iii) may become entitled to benefits under a policy of accident insurance, public liability or professional indemnity insurance held, or to be held, by the local government.

(4) This section does not apply to section 689.

7 Meaning of *open to inspection*

(1) If a document is ***open to inspection***—

(a) if a document is open to inspection under chapter 8, 9, 10 or 11—it must be held in the local government's public office; and

(b) if it is a document of a local government—it must be held in the local government's public office; and

(c) if it is a document relating to an electoral and boundaries review commission's examination or determination of a reviewable local government matter—

(i) it must be held in the electoral commission's office at Brisbane and the public office of each local government concerned (the ***prescribed offices***); and

(ii) it may also be held at another office under arrangements made by the commission; and

(d) if it is a document of another entity—it must be held in an office of the entity that is open to the public.

(2) If a person is authorised under this Act to inspect the document, the person may, free of charge and at any time when the office in which the document is held is open for business—

(a) inspect the document; and

(b) make copies of, or take extracts from, the document.

(3) The following persons are authorised to inspect the document—

(a) if this Act specifies a description of person who may inspect the document—the person and the person's agents;

(b) in another case—all persons.

(4) The person (the ***custodian***) who has the custody of the document is not required to supply any facility or service to a person in making a copy of, or taking an extract from, the document.

(5) However, if the custodian supplies a facility or service to a person in making a copy or extract, the custodian may charge a reasonable fee for the facility or service.

8 Documents open to inspection not to contain information about protected persons

(1) This section applies to a document that—

(a) is, under this Act, open to inspection; and

(b) is, or is based on, a document given to the local government by the chief executive (valuations); and

(c) would, apart from this section, include the name and postal address of a protected person.

(2) If the chief executive (valuations) gives notice to the local government under the *Valuation of Land Act 1944*, section 73A,[3] about a protected person, the local government must not include the name and postal address of the protected person in the document when the document is open to inspection.

(3) In this section—

chief executive (valuations) means the chief executive of the department in which the *Valuation of Land Act 1944* is administered.

protected person means a person for whose benefit the chief executive (valuations) has made a direction under the *Valuation of Land Act 1944*, section 75B(2), that continues to have effect.

3 *Valuation of Land Act 1944*, section 73A—

73A Local governments to be given notice about protected persons

(1) If a valuation roll or part of a valuation roll is, under section 73, given to a local government, the chief executive must, at the time the roll or part is given to the local government, give notice to the local government about the suppression directions for the benefit of protected persons whose names and addresses appear in the roll or part.

(2) If a valuation roll or part of a valuation roll has, under section 73, been given to a local government and a person, whose name and address appears in the roll or part, becomes a protected person, the chief executive must give notice to the local government about the suppression direction for the benefit of the protected person, no later than 7 days after the date of the direction.

(3) If matters stated in a suppression direction change (including, for example, the land stated in the direction), the chief executive must give notice to a local government that has previously been given notice about the direction.

(4) A notice under this section must be in the approved form.

Part 4 Application of Act to Brisbane City Council

9 Act applies only so far as expressly provided

(1) This Act applies to the Brisbane City Council only so far as is expressly provided by this or another Act.

(2) The provisions of this Act that apply to Brisbane City Council include the following—

- chapter 2, part 1, divisions 2 and 3 and parts 2 and 3
- chapter 3, parts 1 and 3
- chapter 4, part 1, part 3, division 2 and parts 3A and 4
- chapter 5, part 5
- sections 298 to 300, 302 and 314
- chapter 5, parts 8 and 9
- chapter 6, parts 4 and 5
- chapters 8 to 13
- chapter 14, part 1, division 2 and part 7
- chapter 15, other than sections 1114 and 1115
- section 1205
- chapter 19, part 1, division 4, part 5, part 7 and part 8, section 1271(3) and (4).

(3) If the Brisbane City Council is or is to become a component local government in a joint local government, this Act applies to the Brisbane City Council as a component local government as if it were a local government established under this Act.

10 How local government Acts apply to Brisbane City Council

If a provision of a local government Act (other than the *City of Brisbane Act 1924*) applies to the Brisbane City Council—

(a) a reference in the provision—

(i) to a local government area includes a reference to the City of Brisbane; and

(ii) to a local government includes a reference to the Brisbane City Council; and

(iii) to a division of a local government area includes a reference to a ward of the City of Brisbane; and

(iv) to the chief executive officer of a local government includes a reference to the town clerk of the Brisbane City Council; and

(v) to the operating fund of a local government includes a reference to the City Fund; and

(vi) to a local government Act includes the *City of Brisbane Act 1924*; and

(vii) to a local government's public office includes a reference to the premises kept by the Brisbane City Council as its public office and a place the council has, by resolution or under a local law, declared to be its public office for a stated matter; and

(viii) to a quadrennial election includes a quadrennial election under the *City of Brisbane Act 1924*; and

(ix) to an election includes a reference to an election under the *City of Brisbane Act 1924*; and

(x) to a councillor includes the mayor and councillors of the Brisbane City Council; and

(xi) to a by-election includes a reference to a separate election to fill a vacancy in the office of mayor or other councillor of the Brisbane City Council; and

(xii) to a local government's annual report includes a reference to an annual report of the Brisbane City Council; and

(xiii) to a utility charge includes a reference to a utility charge under the *City of Brisbane Act 1924*; and

(xiv) to a local government's land record includes a reference to a record of rateable land kept by the Brisbane City Council; and

(b) the provision applies with all necessary changes and any changes prescribed by regulation.

Part 5 Application of Act to joint local governments

11 Act applies except so far as application displaced

(1) This Act applies to a joint local government except so far as its application is displaced by a contrary intention.

(2) The provisions of this Act that apply only to a joint local government include the following—

- chapter 2, part 2
- section 166
- chapter 4, part 5
- chapter 7, part 10
- section 1137(3).

(3) Other provisions that affect the application of this Act to a joint local government include the following—

- section 62, definition *local government*
- section 64(7) to (9).

12 How Act applies to joint local governments

(1) A reference in this Act—

(a) to a local government area includes a reference to a joint local government area; and

(b) to a local government includes a reference to a joint local government; and

(c) to the mayor of a local government includes a reference to the president of a joint local government; and

(d) to the deputy mayor of a local government includes a reference to the deputy president of a joint local government; and

(e) to a councillor of a local government includes a reference to a member of a joint local government; and

(f) to the chief executive officer of a local government includes a reference to the chief executive officer of a joint local government.

(2) This Act applies to a joint local government with all necessary changes and any changes prescribed by regulation.

Chapter 2 The local government system

Part 1 Local governments

Division 1 Local government areas

15 Areas

The local government area is the fundamental geographical basis of Queensland's local government system.

16 Declaration of local government areas

(1) A regulation may declare a part of the State to be a local government area.

(2) The regulations may not declare more than 1 local government area for a part of the State.

17 Local government required for each local government area

There must be a local government for each local government area.

18 Declaration of classes of local government areas

(1) A regulation may declare the class of a local government area.[4]

(2) The class of a local government area may be 1 of the following—

- region
- city
- town
- shire
- another class prescribed under a regulation.

(3) A local government area may be declared to be a region, city or town, or another class prescribed under a regulation, only if it satisfies the criteria prescribed by regulation.

(4) A provision of this Act that makes a reference generally to the 4 classes of region, city, town or shire is taken also to include a similar reference to any other class prescribed under a regulation under subsection (2).

Division 2 Roles of local governments

19 Application to Brisbane City Council

This division applies to the Brisbane City Council.

4 This is a reviewable local government matter and requires a report and recommendation by the commissioner before implementation.

20 Roles of local government

In exercising its jurisdiction of local government, a local government has—

(a) a law-making role for local laws; and

(b) an executive role for—

(i) adoption and implementation of policy; and

(ii) administration of local government; and

(iii) enforcement of its local laws.

Division 3 Jurisdiction of local governments

21 Application to Brisbane City Council

This division applies to the Brisbane City Council.

22 Exercise of jurisdiction for its local government area—the *basic territorial unit*

(1) A local government may exercise the jurisdiction of local government for all parts of its local government area.

(2) Its local government area is its ***basic territorial unit***.

23 Exercise of jurisdiction outside its local government area—the *additional territorial units*

A local government also may exercise the jurisdiction of local government for any place (an ***additional territorial unit***) outside its basic territorial unit that is put under its control or acquired by it.

24 Territorial unit of local government

The ***territorial unit*** of a local government consists of its basic territorial unit and any additional territorial units.

25 Jurisdiction of local government

Each local government has jurisdiction (the ***jurisdiction of local government***) to make local laws for, and otherwise ensure, the good rule and government of, its territorial unit.

26 Law-making matters included in jurisdiction of local government

(1) A local government's jurisdiction of local government includes jurisdiction to make local laws with respect to any matter—

(a) required or permitted to be prescribed under this or another Act; or

(b) necessary or convenient to be prescribed or exercised for carrying out or giving effect to its local laws.

(2) To avoid any doubt, a local law may be made—

(a) making it an offence to contravene a local law; and

(b) fixing a penalty for an offence against a local law (including different penalties for successive offences against a local law) of not more than 850 penalty units.

27 Limitation on exercise of jurisdiction for basic territorial unit

A local government may not exercise the jurisdiction of local government for a part of its basic territorial unit to the extent to which another local government may exercise the jurisdiction of local government for the part.

28 Limitation on exercise of jurisdiction for additional territorial units

A local government may exercise the jurisdiction of local government for an additional territorial unit only for the purpose for which the place was put under its control or acquired by it.

29 Local laws and policies apply to additional territorial units only if expressly applied

A local government's local law or subordinate local law applies to an additional territorial unit of the local government only if the local law or subordinate local law expressly states that it applies to the additional territorial unit.

30 General limitations on exercise of jurisdiction

(1) A local government has no jurisdiction to make a local law—

(a) that the Parliament could not validly make; or

(b) purporting to exclude or limit the future repeal or amendment of the law.

(2) A local government also has no jurisdiction to do anything else that the State can not do.

31 Inconsistency with State law

If a State law and a local law (whether made before or after the State law) are inconsistent, the State law prevails over the local law to the extent of the inconsistency.

Division 4 Number of councillors

32 Number of councillors

(1) The number of councillors for a local government is the number prescribed for the local government under a regulation.

Note—

This is a reviewable local government matter and requires a report and recommendation by the commissioner before implementation.

(2) However if no number is prescribed under a regulation, the number is 5.

Division 5 Names, legal status and general powers of local governments

33 Local government name

A local government may be called either—

(a) 'Council of the … (*insert* Region/City/Town/Shire) of … (*insert* name of local government area)'; or

(b) '… (*insert* name of local government area) … (*insert* Regional/City/Town/Shire) Council'.

34 Constitution

(1) A local government is constituted by the councillors for the time being of the local government.

(2) However, subject to section 178(3), if at any time there are no councillors of a local government, the local government is constituted by the local government's chief executive officer.

Note—

If dissolved, a local government is constituted by an administrator appointed under section 178.

(3) A local government is not a corporation.

35 Proceedings

(1) A proceeding by a local government must be started in the name of the local government.

(2) A proceeding against a local government must be started against the local government in its name.

36 General powers

(1) A local government has, in the exercise of its jurisdiction, all the powers of an individual.

(2) A local government may, for example—

(a) enter into contracts; and

(b) acquire, hold, deal with and dispose of property; and

(c) charge for services and facilities it supplies, other than a service or facility for which a regulatory fee may be fixed; and

(d) do other things necessary or convenient to be done in the exercise of its jurisdiction.

(3) A local government also has the powers given to it under this or another Act.

(4) A local government may exercise its powers inside and outside its territorial unit.

(5) A local government may exercise its powers outside the State and outside Australia.

(6) A local government may exercise its powers in its own name.

Division 6 Other provisions about local governments

37 Site of public office

(1) A local government must keep premises for use as its public office.

(2) The public office must be in the local government's area or within a reasonable distance outside its area.

38 Execution of documents by local governments

(1) A local government may execute a document in any of the following ways—

(a) if the local government is constituted by its councillors—

(i) by the mayor of the local government signing the document on behalf of the local government; or

(ii) by an authorised councillor of the local government signing the document on behalf of the local government;

(b) if the local government is constituted by its chief executive officer under section 34(2)—by the chief

executive officer signing the document on behalf of the local government;

(c) if the local government is constituted by an administrator of the local government appointed under section 178—by the administrator signing the document on behalf of the local government;

(d) if a way is prescribed under a regulation—in the way prescribed.

(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 for the local government in particular circumstances under section 483.

(3) In this section—

authorised councillor, of a local government, means a councillor of the local government who is authorised in writing by the mayor of the local government to execute documents on behalf of the local government.

38A Liability does not attach to councillors etc. acting honestly

(1) No matter or thing done honestly by—

(a) a local government; or

(b) any councillor in constituting the local government;

in the administration of this Act or in the performance or exercise, or intended performance or exercise, of any of the local government's functions or powers under an Act subjects any councillor of the local government to any liability in relation to the matter or thing.

(2) No matter or thing done honestly by—

(a) the chief executive officer of a local government in constituting the local government; or

(b) the administrator of a local government in constituting the local government;

in the administration of this Act or in the performance or exercise, or intended performance or exercise, of the local government's functions or powers under an Act subjects the chief executive officer or administrator to any liability in relation to the matter or thing.

(3) The protection given to a councillor, chief executive officer or administrator under this section is in addition to any other protection available to the councillor, chief executive officer or administrator under an Act or law.

Part 2 Joint local governments

Division 1 Extended application of part

39 Application of part to Brisbane City Council

This part applies to the Brisbane City Council.

Division 2 Consultation

41 Consultation before exercise of powers under part

Before the Governor in Council exercises a power under this part, the Minister must consult with the local governments that would be affected by the exercise of the power and take any views expressed by them into account.

Division 3 Joint local government areas

42 Declaration of joint local government areas

A regulation may declare a part of the State consisting of the whole or parts of 2 or more local government areas to be a joint local government area.

Division 4 Establishment and operation of joint local governments

43 Establishment

(1) A regulation may establish a joint local government for a joint local government area.

(2) A regulation may establish 2 or more joint local governments for a joint local government area, or part of a joint local government area, if the joint local governments have different jurisdictions.

44 Regulations about establishment and operation of joint local governments

A regulation may, for a joint local government (the ***joint body***)—

(a) specify its name; and

(b) provide for the election or appointment of a president and deputy president of the joint body; and

(c) fix the time and place for holding the first meeting of the joint body; and

(d) specify the proportion of the cost of the operations of the joint body that must be contributed by each of its component local governments; and

(e) specify that the first budget of the joint body be for a specified part of a financial year; and

(f) provide for its initial local laws; and

(g) provide for any other matter for which—

(i) it is necessary or convenient to provide for its establishment or operation; and

(ii) this Act does not make provision or adequate provision.

Division 5 Jurisdiction of joint local governments

45 Jurisdiction generally

A joint local government has the jurisdiction of local government that it is given by regulation.

46 Jurisdiction exclusive

(1) A component local government may not exercise the jurisdiction of local government within its joint local government's area about a matter within the joint local government's jurisdiction.

(2) However, the component local government may exercise jurisdiction as a delegate of the joint local government.

(3) The component local government also may make and levy a rate on land for a matter within its jurisdiction, even though—

(a) the land is within the joint local government's area; and

(b) the purpose relates to a matter within the joint local government's jurisdiction.

Division 6 Membership of joint local governments

47 Members

A joint local government consists of representatives of the local governments that are its component local governments.

48 Number of representatives etc.

(1) A regulation may specify the number of representatives to which each component local government is entitled, either in its own right or as a member of a group of local governments, on its joint local government.

(2) A regulation also may specify that a particular councillor of a component local government must be a member of the joint local government.

Division 7 Legal status and general powers of joint local governments

49 Constitution

(1) A joint local government is constituted by its members.

(2) However, subsection (3) applies if, at any time, a local government that is a component local government of a joint local government is constituted by the chief executive officer of the local government or an administrator of the local government appointed under section 178.

(3) For section 47, the representative of the local government is—

(a) if the chief executive officer constitutes the local government—the chief executive officer; or

(b) if the administrator constitutes the local government—the administrator.

(4) A joint local government is not a corporation.

49A Proceedings

(1) A proceeding by a joint local government must be started in the name of the joint local government.

(2) A proceeding against a joint local government must be started against the joint local government in its name.

50 General powers

(1) A joint local government has, in the exercise of its jurisdiction, all the powers of an individual.

(2) A joint local government may, for example—

(a) enter into contracts; and

(b) acquire, hold, deal with and dispose of property; and

(c) charge for services and facilities it supplies, other than a service or facility for which a regulatory fee may be fixed; and

(d) do other things necessary or convenient to be done in the exercise of its jurisdiction.

(3) A joint local government also has the powers given to it under this or another Act.

(4) A joint local government may exercise its powers inside and outside its territorial unit.

(5) A joint local government may exercise its powers outside the State and outside Australia.

(6) A joint local government may exercise its powers in its own name.

51 Restriction on power to make or levy rate

A joint local government can not make or levy a rate on land.

52 Delegation to component local governments

(1) A joint local government may delegate its powers about a component local government's area to the component local government.

(2) Subsection (1) does not limit by implication the persons to whom the joint local government may make a delegation.

Division 8 Other provisions about joint local governments

53 Execution of documents by joint local governments

(1) A joint local government may execute a document in any of the following ways—

(a) if the joint local government is constituted by its members—

(i) by the president of the joint local government signing the document on behalf of the joint local government; or

(ii) by an authorised member of the joint local government signing the document on behalf of the joint local government;

(b) if a way is prescribed under a regulation—in the way prescribed.

(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 contract for the joint local government in particular circumstances under section 483 as applied by section 12(1)(b).

(3) In this section—

authorised member, of a joint local government, means a member of the joint local government who is authorised in writing by the president of the joint local government to execute documents on behalf of the joint local government.

53A Liability does not attach to members acting honestly

(1) No matter or thing done honestly by—

(a) a joint local government; or

(b) any member of the joint local government in constituting the joint local government;

in the administration of this Act or in the performance or exercise, or intended performance or exercise, of any of the joint local government's functions or powers under an Act subjects any member of the joint local government to any liability in relation to the matter or thing.

(2) The protection given to a member under this section is in addition to any other protection available to the member under an Act or law.

54 Adjustments between joint local government and component local governments

A regulation may make provision with respect to—

(a) transferring assets and liabilities—

(i) to a joint local government—from its component local governments; or

(ii) from a joint local government to a local government that has ceased to be a component local government of it; and

(b) deciding, adjusting or settling anything in dispute between—

(i) a joint local government and any of its component local governments; or

(ii) a joint local government and a local government that has ceased to be a component local government of it.

Part 3 Joint action by local governments

Division 1 Extended application of part

55 Application of part to Brisbane City Council

This part applies to the Brisbane City Council.

Division 2 Joint action

57 Joint responsibility for boundary works

(1) The cost of planning, constructing, maintaining and managing a bridge, road or other work that is to be, or is, built along the boundary between 2 or more local government areas, and partly in each of the areas, is the joint responsibility of the local governments of the areas.

(2) The local governments must enter into the arrangements, and make the contracts, that are necessary for the proper performance of the responsibility.

58 Extension of operations outside local government area

A local government may, under arrangements entered into by it with another local government, extend the operation of a facility, service or activity supplied or undertaken by it into the other local government's area.

59 Cooperation between local governments

(1) Local governments may enter into arrangements, and make contracts, between themselves for exercising the jurisdiction of local government in their areas.

(2) The local governments may establish joint standing committees to exercise the jurisdiction of local government for matters to which the arrangement or contract relates.

(3) A joint standing committee must consist of councillors from the local governments.

(4) This section does not limit by implication the powers of a local government.

60 Interstate cooperation

(1) If a local government's area borders another State or a Territory, the local government may—

(a) enter into arrangements, and make contracts, with a person (the ***responsible person***) responsible for any jurisdiction of local government in an adjoining part of the other State or the Territory; or

(b) acquire and hold land in the adjoining part and construct any facility on the land; or

(c) contribute to the cost of the responsible person exercising its jurisdiction of local government.

(2) The local government that holds property in another State or a Territory for any purpose under subsection (1) may dispose of the property when it is no longer required for the purpose.

(3) This section does not limit by implication the powers of a local government.

Chapter 3 Interaction with the State

Part 1 Reviewable local government matters

Division 1 Preliminary

61 Application of part to Brisbane City Council

This part applies to the Brisbane City Council.

62 Definitions for pt 1

In this part—

commission means a Local Government Electoral and Boundaries Review Commission established under section 66.

local government does not include a joint local government.

63 Meaning of *owner* of land for pt 1

(1) In this part, an ***owner*** of land[5] includes—

(a) the State—if the land—

(i) is to be held as freehold land and is being purchased from the State under an Act; or

(ii) is held under a lease from the State, other than a lease granted under the *Land Act 1994*; or

(iii) is held under an occupation permit under an Act, a stock grazing permit under an Act or a permit prescribed under a regulation, other than a permit issued under the *Land Act 1994*; or

(iv) is held under a permission to occupy from the chief executive of the department responsible for the administration of the *Forestry Act 1959*; and

(b) if the land is dedicated as a reserve, or granted in fee simple in trust, under the *Land Act 1994*, chapter 3, part 1—the trustees of the land.

(2) In addition to a person mentioned in subsection (1), a regulation may prescribe another person to be an owner of land for this part.

64 Meaning of *reviewable local government matter*

(1) The following are ***reviewable local government matters***—

5 This section extends the meaning of *owner*, of land, for this part—see schedule 2, definition *owner* and section 4 (Meaning of *owner* of land).

(a) creating a new local government area, including, for example, creating a new local government area from—

(i) 2 or more local government areas that are abolished; or

(ii) a local government area that is abolished and a part of another local government area; or

(iii) a part of a local government area that is excluded from the local government area; or

(iv) a part of the State that is not part of a local government area;

(b) naming a new local government area;

(c) changing the external boundaries of a local government area by excluding part of the local government area and including the part in another local government area;

(d) changing the name of a local government area;

(e) including in a local government area a part of the State that is not part of a local government area;

(f) abolishing a local government area and merging the local government area with another local government area;

(g) dividing, redividing and abolishing divisions of a local government area;

(h) changing the boundaries of divisions of a local government area by—

(i) excluding part of a division and including the part in another division of the local government area; or

(ii) creating a new division of the local government area;

(i) assigning and reassigning councillors of a local government to divisions of its area;

(j) deciding and changing the class of a local government area;

(k) deciding and changing the composition of a local government;

(l) anything else relating to local government declared by regulation to be a reviewable local government matter.

(2) However, for subsection (1)(d), (i), (j) or (k)—

(a) Brisbane City Council is not a local government; and

(b) the City of Brisbane is not a local government area.

(3) Also, for subsection (1)(a), the City of Brisbane is not a local government area except to the extent the provision relates to creating a new local government area from a part excluded from the City of Brisbane.

(4) In addition, for subsection (1)(f), the City of Brisbane is not a local government area except to the extent the provision relates to the merging of an abolished local government area with the City of Brisbane.

(5) A reviewable local government matter includes—

(a) any aspect of a matter mentioned in subsection (1); and

(b) a particular proposal about a matter, or an aspect of a matter, mentioned in subsection (1).

(6) Without limiting subsection (5), naming the electoral wards of the City of Brisbane is an aspect of the matters mentioned in subsection (1)(g) and (h).

(7) A reviewable local government matter does not include a matter relating to—

(a) the creation, naming, abolition or area of a joint local government; or

(b) the composition of a joint local government.

(8) A matter (the ***relevant matter***) relating to a local government area, the whole or part of which is in a joint local government's area, may be a reviewable local government matter although its implementation would, apart from subsection (9), affect a matter mentioned in subsection (7)(a) or (b).

(9) If the relevant matter is a reviewable local government matter, implementation of the relevant matter does not affect the existence or extent of a joint local government's area or the composition of a joint local government.

(10) In this section—

local government area includes a proposed local government area.

65 Meaning of *limited reviewable local government matter*

(1) Changing the external boundaries of a local government area by excluding part of the local government area and including the part in another local government area is a ***limited reviewable local government matter*** if the local governments for the areas and all owners of land in the part have agreed to the change.

(2) Also, including in a local government area a part of the State that is not part of a local government area is a ***limited reviewable local government matter*** if the local government for the area and all owners of land in the part have agreed to the inclusion.

Division 2 Local Government Electoral and Boundaries Review Commissions

Subdivision 1 Establishment, constitution and functions of commissions

66 Establishment

There is to be a Local Government Electoral and Boundaries Review Commission for—

(a) each reference of a reviewable local government matter made to the commissioner; and

(b) each application for determination of a limited reviewable local government matter made to the commissioner.[6]

6 See division 3 (References of, and applications for, reviewable local government matters), subdivisions 1 (References to commissioner by Minister) and 2 (Applications to commissioner by local governments).

67 Constitution

(1) A commission for a special reference of a reviewable local government matter is constituted by—

(a) a person who—

(i) is a judge or former judge of a court of the Commonwealth or a State or Territory; and

(ii) has been, or was, a judge for at least 3 years; and

(b) the chief executive of a department; and

(c) the commissioner or, if the commissioner directs, the deputy commissioner.

(2) A commission for a reference of another reviewable local government matter is constituted by the commissioner or, if the commissioner directs, the deputy commissioner.

(3) However, if the commissioner considers it appropriate for the commission under subsection (2) to be partly constituted by review commissioners, the commission is to be partly constituted by the number of review commissioners the commissioner considers appropriate for the reference.

(4) Also, if the Minister has directed in the reference of the matter under subsection (2) that a minimum number of review commissioners partly constitute the commission for the reference, the commission is to be partly constituted by at least that number of review commissioners.

(5) A commission for an application for determination of a limited reviewable local government matter is constituted by the commissioner or, if the commissioner directs, the deputy commissioner.

68 Functions

The functions of a commission are, under this part, to—

(a) examine and determine reviewable local government matters; and

(b) examine, report and make recommendations to the Minister on implementation issues for reviewable local government matters.

Subdivision 2 Business and meetings of commissions

69 Conduct of business

A commission must conduct its business in the way prescribed under a regulation or, in the absence of a regulation, may conduct its business as it considers appropriate.

70 Times and places of meetings

(1) Meetings of an expanded commission are to be held at the times and places it decides.

(2) However, the chairperson of an expanded commission may at any time call a meeting by giving the other commission members reasonable notice of the meeting.

71 Quorum at meetings

Business may be conducted at an expanded commission meeting only if a majority of commission members are present.

72 Presiding member

At a meeting of an expanded commission—

(a) the chairperson of the commission presides; or

(b) in the absence of the chairperson, the commission member chosen by the members present as chairperson for the meeting presides.

73 Voting at meetings

At a meeting of an expanded commission—

(a) a question is to be decided by a majority of commission members present and voting; and

(b) each member (including the member presiding) has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote.

74 Disclosure of interests by members of expanded commission

(1) This section applies if a member of an expanded commission—

(a) has a direct or indirect financial interest in an issue being considered, or about to be considered, at a meeting; or

(b) could reasonably be otherwise regarded as having a conflict of interest in an issue being considered, or about to be considered, at a meeting.

(2) The member must disclose to the meeting the member's interest in the issue.

(3) The disclosure must be recorded in the commission's minutes.

(4) Unless the commission otherwise directs the member must not—

(a) be present when the commission considers the issue; and

(b) take part in the commission's decision about the issue.

(5) The member must not be present when the commission is considering whether to give a direction under subsection (4).

(6) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—

(a) be present when the commission is considering whether to give a direction under subsection (4); or

(b) take part in making the decision about giving a direction.

(7) If, because of this section, a member is not present at a commission meeting for considering or deciding the issue, but there would be a quorum if the member were present, the

remaining members present are a quorum for considering or deciding the issue at the meeting.

75 Additional provisions for disclosure of interests by commissioner and deputy commissioner

(1) This section applies if the commissioner or deputy commissioner constituting a commission established for a reference of a reviewable local government matter or an application for determination of a limited reviewable local government matter—

(a) has a direct or indirect financial interest in an issue relating to the matter; or

(b) could reasonably be otherwise regarded as having a conflict of interest in an issue relating to the matter.

(2) The member must not take part, or take further part, in any consideration of the reviewable local government matter.

(3) As soon as practicable after the member becomes aware of the application of this section to the issue, the member must—

(a) if the member is the commissioner—direct the deputy commissioner to constitute the commission in the commissioner's place; or

(b) if the member is the deputy commissioner—inform the commissioner.

(4) If subsection (3)(b) applies, the commissioner is to constitute the commission in the deputy commissioner's place.

Subdivision 3 Miscellaneous

76 Resignation and removal

(1) A review commissioner who partly constitutes a commission may resign from the commission by giving a signed notice of resignation to the commissioner.

(2) The *Acts Interpretation Act 1954*, section 25(1)(b) (other than subparagraph (iv)) and (2) to (4) does not apply to the

appointment of a review commissioner to partly constitute a commission.[7]

Division 3 References of, and applications for, reviewable local government matters

Subdivision 1 References to commissioner by Minister

77 Minister may refer certain reviewable local government matters to commissioner

(1) The Minister may refer a reviewable local government matter to the commissioner.

(2) The reference need not separately identify each reviewable local government matter dealt with in, or included in, the reference.

(3) The reference may be in general or specific terms or a combination of general and specific terms.

(4) The reference may specify the reviewable local government matter in any way, including, for example—

(a) naming the local governments the reference directly affects; or

(b) describing in a suitable way the geographical area to which the reference relates; or

(c) specifying with reasonable certainty things that are, or are not, included in the reference.

Examples of suitable ways of describing a geographical area—

1 by reference to real property descriptions

2 by reference to a map or plan held by an entity, or to a particular entry in a register kept by an entity, if the map, plan or register is available for inspection by the public

7 The *Acts Interpretation Act 1954*, section 25 deals with incidental powers to a power of appointment.

3 by reference to a region of the State that is identifiable with reasonable certainty

4 by reference to areas of named local governments

5 by reference to a part of the area of a named local government that is identifiable with reasonable certainty

(5) The reference may be made contingent on a determination another commission may make, or proposes to make, on a reference of another reviewable local government matter.

78 References of reviewable local government matters to be tabled etc.

The Minister must—

(a) table a copy of each reference of a reviewable local government matter in the Legislative Assembly within 7 sitting days after it is given to the commissioner; and

(b) give a copy of the reference to each local government mentioned in the reference.

79 Request by commissioner for reference

(1) The commissioner may ask the Minister to refer a reviewable local government matter to the commissioner.

(2) The request must include reasons for the request.

(3) As soon as practicable after receiving the request, the Minister must—

(a) refer the matter to the commissioner; or

(b) advise the commissioner that the matter will not be referred.

(4) The Minister must table a copy of the request, and the reference or advice, in the Legislative Assembly within 7 sitting days after giving the reference or advice.

Subdivision 2 Applications to commissioner by local governments

80 Limited reviewable local government matters

(1) A local government may apply to the commissioner for determination of a limited reviewable local government matter.

(2) However, the application may be made only if each local government that would be affected by the matter if it were implemented (an ***affected local government***), has, by resolution, decided to make or support the application.

(3) The application must—

(a) be in the approved form; and

(b) be accompanied by—

(i) a report by each affected local government showing that the local government has examined the implementation issues for the matter; and

(ii) each affected local government's suggestions about the implementation issues.

(4) The approved form must include—

(a) the relevant agreements mentioned in section 65(1) or (2); and

(b) a certificate by each affected local government that the issues prescribed under a regulation under section 107 have been taken into consideration.

Division 4 Procedures for major and minor references of reviewable local government matters

Subdivision 1 Preliminary

81 References of reviewable local government matters

(1) As soon as practicable after a special reference of a reviewable local government matter is referred to the commissioner—

(a) the Governor in Council is to appoint the commission members mentioned in section 67(1)(a) and (b)[8] to partly constitute a special commission for the reference; and

(b) if the commissioner decides not to partly constitute the commission—the commissioner must direct the deputy commissioner to partly constitute the commission.

(2) As soon as practicable after another reference of a reviewable local government matter is referred to the commissioner, the commissioner must—

(a) if the reference is not a major reference, under the definition *major reference*, paragraph (a) or (b)(i)—declare, by gazette notice, whether the reference is a major or minor reference; and

(b) decide the constitution of a commission for the reference; and

(c) if an expanded commission (other than a special commission) is, under section 67, to be constituted for the reference—appoint a review commissioner or commissioners to partly constitute the commission.

8 The commission members under section 67(1)(a) and (b) are a judge, or former judge, with standing of at least 3 years and the chief executive of a department.

82 Appointment of additional review commissioners

The commissioner may, at any time after a commission (other than a special commission) is established, appoint a review commissioner, or an additional review commissioner, to partly constitute the commission.

83 Commissions may declare major references

(1) This section applies if a commission is established for a reference of a reviewable local government matter the commissioner has declared is a minor reference.

(2) The commission may, at any time before it makes a final determination of the matter, declare, by gazette notice, the reference is a major reference.

(3) To remove any doubt, if a commission makes a declaration under subsection (2)—

(a) subdivision 2 applies to the reference of the matter; and

(b) the commission continues in existence to determine the matter.

84 Commissions must have regard to prescribed issues

(1) When considering a reviewable local government matter, a commission must have regard to the issues that may be prescribed under a regulation.

(2) If the matter relates to the external boundaries of a local government area, the commission also must have regard to the need to ensure the provision of efficient and effective local government in the area.

85 Restrictions on determinations for City of Brisbane

(1) A commission must not make a determination of a reviewable local government matter mentioned in section 64(1)(g) or (h) that would, if implemented, result in a change in the number of electoral wards for the City of Brisbane.[9]

9 Under the *City of Brisbane Act 1924*, section 14A, the City of Brisbane is divided into 26 electoral wards for the election of councillors (other than the mayor).

(2) If the naming of electoral wards of the City of Brisbane is an aspect of a reviewable local government matter, a commission must not determine that a name of an electoral ward be a name that is the name of an electoral district under the *Electoral Act 1992*.

Subdivision 2 Major references of reviewable local government matters

86 Application of subdivision

This subdivision applies for a reviewable local government matter, the subject of a major reference, being considered by a commission.

87 Commission may make inquiries

In considering the reviewable local government matter, the commission may make the inquiries it considers appropriate.[10]

88 Preliminary procedures for certain references

(1) This section applies if—

(a) the reference of the reviewable local government matter is a special reference; or

(b) the reference of the reviewable local government matter is a major reference (other than a special reference) and the commission declares, by gazette notice, that this section applies to the reference.

(2) As soon as practicable after the commission's establishment or the declaration, the commission must, by public notice, invite suggestions from persons and entities on the matter.

10 If the commission is an expanded commission established to determine a reviewable local government matter the subject of a major reference, the commission's powers of inquiry include the powers under division 6 (Inquiries by expanded commissions).

(3) The notice must state that suggestions are to be given to the commission at a stated address in writing within 30 days after the notice is first published (the ***first notice period***).

(4) As soon as practicable after the first notice period, the commission must—

(a) ensure copies of all suggestions properly given to it are open to inspection at the prescribed offices and other stated offices; and

(b) by public notice—

(i) state that copies of the suggestions are open to inspection at the prescribed offices and other stated offices; and

(ii) state that any person or other entity may make written comment on the suggestions within 21 days after the notice is first published (the ***second notice period***); and

(iii) state the address to which the comments may be sent.

(5) A public notice under subsection (2) or (4) must be published in—

(a) the gazette; and

(b) a newspaper circulating generally in the local government areas that would be affected by the matter if it were implemented.

(6) As soon as practicable after the second notice period, the commission must ensure copies of all comments given to it within the period are open to inspection at the prescribed offices and other stated offices.

(7) The suggestions and comments properly given to the commission must be open to inspection until—

(a) if, under section 89, the commission determines that the matter not be implemented—notification in the gazette of its determination is given; or

(b) if the commission proposes to determine that the matter be implemented—the day after the stated day under section 90.

(8) In determining whether the matter should be implemented, the commission must consider all suggestions and comments properly given to it.

89 Determination not to implement matter

(1) If the commission determines that the reviewable local government matter not be implemented, the commission must prepare a report on the matter.

(2) The report must state the determination and reasons for it.

90 Public notice of proposed determination to implement matter

(1) If the commission proposes to determine that the reviewable local government matter be implemented, the commission must give public notice, by advertisement published at least once in—

(a) the gazette; and

(b) a newspaper circulating generally in the local government areas that would be affected by the matter if it were implemented.

(2) The notice must state—

(a) the general effect of the proposed determination; and

(b) that particulars of the proposed determination and recommendations on implementation issues for the matter, including reasons and any relevant maps, are open to inspection at the prescribed offices and at other stated offices; and

(c) that submissions about the proposed determination and recommendations—

(i) may be made, in writing, to the commission at a stated address; and

(ii) must state the grounds of the submission and the facts and circumstances relied on in support of the grounds; and

(d) a day (the ***stated day***) on or before which the particulars may be inspected and submissions made.

(3) If the naming of electoral wards of the City of Brisbane is an aspect of the matter, the notice must also state the proposed names of the electoral wards.

(4) If the matter is a reviewable local government matter mentioned in section 64(1)(a) or (f), the notice may also state—

(a) the area the commission considers should be the affected area for the matter if a compulsory referendum were to be held for the matter; and

(b) if the commission considers the affected area should be divided into voting areas—the areas the commission considers should be the voting areas of the affected area.

(5) If, in the proposed determination of the matter, the commission proposes to adopt a margin of allowance under section 286(3) for the quota of voters for each councillor for a division of a local government, the notice must also state the margin of allowance to be adopted.

(6) If the commission proposes to make a delayed implementation determination for the matter, the notice must also state—

(a) the matter is to be implemented on the conclusion of the election, at the next quadrennial elections, of all councillors for the local governments affected by the determination to implement the matter; and

(b) the elections are to be conducted as if the determination were implemented.

(7) The stated day must be at least 30 days after the later of—

(a) the publication of the advertisement in the gazette; or

(b) the publication, or first publication, of the advertisement in the newspaper.

(8) The particulars are to be open to inspection until the day after the stated day.

91 Commission to consider submissions

(1) The commission must consider all submissions properly made about the proposed determination and recommendations on implementation issues for the matter.

(2) The commission may amend the proposed determination to take account of the submissions.

(3) However, the commission may substantially amend the proposed determination only if the commission gives public notice, under section 90, of the amended proposed determination and recommendations on implementation issues for the matter.

(4) Section 90 and this section apply to the amended proposed determination as if it were the proposed determination.

92 Holding of referendum

(1) A referendum (a ***compulsory referendum***) must be held in relation to the commission's proposed determination of the reviewable local government matter if—

(a) the matter is a reviewable local government matter mentioned in section 64(1)(a) or (f); and

(b) after considering the submissions, the commission proposes to make a final determination that the matter be implemented.

(2) Also, the commission may decide that a referendum (a ***non-compulsory referendum***) be held in relation to the commission's proposed determination of the reviewable local government matter if—

(a) the matter is a reviewable local government matter mentioned in section 64(1)(c) or (e); and

(b) after considering the submissions, the commission proposes to make a final determination that the matter be implemented; and

(c) the commission considers a referendum should be held for the matter.

(3) However, the commission may decide to hold a non-compulsory referendum only after it has consulted with

the local governments that would be affected by the matter if it were implemented.[11]

93 Making final determination and preparation of report

(1) The commission must make a final determination of the reviewable local government matter and prepare a report for the Minister on the matter as soon as practicable after—

(a) if a referendum is held for the commission's proposed determination of the matter—the final result of the referendum for the matter is notified; or

(b) if a referendum is not held for the commission's proposed determination of the matter—the commission completes its consideration of submissions properly made about the matter.

(2) If the matter is the subject of a delayed implementation reference and the commission makes a determination to implement the matter, the commission—

(a) must determine the matter be implemented on the conclusion of the election, at the next quadrennial elections, of all councillors for the local governments affected by the determination to implement the matter; and

(b) must determine not to implement a reviewable local government matter mentioned in section 64(1)(g), (h), (i) or (k) for the local governments or the local governments' areas.

(3) If the matter is a reviewable local government matter mentioned in section 64(1)(c) (other than a matter the subject of a delayed implementation reference) for a local government area that is divided, the commission may determine the matter be implemented on the conclusion of the election, at the next quadrennial elections, of all councillors for the local governments affected by the determination only if—

11 Division 7 applies to the holding of compulsory and non-compulsory referendums.

(a) the commission is satisfied it is appropriate to delay implementing the matter having regard to the delayed implementation issues for the matter; and

(b) the commission determines not to implement a reviewable local government matter mentioned in section 64(1)(g), (h), (i) or (k) for the local governments or the local governments' areas.

(4) Also, if the matter is a matter mentioned in section 64(1)(c) (the ***first matter***) and the commission makes a determination to implement the first matter, the commission may, if it is satisfied it is appropriate for another reviewable local government matter mentioned in section 64(1)(g) or (h) included in the reference of the first matter, make a determination to implement the other matter only so far as the other matter relates to all of the divisions of a local government area directly affected by the determination of the first matter.

(5) However, subsection (4) does not apply if the commission makes a determination of a matter mentioned in section 64(1)(i) or (k) included in the reference of the first matter.

(6) For subsection (4), a division of a local government area is directly affected by the determination of the first matter only if, under the determination—

(a) the division's boundaries are to be changed because of the exclusion of part of the local government area (the ***excluded part***) and including the excluded part in another local government area; or

(b) the division adjoins the excluded part; or

(c) the division adjoins a division mentioned in paragraph (a) or (b).

(7) The report must—

(a) state the determination and reasons for it and, if applicable, include recommendations on implementation issues for the matter; and

(b) include a summary of—

(i) the submissions made to the commission on the matter; and

(ii) if section 88 applies to the matter—the suggestions and comments properly given to the commission on the matter; and

(c) be accompanied by copies of the submissions and, if applicable, the suggestions and comments.

(8) Also, if a referendum is held for the commission's proposed determination of the matter, the report must—

(a) state the final result of the referendum; and

(b) if the referendum is a compulsory referendum and the referendum question is not approved—be accompanied by a copy of the commission's proposed determination and, if applicable, its recommendations on implementation issues for the matter and the reasons for them.

(9) If a compulsory referendum has been held for the commission's proposed determination of the matter, the commission—

(a) must determine that the matter be implemented if the referendum question is approved by the affected area for the matter; but

(b) must determine that the matter not be implemented if the referendum question is not approved by the affected area for the matter.

(10) If a non-compulsory referendum has been held for the commission's proposed determination of the matter, the commission may determine that the matter be implemented regardless of whether the referendum question is approved by the affected area for the matter.

94 Notification of determination and report to Minister

(1) The commission must—

(a) give notification of its final determination, or its determination under section 89—

(i) by gazette notice; and

(ii) by advertisement published in a newspaper circulating generally in the local government areas affected by the determination; and

(b) give to the Minister a copy of the gazette notice and the commission's report on the matter; and

(c) give a copy of the report to the local government affected by the determination.

(2) The notification must—

(a) contain a summary of the determination; and

(b) state that the commission's report on the matter is—

(i) open to inspection; and

(ii) available for purchase at the electoral commission's office at Brisbane; and

(c) if the commission determines the matter be implemented—state that the matter is to be implemented by regulation; and

(d) if the commission makes a delayed implementation determination for the matter—state in general terms the effect of the determination; and

(e) if section 96 applies to the matter—state in general terms the effect of the section.

95 Implementation of matter on commission's report

(1) If the commission determines that the reviewable local government matter be implemented, the Governor in Council must implement the matter as soon as practicable after the Minister receives a copy of the gazette notice and the commission's report on the matter.

(2) However, if the commission makes a delayed implementation determination for the matter—

(a) the Governor in Council must implement the matter to commence on the conclusion of the election, at the next quadrennial elections, of all councillors for the local governments affected by the determination; and

(b) a regulation implementing the matter must provide for the conduct of the next quadrennial elections of the local governments as if the matter were implemented.

(3) If a regulation is made to implement the matter and the regulation is to commence on a later day fixed in it, for subsection (1), the matter must not be taken not to have been implemented as soon as practicable merely because of the later commencement.

Examples of subsection (3)—

1 Because of the holding of quadrennial elections under this Act, or fresh elections under the regulation, the regulation may commence after its notification.

2 Because of financial implications, the regulation may commence at the start of a financial year.

(4) Subsection (1) has effect subject to section 158.

96 Implementation of matter at request of Legislative Assembly

(1) This section applies if—

(a) a compulsory referendum has been held for the commission's proposed determination of the reviewable local government matter; and

(b) the commission determines that the matter not be implemented because the referendum question was not approved by the affected area for the matter.

(2) Within 7 sitting days after the Minister tables the commission's report on the matter, the Legislative Assembly may resolve that the Governor in Council be asked to make a regulation implementing the matter.

(3) If the Legislative Assembly resolves that the Governor in Council be asked to implement the matter, the Governor in Council must implement the matter as soon as practicable after the resolution is passed.

(4) If a regulation is made to implement the matter and the regulation is to commence on a later day fixed in it, for subsection (3), the matter must not be taken not to have been

implemented as soon as practicable merely because of the later commencement.

Example of subsection (4)—

1 Because of the holding of quadrennial elections under this Act, or fresh elections under the regulation, the regulation may commence after its notification.

2 Because of financial implications, the regulation may commence at the start of a financial year.

Subdivision 3 Minor references of reviewable local government matters

97 Application of subdivision

This subdivision applies for a reviewable local government matter, the subject of a minor reference, being considered by a commission.

98 Commission may make inquiries

In considering the reviewable local government matter, the commission may make the inquiries it considers appropriate.

99 Determination not to implement matter

(1) If after considering the reviewable local government matter, the commission determines that the reviewable local government matter not be implemented, the commission must prepare a report on the matter.

(2) The report must state the determination and reasons for it.

100 Notice of proposed determination to implement matter and recommendations

(1) If the commission proposes to determine that the reviewable local government matter be implemented, the commission—

(a) must give written notice to—

(i) each local government that would be affected by the matter if it were implemented; and

(ii) if the matter is a reviewable local government matter mentioned in section 64(1)(c) or (e)—each owner of land in the part the subject of the matter; and

(b) may give written notice to anyone else the commission considers would be directly affected by the matter if it were implemented.

(2) The notice must state—

(a) the general effect of the proposed determination; and

(b) that particulars of the proposed determination and recommendations on implementation issues for the matter, including reasons and any relevant maps, are open to inspection; and

(c) that submissions about the proposed determination and recommendations—

(i) may be made, in writing, to the commission at a stated address; and

(ii) must state the grounds of the submission and the facts and circumstances relied on in support of the grounds; and

(d) a day (the ***stated day***) on or before which the particulars may be inspected and submissions made.

(3) If, in the proposed determination of the matter, the commission proposes to adopt a margin of allowance under section 286(3) for the quota of voters for each councillor for a division of a local government, the notice must also state the margin of allowance to be adopted.

(4) If the commission proposes to make a delayed implementation determination for the matter, the notice must also state—

(a) the matter is to be implemented on the conclusion of the election, at the next quadrennial elections, of all councillors for the local governments affected by the determination to implement the matter; and

(b) the elections are to be conducted as if the determination were implemented.

(5) The stated day must be at least 30 days after the particulars mentioned in subsection (2)(b) are first open to inspection at the electoral commission's office at Brisbane.

(6) The notice given to the local governments must be accompanied by a copy of the particulars mentioned in subsection (2)(b).

(7) The particulars are to be open to inspection until the day after the stated day.

101 Commission to consider submissions

(1) The commission must consider all submissions properly made about the proposed determination and recommendations on implementation issues for the reviewable local government matter.

(2) The commission may amend the proposed determination to take account of the submissions.

(3) However, the commission may substantially amend the proposed determination only if the commission gives notice, under section 100, of the amended proposed determination and recommendations on implementation issues for the matter.

(4) Section 100 and this section apply to the amended proposed determination as if it were the proposed determination.

102 Making final determination and preparation of report

(1) As soon as practicable after completing its consideration of the submissions, the commission must make a final determination of the matter, and prepare a report for the Minister on the reviewable local government matter.

(2) If the matter is the subject of a delayed implementation reference and the commission makes a determination to implement the matter, the commission—

(a) must determine the matter be implemented on the conclusion of the election, at the next quadrennial elections, of all councillors for the local governments affected by the determination to implement the matter; and

(b) must determine not to implement a reviewable local government matter mentioned in section 64(1)(g), (h), (i) or (k) for the local governments or the local governments' areas.

(3) If the matter is a reviewable local government matter mentioned in section 64(1)(c) (other than a matter the subject of a delayed implementation reference) for a local government area that is divided, the commission may determine the matter be implemented on the conclusion of the election, at the next quadrennial elections, of all councillors for the local governments affected by the determination only if—

(a) the commission is satisfied it is appropriate to delay implementing the matter having regard to the delayed implementation issues for the matter; and

(b) the commission determines not to implement a reviewable local government matter mentioned in section 64(1)(g), (h), (i) or (k) for the local governments or the local governments' areas.

(4) Also, if the matter is a matter mentioned in section 64(1)(c) (the ***first matter***) and the commission makes a determination to implement the first matter, the commission may, if it is satisfied it is appropriate for another reviewable local government matter mentioned in section 64(1)(g) or (h) included in the reference of the first matter, make a determination to implement the other matter only so far as the other matter relates to all of the divisions of a local government area directly affected by the determination of the first matter.

(5) However, subsection (4) does not apply if the commission makes a determination of a matter mentioned in section 64(1)(i) or (k) included in the reference of the first matter.

(6) For subsection (4), a division of a local government area is directly affected by the determination of the first matter only if, under the determination—

(a) the division's boundaries are to be changed because of the exclusion of part of the local government area (the ***excluded part***) and including the excluded part in another local government area; or

(b) the division adjoins the excluded part; or

(c) the division adjoins a division mentioned in paragraph (a) or (b).

(7) The report must—

(a) state the determination and reasons for it and, if applicable, include recommendations on implementation issues for the matter; and

(b) include a summary of the submissions made to the commission on the matter; and

(c) be accompanied by copies of the submissions.

103 Notification of determination and report to Minister

(1) The commission must—

(a) give notification of its final determination, or its determination under section 99—

(i) by gazette notice; and

(ii) by advertisement published in a newspaper circulating generally in the local government areas affected by the determination; and

(b) give to the Minister a copy of the gazette notice and the commission's report on the matter; and

(c) give a copy of the report to the local governments affected by the determination.

(2) The notification must—

(a) contain a summary of the determination; and

(b) state that the commission's report on the matter is—

(i) open to inspection; and

(ii) available for purchase at the electoral commission's office at Brisbane; and

(c) if the commission determines the matter be implemented—state that the matter is to be implemented by regulation; and

(d) if the commission makes a delayed implementation determination for the matter—state in general terms the effect of the determination.

104 Implementation of matter

(1) If the commission determines that the reviewable local government matter be implemented, the Governor in Council must implement the matter as soon as practicable after the Minister receives a copy of the gazette notice and the commission's report on the matter.

(2) However, if the commission makes a delayed implementation determination for the matter—

(a) the Governor in Council must implement the matter to commence on the conclusion of the election, at the next quadrennial elections, of all councillors for the local governments affected by the determination; and

(b) a regulation implementing the matter must provide for the conduct of the next quadrennial elections of the local governments as if the matter were implemented.

(3) If a regulation is made to implement the matter and the regulation is to commence on a later day fixed in it, for subsection (1), the matter must not be taken not to have been implemented as soon as practicable merely because of the later commencement.

Examples of subsection (3)—

1 Because of the holding of quadrennial elections under this Act, the regulation may commence after its notification.

2 Because of financial implications, the regulation may commence at the start of a financial year.

(4) Subsection (1) has effect subject to section 158.

Division 5 Limited reviewable local government matters

105 Application of division

(1) This division applies for an application properly made for a determination of a limited reviewable local government matter.

(2) The application is to be dealt with by a commission determining whether the matter should be implemented.

(3) The commission must determine the application even if the matter is, at any time, the subject of a reference of a reviewable local government matter.

106 Commission may make inquiries

In considering the limited reviewable local government matter, the commission may make the inquiries it considers appropriate.

107 Commission must have regard to prescribed issues

(1) When considering the limited reviewable local government matter, the commission must have regard to the issues that may be prescribed under a regulation.

(2) If the matter relates to the external boundaries of a local government area, the commission also must have regard to the need to ensure the provision of efficient and effective local government in the area.

108 Restriction on determination to implement matter

(1) This section applies if a local government that would be affected by the limited reviewable local government matter if it were implemented is divided.

(2) The commission must make a determination not to implement the matter if its implementation would result in the margin of

allowance mentioned in section 286(2) for a quota for a local government's area being departed from.[12]

109 Action after determination to implement matter

(1) This section applies if the commission determines that the limited reviewable local government matter be implemented.

(2) The commission must—

(a) prepare a report for the Minister on the matter; and

(b) give notification of its determination—

(i) by gazette notice; and

(ii) by advertisement published in a newspaper circulating generally in the local government areas that will be affected by the implementation of the matter; and

(c) give to the Minister a copy of the gazette notice and the commission's report on the matter; and

(d) give a copy of the report to the local governments affected by the determination.

(3) The report must state the determination and reasons for it, and include recommendations on implementation issues for the matter.

(4) The notification must—

(a) contain a summary of the determination; and

(b) state that the commission's report on the matter is—

(i) open to inspection; and

(ii) available for purchase at the electoral commission's office at Brisbane; and

(c) state that the determination is to be implemented by regulation.

12 See chapter 5 (Local government elections), part 5 (Division of local government areas).

110 Action after determination not to implement matter

(1) This section applies if the commission determines that the limited reviewable local government matter not be implemented.

(2) The commission must—

(a) prepare a report for the Minister on the matter; and

(b) give written notice of its determination to the landowners whose agreements accompanied the application for the determination of the matter; and

(c) give to the Minister a copy of the commission's report on the matter; and

(d) give a copy of the report to the local governments whose agreements accompanied the application for determination of the matter.

(3) The report must state the determination and reasons for it.

(4) The notice must state that the commission's report on the matter is—

(a) open to inspection; and

(b) available for purchase at the electoral commission's office at Brisbane.

111 Implementation of matter

(1) If the commission determines that the limited reviewable local government matter be implemented, the Governor in Council must implement the matter as soon as practicable after the Minister receives a copy of the commission's report on the matter.

(2) If a regulation is made to implement the matter and the regulation is to commence on a later day fixed in it, for subsection (1), the matter must not be taken not to have been implemented as soon as practicable merely because of the later commencement.

Examples of subsection (2)—

1 Because of the holding of quadrennial elections under this Act, the regulation may commence after its notification.

2 Because of financial implications, the regulation may commence at the start of a financial year.

(3) Subsection (1) has effect subject to section 158.

Division 6 Inquiries by expanded commissions

Subdivision 1 General

112 Expanded commission may decide to hold inquiry for certain matters

In considering a reviewable local government matter the subject of a major reference, an expanded commission may decide to hold an inquiry under this division.

113 Notice of decision to hold inquiry

Before starting the inquiry, the commission must—

(a) publish in a newspaper circulating in the areas of the local governments concerned a notice outlining the processes to be followed in the inquiry; and

(b) give a copy of the notice to the local governments.

Subdivision 2 Conduct of inquiries

114 Presiding member

The chairperson presides at the inquiry.

115 Commission's duties on inquiry

When conducting an inquiry, the commission—

(a) must observe natural justice; and

(b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.

116 Commission may decide procedures

(1) The commission—

(a) is not bound by the rules of evidence; and

(b) may inform itself in any way the commission considers appropriate; and

(c) may decide the procedures to be followed at an inquiry.

(2) However, the commission must comply with this subdivision and any procedural rules prescribed by regulation.

117 Public may attend

The commission must allow members of the public to attend an inquiry.

118 Commission's powers on inquiry

(1) In conducting an inquiry, the commission may—

(a) act in the absence of a person who has been given reasonable notice; and

(b) receive evidence on oath or affirmation or by statutory declaration; and

(c) adjourn the inquiry; and

(d) permit a document to be amended; and

(e) disregard any defect, error, omission or insufficiency in a document; and

(f) permit or refuse to permit a person (including a legal practitioner enrolled in Queensland or elsewhere) to represent someone else at the inquiry.

(2) A commission member may administer an oath or affirmation to a person appearing as a witness before the inquiry.

119 Notice to witness

(1) The commission may, by written notice given to a person, require the person to attend an inquiry at a specified time and place to give evidence or produce specified documents.

(2) A person who is given a notice must—

(a) attend as required by the notice; and

(b) continue to attend as required by the commission until excused from further attendance.

Maximum penalty—35 penalty units.

(3) A person required to appear as a witness before an inquiry is entitled to the witness fees prescribed by regulation or, if no witness fees are prescribed, the reasonable witness fees decided by the commission.

120 Duty of witness at inquiry

(1) A person appearing as a witness at an inquiry must not—

(a) fail to take an oath or make an affirmation when required by the commission; or

(b) fail, without reasonable excuse, to answer a question the person is required to answer by the commission; or

(c) fail, without reasonable excuse, to produce a document the person is required to produce by a notice under section 119(1).

Maximum penalty—35 penalty units.

(2) It is a reasonable excuse for a person to fail to answer a question or produce a document if answering the question or producing the document might tend to incriminate the person.

121 Contempt

A person must not—

(a) insult the commission or a commission member in an inquiry; or

(b) deliberately interrupt an inquiry; or

(c) create or continue, or join in creating or continuing, a disturbance in or near a place where the commission is conducting an inquiry; or

(d) do anything that would be a contempt of court if the commission were a judge acting judicially.

Maximum penalty—50 penalty units.

122 Change of commission members

The inquiry is not affected by a change in the commission members.

Division 7 Referendums

Subdivision 1 Preliminary

123 Application of div 7

This division applies to a compulsory or non-compulsory referendum to be held in relation to a commission's proposed determination of a reviewable local government matter.

124 *Approving* or *opposing* referendum question

(1) This section applies for deciding whether the referendum question for the proposed determination of the reviewable local government matter is approved.

(2) A person ***approves*** the referendum question if the person answers the question in the affirmative.

(3) If the affected area for the reviewable local government matter is not divided into voting areas, the affected area ***approves*** the referendum question for the matter if the affected electors for the affected area who vote to approve the question are greater in number than the affected electors who vote to oppose the question.

(4) If the affected area is divided into voting areas—

(a) a voting area ***approves*** the referendum question if the affected electors for the voting area who vote to approve the question are greater in number than the affected electors who vote to oppose the question; and

(b) the affected area ***approves*** the referendum question if each voting area approves the question.

(5) A person ***opposes*** the referendum question if the person answers the question in the negative.

Subdivision 2 Holding referendums

125 Wording of referendum question

The precise wording for the referendum question must be set under a regulation.

126 Appointment and role of returning officers for referendum

(1) The commissioner must appoint a returning officer and an assistant returning officer for the referendum.

(2) As soon as practicable after making an appointment, the commissioner must, by gazette notice, advise of the appointment.

(3) The returning officer and the assistant returning officer are each entitled to the fees and allowances decided by the commissioner.

(4) The returning officer must conduct the referendum.

(5) If, for any reason, the returning officer can not perform the functions of office, the assistant returning officer must act as the returning officer.

(6) The returning officer for the referendum must have a public office for the referendum.

(7) The local governments for the affected area must give the returning officer all reasonable assistance the returning officer asks for in conducting the referendum.

127 Referendum day

(1) The day for holding the referendum for the commission's proposed determination of the reviewable local government matter (the ***referendum day***) must be a Saturday.

(2) The returning officer must fix the referendum day.

(3) However, the Governor in Council may, by gazette notice, fix as the referendum day a day that is later than the day previously fixed by the returning officer as the referendum day.

(4) If a gazette notice is published under subsection (3), the returning officer must publish a notice giving necessary directions to affected electors about the procedures to be followed.

(5) The returning officer's notice must be published in a newspaper circulating generally in the affected area.

128 Notice of referendum day and other information

(1) The returning officer for the referendum must publish a notice (the ***referendum notice***)—

(a) stating the referendum day for the referendum; and

(b) stating the referendum roll cut off day fixed by the returning officer; and

(c) advising whether, and if so to what extent, the referendum is to be conducted by postal ballot; and

(d) giving a brief explanation about—

(i) the question for the referendum; and

(ii) who is an affected elector; and

(e) giving notice of the address and telephone number of the returning officer's public office.

(2) The referendum notice must be published in a newspaper circulating generally in the affected area.

(3) The returning officer may also publish the referendum notice in other ways the returning officer considers appropriate.

(4) The referendum notice must also be displayed in a conspicuous position at the returning officer's public office from as soon as practicable after the referendum notice is first published in a newspaper until 6p.m. on the referendum day.

(5) The returning officer may also display a copy of the referendum notice at other places the returning officer considers appropriate.

(6) The referendum notice may be published before the making or commencement of the regulation setting the precise wording for the question for the referendum.

(7) To the extent the referendum is not conducted by postal ballot, the referendum notice must state—

(a) the location of ordinary polling booths to be used for the referendum; and

(b) that the ordinary voting hours are from 8a.m. and 6p.m.

(8) The referendum roll cut off day must be at least 5 days, but not more than 7 days, after the referendum notice is first published in a newspaper.

129 Voters rolls

(1) As soon as practicable after the referendum roll cut off day, the returning officer must compile a voters roll for—

(a) the affected area for the reviewable local government matter; or

(b) if the affected area for the reviewable local government matter is divided into voting areas—each voting area.

(2) A voters roll must consist of persons who, on the referendum roll cut off day, are electors under the *Electoral Act 1992* and are enrolled on an electoral roll for an electoral district, or part of an electoral district, included in the affected area or, if subsection (1)(b) applies, the voting area concerned.

(3) A voters roll—

(a) must be in the form of the electoral roll used for elections of the Legislative Assembly; and

(b) must not include an elector's address that, under the *Electoral Act 1992*, is excluded from the publicly available part of an electoral roll.

130 Voters roll to be open to inspection and purchase

(1) A voters roll is open to inspection until the final result of the referendum for the matter is notified.

(2) The returning officer must sell a copy of a voters roll to anyone who asks to buy it.

(3) The price of a voters roll must be no more than the cost of making a copy of the roll and, if the copy is posted to the purchaser, the postage cost.

131 Explanatory statement

The commission for the reviewable local government matter must prepare a statement (the ***explanatory statement***) about the advantages and disadvantages of the proposed determination that, in the commission's opinion, should be taken into account by an affected elector voting in the referendum.

132 Commission may request information from local government

(1) The commission for the reviewable local government matter may, by written notice, request a local government to give the commission, in writing, information the commission reasonably needs from the local government for the preparation of an explanatory statement.

(2) The request must specify a reasonable time within which the information must be given to the commission.

(3) The local government must comply with the request.

133 Giving statements to affected electors and display of statements and proposed determination

(1) The returning officer must give the explanatory statement for the referendum to each affected elector on the voters roll for

the affected area or, if the affected area is divided into voting areas, a voting area.

(2) The statement must be given to the affected elector at a reasonable time before the referendum day.

(3) If the referendum is to be conducted by postal ballot for all or part of the affected area, the explanatory statement may be given to an affected elector when the elector is given the ballot paper for the referendum.

(4) An affected elector, other than an affected elector to whom the returning officer has given an explanatory statement, must be given a copy of the statement if the elector asks for it.

(5) The returning officer must display a copy of the explanatory statement and the commission's proposed determination of the matter—

(a) in a prominent place in the returning officer's public office; and

(b) at other places the returning officer considers appropriate.

134 Local government views on referendum

The provisions of this division do not prevent a local government that considers that it will be affected by the proposed determination of the commission about the reviewable local government matter to which the referendum relates from informing affected electors of its views about the referendum question.

135 Compulsory voting

Voting at the referendum is compulsory, and each affected elector for the affected area for the reviewable local government matter, or a voting area in the affected area, is entitled to only 1 vote.

136 Conduct of referendum

(1) Chapter 5, part 6 applies (with any necessary changes and any additional changes specified in subsection (8) or changes

prescribed under a regulation) to the referendum as if the referendum were an election.

(2) Without limiting subsection (1), the necessary changes mentioned in subsection (1) include the non-application of provisions of chapter 5, part 6 to the extent that their application is inappropriate or unnecessary.

(3) The application of provisions of chapter 5, part 6 is unnecessary to the extent that the provisions have particular reference to candidates.

(4) Without limiting subsections (2) and (3)—

(a) section 291 has no application; and

(b) chapter 5, part 6, divisions 3 and 11 have no application; and

(c) chapter 5, part 6, division 4, has no application; and

(d) section 325(2)(d) to (f), (3) and (4) does not apply to the ballot paper to be used for the referendum; and

(e) section 326 has no application; and

(f) section 327 has no application; and

(g) sections 357 and 358 have no application; and

(h) in sections 366(1) and 367, the reference to a candidate, but not the reference to a scrutineer, may be ignored; and

(i) sections 368 and 369 have no application; and

(j) section 371(1)(b) has no application; and

(k) section 385(1)(b) has no application; and

(l) in section 407(2), the reference to a candidate or nominee as a candidate for election may be ignored, but not the reference to the returning officer.

(5) Necessary changes also include the following changes having general operation—

(a) a reference to chapter 5, part 6 is a reference to that part as applied under this section, and is also taken to include a reference to the other provisions of this division;

(b) a reference to the returning officer is a reference to the returning officer for the referendum;

(c) a reference to an assistant returning officer is a reference to the assistant returning officer for the referendum;

(d) a reference to an elector is a reference to an affected elector for the affected area or, if the affected area is divided into voting areas, each voting area in relation to the referendum;

(e) a reference to a scrutineer for a candidate is a reference to a scrutineer for the referendum;

(f) a reference to the voters roll is a reference to the voters roll compiled under this division for the affected area or, if the affected area is divided into voting areas, each voting area;

(g) a reference to the local government area, or a division of the local government area, is, for the referendum, a reference to—

(i) the affected area; or

(ii) a voting area of the affected area;

(h) a reference to the local government's public office is a reference to the public office of the returning officer for the referendum;

(i) a reference to the poll for the election is a reference to the poll for the referendum;

(j) a reference to polling day is a reference to the referendum day for the referendum;

(k) a reference to the notice under section 311 is a reference to the referendum notice for the referendum;

(l) a reference to the election period is a reference to the period—

(i) starting on the day the referendum notice for the referendum is first published; and

(ii) ending at 6p.m. on the referendum day for the referendum;

(m) a reference to an electoral officer for an election is a reference to an electoral officer for the referendum.

(6) Necessary changes also include the following changes having more specific operation—

(a) for applying sections 321(6), 340(5) and 365(1), the returning officer for the referendum, instead of advising candidates, must advise the persons and groups who have appointed scrutineers for the referendum;

(b) for applying sections 336(10)(b), 341(2)(c), 348(3)(c) and 351, a reference to division 11 is a reference to the provisions of this division about the marking of a ballot paper;

(c) for applying section 341(2)(a), a reference to stating the names of candidates is a reference to reading out the referendum question;

(d) for applying sections 363(1)(c)(ii) and (iii) and 366(3)(b) and (4)(c), the returning officer for the referendum must—

(i) count the number of votes approving the referendum question marked on all formal ballot papers, and keep the ballot papers in a separate parcel; and

(ii) count the number of votes opposing the referendum question marked on all formal ballot papers, and keep the ballot papers in a separate parcel;

(e) for applying section 363(1)(d)(i), the written statement must set out, in words and numerals, the number of votes approving the referendum question and the number of votes opposing the referendum question;

(f) for applying section 366(2), the returning officer for the referendum must ascertain the number of votes approving the referendum question and the number of votes opposing the referendum question;

(g) for applying section 366(3) and (4), the returning officer for the referendum must count the number of votes

approving the referendum question and the number of votes opposing the referendum question;

(h) for applying section 366(5), the returning officer for the referendum must add together the number of votes counted as approving the referendum question and the number of votes counted as opposing the referendum question;

(i) for applying section 367(2), the reference to a vote for a particular candidate is a reference to whether the vote is a vote approving or opposing the referendum question, and the reference to the name of the candidate for whom a vote is counted is a reference to whether the vote is counted as a vote approving or opposing the referendum question;

(j) for applying section 372, the reference to each candidate is a reference to the commission;

(k) the result the returning officer must give under section 372 as applied under this division is—

(i) if the affected area is divided into voting areas—

(A) for each voting area of the affected area—how the voting area voted on the referendum question, including whether the voting area has approved the referendum question; and

(B) for the affected area—whether the affected area has approved the referendum question; or

(ii) if the affected area is not divided into voting areas—whether the affected area has approved the referendum question;

(l) for applying sections 373, 374(1) and (3)(b), 375, 376 and 377, the reference to the local government is a reference to the local government for the local government area, or part of a local government area, for which a person listed as having failed to vote is enrolled;

(m) for applying section 378, the reference to the local government's chief executive officer is a reference to the returning officer for the referendum;

(n) for applying sections 379 and 380, a reference to the local government's chief executive officer is a reference to the commissioner, but section 379(4) has no application at all;

(o) for applying section 381, the reference to the local government is a reference to the commissioner;

(p) for applying section 385(1)(c), the reference to support of, or opposition to, a candidate or a political party is a reference to approval of, or opposition to, the referendum question;

(q) sections 391 and 404 are about how a person votes at the referendum, rather than the candidate for whom a person votes;

(r) for applying section 407, the reference in section 407(1)(b) to chapter 5 is a reference to chapter 5, part 6 as applied under this division, and is also taken to include a reference to the other provisions of this division.

(7) To avoid any doubt, sections 359 and 360 have application.

(8) The following additional changes are specified—

(a) for applying section 363A(2) or 364(2), the returning officer need not wait until after 8a.m. on the day before the referendum day or the referendum day to start the preliminary processing of declaration votes under that section, but may start at any time before the referendum day;

(b) for applying section 407, an application to the Supreme Court may additionally be made by—

(i) a local government; or

(ii) an individual or group of individuals reasonably identified in the community, in the court's opinion, as supporting or opposing the referendum question.

(9) Subsections (2) to (8) do not limit by implication the changes that may be prescribed under a regulation.

Subdivision 3 Replacement provisions

137 Preliminary

A provision of chapter 5, part 6 has no application to the extent it is inconsistent with the replacement provisions in this subdivision.

138 Direction that poll be conducted by postal ballot

(1) The Governor in Council may, by gazette notice, direct that the poll for the referendum for the commission's proposed determination of the reviewable local government matter be conducted by postal ballot.

(2) The direction may be given for—

(a) all of the affected area; or

(b) a part of the affected area marked on a map.

(3) The map is open to inspection at the place stated in the gazette notice.

139 Ballot papers

If the affected area for the reviewable local government matter is divided into voting areas, a different coloured ballot paper must be used for each voting area.

140 Mode of voting

(1) If an affected elector wishes to vote to approve the referendum question, the elector must place a tick in the square opposite the word 'YES' on the ballot paper.

(2) If an affected elector wishes to vote to oppose the referendum question, the elector must place a tick in the square opposite the word 'NO' on the ballot paper.

(3) An affected elector is taken to have marked a ballot paper in the way mentioned in subsection (1) if the elector—

(a) writes the word 'YES' in the square opposite the word 'YES' on the ballot paper; or

(b) otherwise marks the ballot paper in a way clearly showing that the voter approves of the referendum question.

(4) An affected elector is taken to have marked a ballot paper in the way mentioned in subsection (2) if the elector—

(a) writes the word 'NO' in the square opposite the word 'NO' on the ballot paper; or

(b) otherwise marks the ballot paper in a way clearly showing that the voter opposes the referendum question.

(5) For the application of section 325(2)(a), the approved form of ballot paper must allow for the method of voting stated in this section.

141 Effect of ballot paper

For a ballot paper to have effect as a vote of an affected elector in the referendum—

(a) the ballot paper must be completed in the way stated in this subdivision; and

(b) the ballot paper must not contain any writing or mark (other than a mark authorised under this division) by which the elector can, in the returning officer's opinion, be identified; and

(c) the ballot paper must have been put in a ballot box; and

(d) for a ballot paper put in a declaration envelope as required under section 351 as applied under this division—

(i) section 351(1) must have been complied with; and

(ii) if the elector is an elector mentioned in section 343 or 344 or an applicant who is given an approved declaration form under section 347(4) or an elector who is given an approved declaration form under

section 349(2), and the declaration on the envelope is witnessed by a person other than an issuing officer—the signature of the person making the declaration must correspond to the signature of the relevant applicant under section 347, or the relevant elector under section 349; and

(iii) if the declaration envelope is posted to the returning officer for the referendum—it must be received by the returning officer within 10 days after the referendum day.

142 Scrutineers

(1) For the appointment of scrutineers for the referendum, a reference in section 330, 331 or 333 to a candidate for election is a reference to—

(a) a local government for the affected area for the reviewable local government matter; or

(b) an individual or group of individuals reasonably identified in the community, in the returning officer's opinion, as supporting or opposing the referendum question.

(2) An individual mentioned may appoint himself or herself as a scrutineer, and a group of individuals may appoint 1 or more of the group as a scrutineer or as scrutineers.

(3) For appointing a scrutineer for a group, the appointment may be made on the group's behalf by any of its members.

(4) The returning officer may reject an appointment if the returning officer reasonably believes that if more scrutineers are appointed, the efficiency of the conduct of the referendum may be adversely affected.

(5) The returning officer may direct 1 or more scrutineers to leave a place if the returning officer reasonably believes that the number of scrutineers at the place may adversely affect the efficiency of the conduct of the referendum.

(6) A scrutineer must comply with a direction given under subsection (5).

Maximum penalty for subsection (6)—10 penalty units.

Subdivision 4 Miscellaneous

143 Referendum cost

(1) The cost of conducting the referendum, including the fees and allowances to which the returning officer and assistant returning officer for the referendum are entitled, must be paid by the local governments prescribed under a regulation for the referendum in the way stated in the regulation.

(2) An amount required for the cost may, without resolution of a local government, be spent by it whether or not the disbursement is provided for in its budget.

(3) An amount may be paid only if the returning officer for the referendum has presented an account to the local government's chief executive officer.

144 Proof of voters roll

In a proceeding, a document purporting to be a copy of a voters roll for an affected area, or a voting area of an affected area, and to be certified by the returning officer for the referendum, is evidence of the roll and the matters contained in the roll.

Division 8 Provisions about commission members

Subdivision 1 Commissioner and deputy commissioner

145 Commissioner may direct deputy commissioner to perform commissioner's functions

(1) This section applies if the commissioner—

(a) constitutes, or partly constitutes, a commission; and

(b) is unable, for any reason, to perform the functions of the commission or a commission member.

(2) For the purpose of the commission performing a function or exercising a power, the commissioner may direct the deputy commissioner to act in the place of the commissioner.

(3) Anything done by the deputy commissioner in the place of the commissioner is taken to have been done by the commissioner as constituting the commission or as a commission member.

Subdivision 2 Appointment, and duration of appointment, of review commissioners

146 Appointment

(1) The Governor in Council is to appoint qualified individuals as review commissioners.

(2) The Governor in Council may appoint the number of review commissioners the Governor in Council considers necessary.

(3) An initial appointment as a review commissioner may be made only if the Minister has consulted with the Local Government Association about it.

(4) A person is qualified for appointment as a review commissioner only if the person—

(a) has extensive knowledge and experience in local government, public administration, law, public finance or community affairs; or

(b) has other qualifications and experience the Governor in Council considers appropriate.

(5) A person is not qualified for appointment as a review commissioner if the person—

(a) is a member of an Australian Parliament; or

(b) is a nominee for election as a member of an Australian Parliament; or

(c) is a councillor; or

(d) is a nominee for election as a councillor; or

(e) accepts appointment as a councillor; or

(f) is a member of a political party.

147 Duration of appointment

A review commissioner may be appointed for a term not longer than 3 years.

Subdivision 3 Terms of appointment, resignation and termination of appointment of certain commission members

148 Definition for sdiv 3

In this subdivision—

commissioner means a review commissioner or the chairperson of a special commission.[13]

149 Terms of appointment

(1) A commissioner is entitled to be paid the remuneration and allowances the Governor in Council may decide.

(2) A commissioner holds office on the terms, not provided in this Act, the Governor in Council decides.

150 Resignation

A commissioner may resign by giving a signed notice of resignation to the Minister.

151 Termination of appointment

(1) The Governor in Council may terminate the appointment of a commissioner for misbehaviour or physical or mental incapacity.

13 The chairperson of a special commission is appointed by the Governor in Council under section 81(1)(a).

(2) The Governor in Council must terminate the appointment of a commissioner if the person—

(a) nominates for election to an Australian Parliament; or

(b) nominates for election to a local government or accepts appointment as a local government councillor; or

(c) becomes a member of a political party; or

(d) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or

(e) contravenes section 74 without reasonable excuse.

Division 9 Miscellaneous

152 Staff and administrative support

The electoral commission must ensure that a commission has the staff and administrative support services required to carry out its functions effectively and efficiently.

153 Annual reports

(1) As soon as practicable, but not later than 4 months, after the end of each financial year, the commissioner must give to the Minister a report of Local Government Electoral and Boundaries Review Commissions' operations for the year (the ***review commissions' report***).

(2) The electoral commission's annual report prepared under the *Electoral Act 1992*, section 19, for the year must include the review commissions' report.

154 Certain reports to be tabled etc.

(1) In this section—

report means a report on a major or minor reference of a reviewable local government matter.[14]

(2) The Minister must table a copy of a commission's report in the Legislative Assembly within 7 sitting days after receiving it.

155 Reports open to inspection and available for purchase

The commissioner must ensure copies of each commission's report on a reviewable local government matter or a limited reviewable local government matter—

(a) are open to inspection at the electoral commission's office at Brisbane; and

(b) are available for purchase at the electoral commission's office at Brisbane for 6 months after—

(i) for a report on a major or minor reference of a reviewable local government matter—it is tabled in the Legislative Assembly; or

(ii) for a report on a limited reviewable local government matter—notification of the commission's determination under section 109 or 110.

156 Additional procedures may be prescribed by regulation

A regulation may be made about additional procedures for the following—

(a) major and minor references of reviewable local government matters;

(b) applications relating to limited reviewable local government matters.

14 See sections 89 (Determination not to implement matter) and 94 (Notification of determination and report to Minister) for major references of reviewable local government matters and sections 99 (Determination not to implement matter) and 103 (Notification of determination and report to Minister) for minor references of reviewable local government matters.

Division 10 Implementing reviewable local government matters

157 Implementation of reviewable local government matter

(1) A reviewable local government matter may be implemented by regulation.

(2) A regulation may provide for—

(a) holding, postponing or cancelling an election for a local government area or a division of a local government area; or

(b) appointing a returning officer for an election; or

(c) recovering unpaid rates; or

(d) exempting a local government from the requirement to prepare and adopt a corporate or operational plan or a revenue policy, and the application of this Act because of the exemption; or

(e) the application of budgets; or

(f) giving or keeping records; or

(g) implementation issues for the matter; or

(h) the giving of directions by the Governor in Council or the Minister about a matter; or

(i) the transfer of assets and liabilities; or

(j) in the case of a reviewable local government matter the subject of a delayed implementation determination—payment by a local government for not adequately supplying services and facilities in the interim period for the matter in a part of a local government area that, under the matter, has been, or is to be, transferred from 1 local government area to another local government area; or

(k) any other matter for which—

(i) it is necessary or convenient to provide to implement the reviewable local government matter; and

(ii) this Act does not make provision or adequate provision.

(3) Subsection (2)(a) has effect subject to section 408(3).

(4) A regulation under subsection (2)(a) applies despite sections 269 and 270.

(5) Chapter 5 applies to an election for the implementation of a reviewable local government matter with all necessary changes and any changes prescribed by regulation as if the election were an election of the appropriate type.

(6) In this section—

division includes a proposed division.

interim period, for a reviewable local government matter the subject of a delayed implementation determination, means the period from the notification of the determination by gazette notice to the conclusion of the election, at the next quadrennial elections, of all councillors for the local governments affected by the determination.

local government area includes a proposed local government area.

158 Requirement before implementation

(1) A reviewable local government matter may be implemented under section 157 only if the commissioner, and the commission that determined the matter, have complied with this Act in relation to the matter.

(2) For the purposes of subsection (1), strict compliance with this Act is not necessary and substantial compliance is sufficient.

159 Liability for State taxes

(1) A local government is not liable to pay a State tax in relation to a transfer or other arrangement made to implement a reviewable local government matter under this division.

(2) In this section—

State tax means a tax, other than duty under the *Duties Act 2001*, fee, levy or charge imposed under an Act.

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

Division 1 Preliminary

159YA Application of pt 1B

(1) This part does not apply to the Brisbane City Council.

(2) This part applies to a Torres Strait Islander local government.

(3) This part does not apply to a joint local government.

(4) Subsection (3) does not prevent a reform implementation regulation from making provision for joint local governments.

159YB Objectives of pt 1B

(1) This part has a number of objectives.

(2) Firstly an objective of this part is the objective stated for part 1A in section 159B.

(3) Secondly, an objective of this part is to implement decisions for the structural reform of local governments, which reform includes—

(a) following the making of recommendations by the reform commission under part 1A, the establishment of particular local government areas to replace particular existing local government areas; and

(b) the creation of new structural and governance arrangements.

(4) Thirdly, an objective of this part is to provide for the transition of existing local governments to the new arrangements.

159YC Operation of pt 1B in relation to pt 1

To remove any doubt, it is declared that the requirements applying under part 1 for the implementation of reviewable

local government matters do not apply to the implementation of a reform matter under this part.

159YD Definitions for pt 1B

In this part—

adjusted local government means a local government whose local government area is an adjusted local government area.

adjusted local government area means a local government area that under this part is changed by—

(a) the inclusion of an area in it; or

(b) the exclusion of an area from it.

area map means a map or group of maps showing 1 or more of the following—

(a) the external boundaries of a local government area;

(b) the division boundaries of a local government area that is divided;

(c) a transferring area.

caretaker period, for an election for a new local government, means the election period for the election.

changeover day see section 159YE.

chief returning officer means the commissioner.

continuing local government means a local government whose local government area is a continuing local government area.

continuing local government area see section 159YK.

division arrangements regulation means a regulation under section 159YH, 159YJ or 159YL.

employee, for division 7, see section 159ZE.

existing local government means a local government whose local government area is an existing local government area.

existing local government area means a local government area as in existence on the commencement of this section.

function includes power.

local transition committee means—

(a) for a new local government area—a local transition committee established for the area under section 159YR; and

(b) for division 9—see section 159ZP.

major policy decision, for a merging local government, means a decision—

(a) about the appointment of a chief executive officer of the local government; or

(b) about the remuneration of the chief executive officer of the local government; or

(c) to terminate the employment of the chief executive officer of the local government; or

(d) to enter into a contract, other than a contract between the local government and the State or the Commonwealth, the total value of which is more than the greater of the following—

(i) $150000;

(ii) 1% of the local government's net rate and utility charges as stated in the local government's audited financial statements included in the local government's most recently adopted annual report.

merging local government means an existing local government whose local government area is a merging local government area.

merging local government area means an existing local government area all or part of which, under this part, is abolished to become part of a new local government area.

Note—

Existing local government areas part of which, under this part, are abolished to become part of a new local government area are the existing local government areas of Beaudesert Shire Council, Ipswich City Council, Taroom Shire Council, Tiaro Shire Council and Torres Shire Council.

new local government means a local government whose area is a new local government area.

new local government area see section 159YG.

reform implementation regulation see section 159YQ.

reform matter means anything that takes effect under division 2.

State Transition Committee see section 159ZZ.

transferring area means transferring area A, B, C, D, E, F, G, H, I, J, K, L or M.

transferring area A means—

(a) generally, the northern urban areas of the existing local government area of the Beaudesert Shire Council; and

(b) more particularly, the area marked as transferring area A on area map LGTA1.

transferring area B means—

(a) generally, the southern rural areas, including the Town of Beaudesert and the Tamborine area, of the existing local government area of the Beaudesert Shire Council; and

(b) more particularly, the area marked as transferring area B on area map LGTA2.

transferring area C means—

(a) generally, the Harrisville/Peak Crossing area of the existing local government area of the Ipswich City Council; and

(b) more particularly, the area marked as transferring area C on area map LGTA3, edition 2.

transferring area D means—

(a) generally, all parts of the local government area of the Gold Coast City Council north of the Albert River, including the Beenleigh/Eagleby areas; and

(b) more particularly, the area marked as transferring area D on area map LGTA4.

transferring area E means—

(a) generally, division 1 (the Town of Taroom) of the existing local government area of the Taroom Shire Council; and

(b) more particularly, the area shown as division 1 on area map LGB119, edition 1.

transferring area F means—

(a) generally, division 2 (the Wandoan area) of the existing local government area of the Taroom Shire Council; and

(b) more particularly, the area shown as division 2 on area map LGB119, edition 1.

transferring area G means—

(a) generally, divisions 1 and 2 (the northern area) of the existing local government area of the Tiaro Shire Council; and

(b) more particularly, the area shown as divisions 1 and 2 on area map LGB121, edition 2.

transferring area H means—

(a) generally, division 3 (the Theebine/Gunalda areas) of the existing local government area of the Tiaro Shire Council; and

(b) more particularly, the area shown as division 3 on area map LGB121, edition 2.

transferring area I means—

(a) generally, the areas of Sweers Island and Bountiful Islands; and

(b) more particularly, the area marked as transferring area I on area map LGTA5.

transferring area J means—

(a) an area included in the existing local government area of the Cook Shire Council; and

(b) more particularly, the area marked as transferring area J on area map LGTA6.

transferring area K means—

(a) an area included in the existing local government area of the Cook Shire Council; and

(b) more particularly, the area marked as transferring area K on area map LGTA7.

transferring area L means the council areas described in the *Community Services (Torres Strait) Regulation 1998*, schedule 1A, other than the Bamaga council area and the Seisia council area, to the extent the council areas are part of the existing local government area of the Torres Shire Council.

transferring area M means the Bamaga council area and the Seisia council area, as described in the *Community Services (Torres Strait) Regulation 1998*, schedule 1A, to the extent the council areas are part of the existing local government area of the Torres Shire Council.

transferring area local transition committee, for a transferring area, means a transferring area local transition committee established for the area under section 159YY.

transition action plan see section 159Z.

transition matter means any matter relevant to the coming into effect or the implementation of a reform matter.

transition period, for division 10, see section 159ZU.

type 1 election see section 159ZK.

type 2 election see section 159ZK.

type 3 election see section 159ZK.

159YE Changeover day

(1) The ***changeover day***, for a new, adjusted or continuing local government area, is the day that is the conclusion of the last 2008 quadrennial election held for any councillor for the new, adjusted or continuing local government area under division 8.

(2) However, the Minister may, by gazette notice, advise an earlier or later day as the changeover day for a particular new, adjusted or continuing local government area.

(3) If the Minister advises a later or earlier day as the changeover day for a particular new, adjusted or continuing local government area, a provision of this part that refers to the changeover day for a new, adjusted or continuing local government area applies to the particular new, adjusted or continuing local government area on the basis that its changeover day is the day advised.

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

Subdivision 1 Preliminary

159YF Operation of sch 1A

(1) Each area map mentioned in schedule 1A, in the definition of a transferring area or in a division arrangements regulation—

(a) is identified by a map number marked on the map; and

(b) may be inspected without fee at the office of the department in Brisbane.

Editor's note—

A copy of each area map is also available on the department's website.

(2) A map stated in schedule 1A is fully effective to identify the external boundaries of a new, adjusted or continuing local government even if the map bears a name that is different from the name stated for the local government area in the schedule.

Subdivision 2 New local government areas

159YG Establishment of new local government areas (sch 1A, pt 1)

(1) A local government area (a ***new local government area***) is established for the part of the State specified in each area map stated in schedule 1A, part 1, column 3.

(2) Each existing local government area is abolished, to the extent the area is the same as an area included in a part of the State mentioned in subsection (1).

(3) The establishment of a new local government area under subsection (1), and the corresponding abolition under subsection (2) of any existing local government area and of any part of an existing local government area, takes effect on the changeover day for the new local government area.

159YH Operation of sch 1A, pt 1

Each item of schedule 1A, part 1 lists and describes a new local government on its changeover day as follows—

(a) its local government area has the name stated in schedule 1A, part 1, column 1;

(b) it is a local government of the class stated in schedule 1A, part 1, column 2;

(c) it has the local government area shown in the area map stated in schedule 1A, part 1, column 3;

(d) if the entry in schedule 1A, part 1, column 4 states 'area not divided', its local government area is not divided into divisions;

(e) if the entry in schedule 1A, part 1, column 4 states division numbers—

(i) its local government area is divided into divisions that have the division boundaries shown in the area map stated in schedule 1A, part 1, column 3; and

(ii) it has the number of councillors assigned to each division as stated in the entry in schedule 1A, part 1, column 4;

(f) if the entry in schedule 1A, part 1, column 4 states 'divided'—

(i) its local government area is divided into divisions that have the division boundaries shown in an area map stated in a regulation; and

(ii) it has 1 councillor (other than the mayor) assigned to each division;

(g) it has the composition stated in schedule 1A, part 1, column 5.

159YHA Particular entities go out of existence

Each merging local government whose local government area is totally abolished under this part goes out of existence immediately the abolition of the local government area is complete.

Examples—

Calliope Shire Council goes out of existence on the changeover day for the new local government area of Gladstone. Taroom Shire Council goes out of existence on the changeover day for the adjusted local government area of Banana or on the changeover day for the new local government area of Dalby, whichever day is the later.

Note—

This section does not apply to Ipswich City Council or Torres Shire Council as their respective merging local government areas are not totally abolished under this part.

Subdivision 3 Adjusted local government areas

159YI Transfer of transferring areas

(1) Transferring area A is excluded from the existing local government area of the Beaudesert Shire Council and is included in the existing local government area of the Logan City Council.

(2) Transferring area D is excluded from the existing local government area of the Gold Coast City Council and is included in the existing local government area of the Logan City Council.

(3) Transferring area E is excluded from the existing local government area of the Taroom Shire Council and is included in the existing local government area of the Banana Shire Council.

(4) Transferring area I is included in the existing local government area of the Mornington Shire Council.

(5) Transferring area J is excluded from the existing local government area of the Cook Shire Council and is included in the existing local government area of Wujal Wujal Shire Council.

(6) Transferring area K is excluded from the existing local government area of the Cook Shire Council and is included in the existing local government area of Hope Vale Shire Council.

(7) The exclusion and inclusion of a transferring area under subsections (1), (2), (3), (5) or (6), and the inclusion of a transferring area under subsection (4), takes effect on the changeover day for the adjusted local government area resulting from the exclusion or inclusion.

159YJ Operation of sch 1A, pt 2

(1) Each item of schedule 1A, part 2 lists and describes a local government whose local government area becomes an adjusted local government area because of—

(a) any inclusion or exclusion of a transferring area under this subdivision; or

(b) the inclusion of a transferring area in the local government area of a new local government under subdivision 2.

(2) Each item of schedule 1A, part 2 lists and describes an adjusted local government on its changeover day as follows—

(a) its local government area has the name stated in schedule 1A, part 2, column 1;

(b) it is a local government of the class stated in schedule 1A, part 2, column 2;

(c) it has the local government area shown in the area map stated in schedule 1A, part 2, column 3;

(d) if the entry in schedule 1A, part 2, column 4 states 'area not divided', its local government area is not divided into divisions;

(da) if the entry in schedule 1A, part 2, column 4 states division numbers—

(i) its local government area is divided into divisions that have the division boundaries shown in the area map stated in schedule 1A, part 2, column 3; and

(ii) it has the number of councillors assigned to each division as stated in the entry in schedule 1A, part 2, column 4;

(e) if the entry in schedule 1A, part 2, column 4 states 'divided'—

(i) its local government area is divided into divisions that have the division boundaries shown in an area map stated in a regulation; and

(ii) it has 1 councillor (other than the mayor) assigned to each division;

(f) it has the composition stated in schedule 1A, part 2, column 5.

Subdivision 4 Continuing local government areas

159YK Changes applying to continuing local government areas

(1) Each local government area (a ***continuing local government area***) mentioned in schedule 1A, part 3 is a local government area whose external boundaries are not changed under this division.

(2) Each continuing local government area whose existing division and composition arrangements are different from those stated for it in schedule 1A, part 3 is changed to the

arrangements for its division and composition as stated for it in the part.

(3) Each change under subsection (2) takes effect on the changeover day for the continuing local government area.

(4) For completeness, schedule 1A, part 3 includes details of all continuing local government areas, even if their division and composition arrangements are not changed under subsection (2).

159YL Operation of sch 1A, pt 3

Each item of schedule 1A, part 3 lists and describes a continuing local government on its changeover day as follows—

(a) its local government area has the name stated in schedule 1A, part 3, column 1;

(b) it is a local government of the class stated in schedule 1A, part 3, column 2;

(c) it has the local government area shown in the area map stated in schedule 1A, part 3, column 3;

(d) if the entry in schedule 1A, part 3, column 4 states 'area not divided', its local government area is not divided into divisions;

(e) if the entry in schedule 1A, part 3, column 4 states 'divided'—

(i) its local government area is divided into divisions that have the division boundaries shown in an area map stated in a regulation; and

(ii) it has 1 councillor (other than the mayor) assigned to each division;

(f) it has the composition stated in schedule 1A, part 3, column 5.

Subdivision 5 Regulations supporting divisions 2 to 4

159YM Limit of division arrangements regulation

(1) A division arrangements regulation must not affect, or purport to change—

(a) the name, class, or composition of a new, adjusted or continuing local government as provided for in division 2, 3 or 4 and schedule 1A, part 1, 2 or 3; or

(b) the external boundaries of the local government area of a new, adjusted or continuing local government as provided for in division 2, 3 or 4 and schedule 1A, part 1, 2 or 3.

(2) Subsection (1) does not prevent the regulation from stating a new area map as the map identifying the external boundaries of a local government area.

Example—

a later edition of an area map that now includes division boundaries

(3) A division arrangements regulation must not be stated to apply to a local government other than a new, adjusted or continuing local government area whose entry in schedule 1A, part 1, 2 or 3, column 4 states 'divided'.

(4) A division arrangements regulation may be included in a reform implementation regulation and need not be specifically identified as being a division arrangements regulation.

(5) However, 1 or more division arrangements regulations, providing for all matters required to be provided for under a division arrangements regulation, must be made as soon reasonably practicable after the Minister receives notice of any commissioner's decision about division boundaries under subdivision 6.

(6) The division boundaries for a new, adjusted or continuing local government area provided for in a division arrangements regulation must be the boundaries decided by the commissioner under subdivision 6.

(7) Failure to comply with subsection (5) does not affect a regulation's validity.

159YN Regulation for declaring information about local governments

(1) A regulation may at any time, whether before or after the changeover day for any new, adjusted or continuing local government, declare and update relevant information about existing, new, adjusted or continuing local governments.

Example—

The regulation may identify an area map for a new local government area that takes the place of 2 superseded area maps.

(2) In this section—

relevant information means information of the type included in schedule 1A.

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

159YO Commissioner to decide division boundaries

(1) This section applies in relation to each new, proposed or continuing local government area whose entry in schedule 1A, part 1, 2 or 3, column 4 states 'divided'.

(2) The commissioner must decide the division boundaries to apply for the local government area for the 2008 quadrennial elections.

(3) The commissioner must decide the boundaries under subsection (2) as soon as possible, but in any event not later than 15 September 2007.

(4) The commissioner must advise the Minister of the commissioner's decision for each new, adjusted or continuing local government area as soon as possible after the decision is made.

(5) Before deciding the division boundaries, the commissioner must—

(a) publish a notice in a newspaper circulating generally in the local government area inviting submissions from interested persons about what the boundaries should be; and

(b) advise in the notice that submissions must be received within 7 days after the publication of the notice; and

(c) consider all submissions received within the time required under paragraph (b).

(6) For deciding the divisions of the local government area, the commissioner must—

(a) decide the total number of electors for the new, adjusted or continuing local government area on the basis of the enrolment information most recently available to the commissioner; and

(b) apply the principles stated in sections 285 and 286(2) for calculating a quota and allowing for departure from the quota.

159YP Review of commissioner's decision

(1) A decision of the commissioner under this division—

(a) is final and conclusive; and

(b) can not be challenged, appealed against, reviewed, quashed, set aside, or called into question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

(c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

(2) Without limiting subsection (1), a person may not bring a proceeding for an injunction or any other order to stop or otherwise restrain the performance of a designated act, or for a declaration about the validity of a designated act.

(3) In this section—

decision includes—

(a) conduct engaged in to make a decision; and

(b) conduct related to making a decision; and

(c) failure to make a decision.

designated act means an act of the commissioner, including the act of advising the Minister of a decision under this division, the performance of which is authorised, or purportedly authorised, under this division.

Division 3 Implementation of reform matters

159YQ Reform implementation regulations

(1) A regulation (a ***reform implementation regulation***) may be made under this part to support the coming into effect of any reform matter.

(2) Part 1, division 10 applies to a reform implementation regulation as if it were a regulation implementing a reviewable local government matter under part 1.

(3) However, the following provisions do not apply under subsection (2)—

(a) section 157(2)(a), (b) and (j) and (3) to (6);

(b) section 158.

(4) For applying section 157(2)(g) and schedule 2, definition *implementation issues*, the reference in the definition to a reviewable local government matter mentioned in section 64(1)(a), (c), (e) or (f) may be taken to be a reference to any reform matter.

(5) Without limiting section 157(2)(k) or schedule 2, definition *implementation issues*, paragraph (e), as applied under subsections (1) to (4), a reform implementation regulation may include provision for any of the following—

(a) how and to what extent, from its changeover day—

(i) any new local government is the successor of any existing local government; and

(ii) any adjusted local government is the successor of any existing local government in relation to any transferring area;

(b) how and to what extent functions of any existing local governments are, from changeover day for a new or adjusted local government area, to be exercised by the new or adjusted local government or by any other entity;

(c) the continuing operation of delegations made by existing local governments;

(d) the continuation of employment of employees of existing local governments by new or adjusted local governments;

(e) requirements for the preparation of financial statements for existing local governments that under this part are merging local governments or become adjusted local governments and for the auditing of and reporting on the financial statements by the auditor-general;

(f) obligations of existing local governments that under this part become adjusted local governments relating to the transition of transferring areas;

(g) empowering and directing the Local Government Grants Commission to make decisions about the allocation of employees, assets, liabilities and property of any kind between local governments whose areas have a transferring area included in them or excluded from them;

(h) payment by an existing local government or a successor of an existing local government for a failure of the existing local government to adequately supply services and facilities in its local government area in the period between the commencement of this section and the changeover day for a new or adjusted local government;

(i) dealing with the custody of records under the control of existing local governments;

(j) references in documents to existing local governments;

(k) recording in registers kept under any Act the vesting of property affected by the regulation;

(l) dealing with legal proceedings by or against an existing local government.

(6) A reform implementation regulation under subsection (5)(g) may direct whether, and if so to what extent, part 3, divisions 3 to 5 applies to the commission for the purposes of making decisions under the regulation.

159YQA Other transitional regulation-making power

(1) A regulation (a ***transitional regulation***) may make provision of a saving or transitional nature for the operation of this Act in relation to a new local government or an adjusted local government if this Act does not make provision or sufficient provision.

(2) A transitional regulation may have retrospective operation to a day not earlier than the changeover day.

(3) A transitional regulation must declare it is a transitional regulation.

Division 4 Local transition committees

Subdivision 1 Local transition committees for new local government areas

159YR Establishment and composition of local transition committees for new local governments

(1) Each merging local government whose local government area will, on the changeover day for a new local government area, partly or completely, be abolished to form part of the new local government area must take all necessary action to establish a local transition committee for the new local government area as required by this division.

(2) The local transition committee for the new local government area must be made up of—

(a) representatives of each merging local government, consisting of 2 councillors of the local government, nominated by the local government; and

(b) up to 3 union representatives, as agreed by the relevant unions, with each representative being nominated by a relevant union; and

(c) after the committee appoints the interim chief executive officer for the new local government—the interim chief executive officer.

(3) However, a local transition committee must be made up in the way stated in schedule 1B for each of the following new local government areas—

(a) Cassowary Coast Regional Council;

(b) Torres Strait Island Regional Council.

(4) The local transition committee may from time to time include on the committee, as voting members of the committee, other persons the committee considers are suitable to represent the views of the community within the new local government area.

(5) In this section—

relevant union means—

(a) the Australian Services Union; or

(b) the Australian Workers' Union Queensland; or

(c) the Queensland Council of Unions.

159YS Guidelines for local transition committees

(1) The chief executive may publish guidelines on the department's website for the establishment and operation of local transition committees.

(2) The guidelines may include the following—

(a) particulars about how local transition committees are to be established;

(b) explanations about local transition committees' functions;

(c) the establishment and conduct of subcommittees of local transition committees;

(d) how interim chief executive officers of local transition committees are to be appointed;

(e) explanations about the functions of interim chief executive officers;

(f) the content and preparation of transition action plans.

(3) If a State Transition Committee has been established, the chief executive must, before publishing the guidelines, consult on the content of the guidelines with the committee.

(4) It is the responsibility of each local transition committee, including of each member of a local transition committee, to ensure, to the greatest practicable extent, that the local transition committee acts in conformity with the guidelines.

159YT Responsibility to act in public interest

(1) The members of a local transition committee must act in the public interest of the new local government area for which it is established.

(2) If, for a member of a local transition committee, a conflict arises between the public interest mentioned in subsection (1) and the member's private interest, the member must act in a way that gives preference to the public interest.

(3) For a member of a local transition committee who is also a councillor, section 229(2) and (3) applies subject to subsection (2).

159YU Functions of local transition committee

The functions of a local transition committee for a new local government area are—

(a) to appoint an interim chief executive officer for the new local government for the new local government area as provided for in this division; and

(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; and

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

(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; and

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

(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; and

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

159YV First meeting of local transition committee and public notification

(1) The first meeting of a local transition committee must be held as soon as possible after the commencement of this section.

(2) At the first meeting of a local transition committee, the members must elect a member of the committee who is also a councillor to be the chairperson of the committee.

(3) A local transition committee must, not later than 30 days after the commencement of this section, notify, in a newspaper circulating generally in the area to become the local government area of the new local government, information about the local transition committee, including the following information—

(a) the name of each member of the local transition committee;

(b) the name of the chairperson of the local transition committee;

(c) contact information for the local transition committee.

(4) A local transition committee must, within 7 days after a notice notifying the required information under subsection (3) is published, forward a copy of the notice to the chief executive.

159YW Appointment of interim chief executive officer for new local government

(1) A local transition committee for a new local government area must appoint an interim chief executive officer for the new local government for the new area.

(2) The appointment must be made as soon as possible after the committee's first meeting, but in any event, within 30 days after the first meeting.

(3) The appointment may be made by way of seconding an employee of a local government required to be represented on the committee to the role of interim chief executive officer.

(4) If the interim chief executive officer appointed is an employee of a local government required to be represented on the committee, the local government must continue to employ the person on the terms the committee reasonably requires, even though the person is required to perform functions as interim chief executive officer for the new local government.

(5) If the interim chief executive officer appointed is not an employee of a local government required to be represented on the committee, the committee must nominate 1 or more of the local governments to be the employer of the interim chief executive officer.

(6) However, for the new local government of Torres Strait Island Regional Council, if the interim chief executive officer appointed is not an employee of a local government required to be represented on the committee, the Island Coordinating Council under the *Community Services (Torres Strait) Act 1984* must be the employer of the interim chief executive officer.

(7) The nominated local government must employ the person, on the terms the committee reasonably requires, to perform functions as interim chief executive officer for the new local government.

159YX Employment subcommittee

(1) Each local transition committee must create, and appoint the members of, an employment subcommittee.

(2) An employment subcommittee must consist of—

(a) a representative of each union whose members include employees of a local government required to be on the local transition committee; and

(b) other persons nominated by the local governments required to be represented on the local transition committee.

(3) An employment subcommittee has the function of advising its local transition committee about staffing matters arising because of the implementation of the reform matters.

(4) In this section—

union means an employee association registered as an organisation under the *Industrial Relations Act 1999*.

Subdivision 2 Transferring area local transition committees

159YY Establishment and composition of transferring area local transition committees

(1) The local governments stated in this section must take all necessary action to establish transferring area local transition committees as provided for in this section.

(2) The Logan City Council and the Beaudesert Shire Council must establish a transferring area local transition committee for transferring area A.

(3) The Logan City Council and the Gold Coast City Council must establish a transferring area local transition committee for transferring area D.

(4) The Banana Shire Council and the Taroom Shire Council must establish a transferring area local transition committee for transferring area E.

(5) A transferring area local transition committee must be made up in the way stated in schedule 1C.

159YZ Functions of transferring area local transition committee

(1) Subdivision 1 applies to a transferring area local transition committee to the greatest practicable extent as if it were a local transition committee established under subdivision 1.

(2) Without limiting subsection (1), subdivision 1 applies as if the transition to a new local government area were the transition of a transferring area from 1 local government area to another.

(3) However, a transferring area local transition committee must not appoint an interim chief executive officer.

Division 5 Transition action plans

159Z Transition action plans for new local government area

(1) The interim chief executive officer for each new local government must prepare a plan (a ***transition action plan***) that provides details of how the transition to the new local government area is to be successfully achieved, including by ensuring that the momentum for the change is maintained and that the new local government is able to act effectively from the changeover day for the new local government area.

(2) The interim chief executive officer must prepare the transition action plan in the period between appointment as the interim chief executive officer and the changeover day.

(3) In preparing the plan, the interim chief executive officer must consult with the chief executive officers of the merging local governments for the new local government area.

159ZA Guidelines for transition action plans

(1) The chief executive may publish on the department's website guidelines for transition action plans.

(2) The interim chief executive officer for a new local government must ensure that the transition action plan prepared by the

officer is, and is prepared, to the greatest practicable extent in conformity with the guidelines.

Division 6 Interim chief executive officers

159ZB Functions of interim chief executive officer before changeover day

(1) In the period from the appointment of the interim chief executive officer for a new local government until immediately before the changeover day for the new local government area for the new local government, the interim chief executive officer must oversee all aspects of establishing the new local government.

(2) Without limiting subsection (1), the interim chief executive officer must—

(a) develop a draft organisational structure for the new local government; and

(b) develop and implement a strategy for ensuring staff of the merging local governments are informed about and are able to contribute to the resolution of issues arising in relation to the transition to the new local government; and

(c) review and assess existing systems and identify areas of concern for the transition to the new local government; and

(d) work collaboratively with the local transition committee of which the interim chief executive officer is a member to ensure there is adequate preparation for the 2008 quadrennial elections for the new local government area; and

(e) prepare a proposed interim staffing strategy and budget for the new local government; and

(f) for facilitating the transition to the new local government, establish effective communication and consultation processes, including for example with the following—

(i) councillors of merging local governments;

(ii) employees, and organisations representing employees, of merging local governments;

(iii) community leaders;

(iv) the community generally.

(3) The interim chief executive officer has no role or function in relation to the day to day operations of any existing local government, including any existing local government of which the interim chief executive officer was previously the chief executive officer.

(4) In addition to the functions of an interim chief executive officer stated in subsections (1) and (2), the interim chief executive officer for each of the new local governments of the Northern Peninsula Area Regional Council and the Torres Strait Island Regional Council must conduct the elections of the members of the community forums for the new local government.

159ZC Responsibility of chief executive officer to help interim chief executive officer

(1) The chief executive officer of an existing local government must, as required in this section, take all necessary action to give help to the interim chief executive officer of a new local government in relation to which the existing local government is a merging local government.

(2) The chief executive officer must give the interim chief executive officer all the help the interim chief executive officer reasonably needs to perform the officer's functions, including any help the interim chief executive officer reasonably requires to be given.

(3) Without limiting subsection (2), the chief executive officer must act in a timely way to give the interim chief executive officer all financial statements and other financial information relating to the merging local government.

159ZD Functions of interim chief executive officer from changeover day

(1) On the changeover day for a new local government area, the person who, immediately before the changeover day was the interim chief executive officer for the new local government—

(a) becomes the acting chief executive officer of the new local government; and

(b) in addition to the officer's functions as the acting chief executive officer of the new local government, retains all the functions the officer had as the interim chief executive officer; and

(c) becomes an employee of the new local government on the same terms and conditions as the officer was employed as the interim chief executive officer.

(2) Unless the officer's employment as acting chief executive officer is otherwise ended, the officer holds the appointment as acting chief executive officer until the new local government appoints a chief executive officer.

(3) The new local government must take all reasonable steps to ensure it appoints a chief executive officer within 6 months after the changeover day.

Division 7 Employment matters

159ZE Definition for div 7

(1) In this division—

employee, of a local government, does not include a person who, in the context of local government employment, is a casual or temporary employee, other than a long term casual or temporary employee, of the local government.

(2) In this section—

long term casual or temporary employee, of a local government, means a casual or temporary employee of the local government who has been employed by the local government, or by the local government and its predecessor local government, on a regular and systematic basis, for

several periods of employment, for at least 1 year immediately before the issue arises as to whether the employee is a long term casual or temporary employee.

predecessor, of a local government, means an existing local government that, under a reform implementation regulation, is the predecessor of the local government.

159ZF Application of div 7

(1) This division applies to any local government as in existence at any time between the commencement of this section and 16 March 2011.

(2) However, this division does not apply to—

(a) an existing local government that under this part becomes a continuing local government; or

(b) a continuing local government.

(3) This division applies to a person as an employee of a local government, other than the chief executive officer of a local government.

159ZG Prohibition on retrenchment because of reform matter implementation

(1) A local government must not take any action to end an employee's employment with the local government if the action is taken, whether completely or partly and whether directly or indirectly, because of the taking effect under this Act of a reform matter.

(2) For deciding whether a local government has contravened subsection (1), the reason given by a local government for taking action to end a person's employment must be considered but is not conclusive.

(3) Subsection (1) applies only to an action taken before 16 March 2011.

(4) In this section—

reform matter includes a matter included in a reform implementation regulation.

159ZH Local government workforce transition code of practice

(1) The Minister may approve codes of practice (***workforce transition codes of practice***) directed at ensuring the proper transition of local government workforces from any existing local government to any new or adjusted local government as in existence after the changeover day for the new or adjusted local government area.

(2) Without limiting subsection (1), a workforce transition code of practice may establish employment terms and conditions for employees, that are consistent with—

(a) firstly, the essential principles stated in subsection (3); and

(b) secondly, the supporting principles stated in subsection (4).

(3) The essential principles are that—

(a) service delivery levels should be maintained or enhanced; and

(b) as far as possible, the locations at which local government employees perform their work should not be changed.

(4) The supporting principles are that—

(a) employment security for local government employees should be maximised;

(b) local government staff should be retained to the maximum extent achievable;

(c) the impact of reform matters on local government employees should be minimised;

(d) there should be maximum employee involvement in the implementation of the reform matters as they affect employees;

(e) contracts of employment should be honoured;

(f) there should be maximum support given to employees;

(g) employees should be treated fairly and with respect;

(h) merit and equity should apply in all appointments;

(i) there should be prompt and sensitive dispute resolution;

(j) there should be no overall loss of employment across the local government employment sector;

(k) there should be no overall reduction in working conditions for any employee;

(l) there should be no overall disadvantage to an employee in relation to the employee's working conditions.

(5) It is the responsibility of each local government to ensure, to the extent a workforce transition code of practice applies to the local government, that the local government acts in conformity with the code of practice.

(6) A workforce transition code of practice, whether made before or after the commencement of this subsection, is not subordinate legislation, but is a statutory instrument.

159ZI When workforce transition code of practice takes effect

(1) The Minister must notify the making of a workforce transition code of practice.

(2) A workforce transition code of practice takes effect—

(a) on the day the Minister's notice is notified or published in the gazette; or

(b) if a later day is stated in the Minister's notice or the workforce transition code of practice—on that day.

(3) A notice mentioned in subsection (2) is subordinate legislation.

Division 8 2008 quadrennial elections for all local government areas

159ZJ Quadrennial elections in 2008 to be held on 15 March instead of 29 March

(1) For 2008, and despite section 269(2), the date for the holding of each quadrennial election is 15 March 2008.

(2) A different date may be fixed by regulation under section 269(3) for all quadrennial elections, or for 1 or more particular quadrennial elections, to be held in 2008.

159ZK Holding of 2008 quadrennial elections

(1) The 2008 quadrennial elections for the mayors and councillors of all new, adjusted and continuing local governments must be held under chapter 5 —

(a) as if all reform matters took effect on the commencement of this section; and

(b) subject to any requirements of this part applying to the elections; and

(c) subject to any necessary changes, including any changes stated in this part, about the way chapter 5 applies to the elections.

(2) Each 2008 quadrennial election for a new local government is a ***type 1 election***.

(3) Each 2008 quadrennial election for an adjusted local government is a ***type 2 election***.

(4) Each 2008 quadrennial election for a continuing local government is a ***type 3 election***.

(5) The exclusion, under the *Local Government (Community Government Areas) Act 2004*, section 11(2), of the application of chapter 5 to a community government area or the community government for an area has no effect for the 2008 quadrennial elections.

159ZL Conduct of 2008 quadrennial elections by electoral commission

(1) The 2008 quadrennial elections of the mayor and other councillors for all new, adjusted and continuing local governments must be conducted by the electoral commission.

(2) For the elections, the commissioner is to be known as the chief returning officer.

(3) The chief returning officer has overall responsibility for the proper conduct of the 2008 quadrennial elections.

(4) A returning officer's responsibility for the proper conduct of an election is subject to subsection (3) and the further provisions of this section.

(5) The chief returning officer may appoint and employ the returning officer and assistant returning officers for each election.

(6) However, the chief returning officer may—

(a) perform or exercise any of the functions of a returning officer appointed and employed under subsection (4) instead of the returning officer; and

(b) give any reasonable directions to a returning officer or assistant returning officer about the performance of the officer's functions.

(7) Without limiting subsection (6), the chief returning officer may—

(a) decide the places at which nominations are to be received; and

(b) take any necessary action, including requiring the help of a local government, to ensure the proper conduct of the 2008 quadrennial elections.

(8) The chief executive officer of a local government must give all the help the chief returning officer reasonably requires, including providing access to and use of facilities of the local government.

(9) The chief returning officer may approve forms for use under this Act for the purposes of the conduct of the 2008 quadrennial elections.

159ZM Changed application of s 220 for Northern Peninsula Area and Torres Strait Island regional councils

For applying section 220(1)(a) to the local government areas of the Northern Peninsula Area Regional Council and the Torres Strait Island Regional Council—

(a) a person is qualified to become a councillor, other than the mayor, of the Northern Peninsula Area Regional

Council only if the person lives in the particular division for which the person is to be a candidate; and

(b) a person is qualified to become a councillor, including the mayor, of the Torres Strait Island Regional Council only if the requirements stated in part 1C, division 2 in relation to the application of sections 220 and 254 are complied with.

159ZN Other changes to ch 5 for type 1, 2 and 3 elections

(1) For applying section 271 for a type 1, type 2 or type 3 election, a new, adjusted or continuing local government, or an existing local government, must, to the extent and at the times the Minister directs, reimburse the State for all costs reasonably incurred, including by the electoral commission, in conducting the election.

(2) Sections 272 and 273 do not apply.

(3) For a type 1 election, the chief returning officer must choose and publicly notify an office (the ***election office***) for the new local government for the election.

(4) The election office for the new local government need not be the public office of an existing local government.

(5) An election office notified under subsection (3) becomes the public office of the new local government for the purposes of the application of chapter 5 to the election.

(6) For applying section 304(2) for a type 1, type 2 or type 3 election, a deposit must be held in the trust fund of the electoral commission.

(7) A deposit to be dealt with under section 314(3) must be paid in to the operating fund of the relevant new, adjusted or continuing local government.

(8) No action is required to be taken under chapter 5, part 5 for any type 1, type 2 or type 3 election.

Note—

Division 2 provides for the division of new, adjusted and continuing local government areas into divisions.

159ZO Changed references to particular matters

For applying section 441B, the reference to the chief executive officer of a local government is, for a type 1 election, taken to be a reference to—

(a) until a returning officer is appointed for the election—the interim chief executive officer of the new local government; and

(b) after a returning officer is appointed—the returning officer for the election.

Division 9 State intervention powers

159ZP Definition for div 9

In this division—

local transition committee includes a transferring area local transition committee.

159ZQ Giving of directions under div 9

(1) This division provides for the giving of directions by the Minister and by the chief executive.

(2) A direction may be given under this division only if the entity exercising the power is satisfied on reasonable grounds of either or both of the following—

(a) the giving of the direction is in the best interests of achieving the proper and efficient implementation of a reform matter;

Example—

The Minister or chief executive is satisfied on reasonable grounds that a local transition committee is not able to perform its functions.

(b) if the direction is not given, there is a real possibility that the proper and efficient implementation of a reform matter will not happen.

(3) A direction may be given under this division before or after the changeover day for a new or adjusted local government area.

(4) This division applies to a continuing local government after the changeover day for the local government.

159ZR Directions by chief executive

The chief executive may do any of the following—

(a) direct a local government, a local transition committee, an interim chief executive officer, an acting chief executive officer or a chief executive officer, to give the chief executive information about a transition matter;

(b) direct that a meeting of a local transition committee or another group of persons be convened;

(c) direct an employee of a local government to take particular action about a transition matter, including, for example—

(i) to perform an action that a provision of this part or a reform implementation regulation requires the local government or anyone else to perform; or

(ii) to take an action that is consistent with the fulfilling of a responsibility imposed on the local government under this part or a reform implementation regulation.

159ZS Powers of Minister

The Minister may do any of the following—

(a) despite any requirement in this part for the composition of a local transition committee, direct a change in the composition of a local transition committee;

(b) without limiting paragraph (a)—

(i) direct that a single individual is to act in the place of a local transition committee either generally or for a particular purpose, including for example, to complete a transition action plan; or

(ii) direct that a new group of persons is to form a local transition committee in the place of an existing group;

(c) subject to any reform implementation regulation and to any decision of the Local Government Grants Commission under this part, give directions about the allocation of employees, assets, liabilities and property of any kind between local governments whose local government areas have a transferring area included in them or excluded from them;

(d) direct that particular functions do not apply to, and may not be performed by, a stated local transition committee.

159ZT Compliance with direction

(1) A person or local government given a direction by the Minister or chief executive under this division must comply with the direction.

(2) If a person or local government contravenes subsection (1), the chief executive may direct an officer or employee of the department, or another person, to take all necessary action to ensure that the direction is effectively complied with.

(3) An officer or employee given a direction under subsection (2) has all the powers of the person or local government that contravenes subsection (1) necessary for ensuring the direction is effectively complied with.

Division 10 Special arrangements for transition period

159ZU Definition for div 10

In this division—

transition period, for a merging local government, means the period—

(a) starting on the commencement of this section; and

(b) ending on the day immediately before the start of the caretaker period for the election for the new local government in relation to which the local government is a merging local government.

159ZV Application of div 10

This division applies to a merging local government only if it does not become an adjusted local government under this part.

Note—

Accordingly, this division does not apply to Ipswich City Council or Torres Shire Council.

159ZW Prohibition on major policy decision in transition period

(1) A merging local government must not make a major policy decision in the transition period for the local government

(2) However, if the local government considers that, having regard to exceptional circumstances that apply, it is necessary to make the major policy decision, the local government must notify the Minister of the making of the decision and the nature of the exceptional circumstances.

(3) The Minister may, within 7 days after receiving notice of the making of the major policy decision, revoke the decision if the Minister is not satisfied that, having regard to exceptional circumstances that apply, it is necessary for the local government to make the decision.

(4) This section applies despite chapter 6, part 3.

(5) To remove any doubt, it is declared that a major policy decision for a merging local government does not include a decision about the appointment of a person to act as the chief executive officer of the local government until the changeover day for the new local government area that includes all or part of the local government area of the merging local government.

159ZX Invalidity of major policy decision in transition period if decision revoked

(1) A major policy decision made by a merging local government in the transition period for the local government is invalid if the Minister revokes the local government's decision under this division.

(2) A contract is void if it is the subject of a major policy decision that is invalid.

(3) A person who acts in good faith in relation to a major policy decision of a local government, or in relation to a contract that is the subject of a major policy decision, but who suffers loss or damage because of any invalidity of the decision under subsection (1) or because the contract is void under subsection (2), has a right to be compensated by the local government for the loss or damage.

(4) The person may bring a proceeding to recover the compensation in a court of competent jurisdiction.

Division 11 Miscellaneous

159ZZ State Transition Committee

(1) The chief executive may appoint an advisory committee (the ***State Transition Committee***) to provide oversight in relation to the implementation of transition matters.

(2) The committee may include officers of the department, councillors of local governments and other persons the chief executive decides.

(3) The chief executive may decide all matters about the establishment and operation of the committee.

159ZZA Expiry of pt 1B

This part expires at the end of 31 December 2011 or at an earlier time fixed under a regulation.

Part 1C Particular provisions for implementation of reform matters for indigenous regional councils

Division 1 Preliminary

159ZZB Application of pt 1B definitions

Words defined for part 1B have the same meaning in this part.

159ZZC Definitions for pt 1C

In this part—

NPARC means the new local government known as the Northern Peninsula Area Regional Council.

TSIRC means the new local government known as the Torres Strait Island Regional Council.

Division 2 Torres Strait Island Regional Council

159ZZD Particular entities go out of existence

(1) On the changeover day for the Torres Strait Island Region, each relevant entity, as in existence immediately before the changeover day, goes out of existence.

(2) In this section—

relevant entity means each Island council under the repealed Torres Strait Act, other than the Island councils for the following council areas under that Act—

(a) Bamaga council area;

(b) Seisia council area.

159ZZE TSIRC jurisdiction extends to Island custom

In exercising the jurisdiction of local government under section 25, TSIRC may take account of Island custom.

159ZZF Changed application of ss 220 and 254

(1) For applying section 220(1) to the local government area of TSIRC, including for the 2008 quadrennial elections—

(a) a person is qualified to become a councillor, other than the mayor, of TSIRC only if—

(i) the person is a Torres Strait Islander or an Aborigine; and

(ii) the person, on the nomination day for the election, has lived in the particular division for which the person is to be a candidate for the 2 years immediately preceding the nomination day; and

(b) a person is qualified to become the mayor of TSIRC only if—

(i) the person is a Torres Strait Islander or an Aborigine; and

(ii) the person, on the nomination day for the election, has lived in the local government area of TSIRC for the 2 years immediately preceding the nomination day.

(2) For applying section 254 to the local government area of TSIRC, a person is qualified to be appointed as the mayor or other councillor of TSIRC only if—

(a) the person is a Torres Strait Islander or an Aborigine; and

(b) on the day of the appointment, the person would be qualified to be nominated for election if the day of the appointment were the nomination day for an election.

Division 3 Northern Peninsula Area Regional Council

159ZZG Particular entities go out of existence

(1) On the changeover day for the Northern Peninsula Area Region, each relevant entity, as in existence immediately before the changeover day, goes out of existence.

(2) In this section—

relevant entity means—

(a) each of the Island councils under the repealed Torres Strait Act for the following council areas under that Act—

(i) Bamaga council area;

(ii) Seisia council area; and

(b) each of the community governments under the *Local Government (Community Government Areas) Act 2004* for the following community government areas under that Act—

(i) Injinoo;

(ii) New Mapoon;

(iii) Umagico.

159ZZH NPARC jurisdiction extends to Aboriginal tradition and Island custom

(1) In exercising the jurisdiction of local government under section 25, NPARC may take account of—

(a) in relation to the relevant Aboriginal areas—Aboriginal tradition; and

(b) in relation to the relevant Torres Strait areas—Island custom.

(2) In this section—

relevant Aboriginal area means each of the following community government areas under the *Local Government*

(Community Government Areas) Act 2004, immediately before the changeover day for NPARC—

(a) Injinoo;

(b) New Mapoon;

(c) Umagico.

relevant Torres Strait area means the area that, immediately before the changeover day for NPARC, was the Bamaga or Seisia council area under the repealed Torres Strait Act.

Division 4 Indigenous regional councils generally

Subdivision 1 Community forums

159ZZI Function of community forum

(1) A community forum established under this subdivision has the function of advising its indigenous regional council about the following—

(a) planning, including land use planning;

(b) service delivery;

(c) culture.

(2) An indigenous regional council must not establish any other body to perform the functions of a community forum.

159ZZJ Establishing community forums

(1) The Minister must establish a group of persons (a ***community forum***) for each division into which the local government area of an indigenous regional council is divided for electoral purposes.

(2) In deciding, subject to subsections (3) and (4), the name of each community forum and its number of members, the Minister must seek the advice of—

(a) for the first community forum—the local transition committee for the new local government area of the indigenous regional council; or

(b) otherwise—the indigenous regional council.

(3) Each community forum must have—

(a) at least 3, but not more than 7, ordinary members, qualified as prescribed under a regulation; and

(b) a chairperson who is the councillor for the division for which the community forum is established.

(4) A community forum must be called '... (*insert* name of division or other distinguishing title) ... Community Forum'.

(5) Any processes in relation to establishing a community forum, including electing ordinary members of the community forum and filling casual vacancies, must be carried out in accordance with a regulation.

(6) The election of the ordinary members of a community forum must be held at the time, provided for under a regulation, that is at the same time as, or is as close as practicable to, the quadrennial elections for the community forum's indigenous regional council.

(7) An ordinary member of a community forum holds office until the completion of the next election of the ordinary members of the forum that happens after the election at which the ordinary member was elected.

(8) Subject to the requirements of this section, including a regulation under subsection (5), a community forum's indigenous regional council must decide all matters necessary for the operation of the forum.

(9) The Minister must publish in the gazette the name of each community forum and the names of its members.

159ZZK Mayor or mayoral candidate ineligible for community forum membership

A person is not qualified to be elected as an ordinary member of a community forum if the person is—

(a) if the election for the ordinary members of the community forum happens at the same time as an election for the mayor of the community forum's indigenous regional council—a candidate for election as mayor of the council; or

(b) otherwise—the mayor of the community forum's indigenous regional council.

159ZZL Payment of expenses to ordinary members of community forum

(1) An ordinary member of a community forum is not entitled to payment of any remuneration.

(2) However, an indigenous regional council may authorise—

(a) the payment to the ordinary members of a community forum of the expenses incurred, or to be incurred, by the members; or

(b) the provision of facilities to the ordinary members of a community forum.

159ZZM Community forum convenor

(1) The indigenous regional council must, for each community forum, appoint a qualified person as the convenor for the community forum.

(2) A councillor, including the mayor, of the indigenous regional council can not be appointed as the convenor of a community forum.

(3) The same person may be appointed as convenor for 2 or more community forums if the indigenous regional council is satisfied the person can effectively exercise the convenor's functions for the 2 or more community forums.

(4) The convenor for a community forum—

(a) may be appointed on a full time or part time basis; and

(b) may perform functions for the indigenous regional council in addition to the convenor's functions as a convenor.

(5) The terms and conditions of appointment of the convenor are decided by the indigenous regional council.

(6) The person appointed as convenor for a community forum must not also be an ordinary member or the chairperson of the forum.

(7) The convenor is otherwise taken to be a member of the forum, but may not vote as a member at meetings of the forum.

(8) In this section—

qualified means having experience in the administration of land.

159ZZN Functions of community forum convenor

The convenor for a community forum has the following functions—

(a) to facilitate the meetings of the community forum;

(b) to report the decisions of the forum to the indigenous regional council;

(c) to provide necessary administrative support to the community forum.

159ZZO Meetings open to public

(1) All meetings of a community forum, including of a community forum constituted as a land panel under subdivision 2, must be open to the public.

(2) The convenor of the community forum must give public notice, within the division for which the community forum is established, of the time and date of each meeting at least 7 days before the meeting takes place.

Subdivision 2 Management of community deeds of grant in trust

159ZZP Indigenous regional council as trustee of community deed of grant in trust

(1) An indigenous regional council, as the trustee of community deeds of grant in trust, must separately constitute itself to perform its functions as the trustee.

(2) The trustee, must, to the greatest practicable extent, establish formal arrangements for advising the indigenous regional council, in its capacity as a local government, of matters relating to trust land.

(3) The indigenous regional council must establish arrangements for the keeping of any trustee accounts, but the trustee must otherwise keep separate records for all matters relating to community deeds of grant in trust.

(4) Meetings of the trustee must be convened and conducted as separate meetings from meetings of the indigenous regional council.

(5) Subsections (2) to (4) do not limit subsection (1).

159ZZQ Restrictions on exercise of indigenous regional council's powers as trustee under Land Act

(1) The requirements applying under this subdivision to the trustee of a community deed of grant in trust are additional to all requirements applying under the *Land Act 1994* and any other law.

Example of other law—

Aboriginal and Torres Strait Islanders (Land Holding) Act 1985

(2) However, the ability of the trustee to manage land the subject of the deed of grant in trust under the *Land Act 1994* or this Act is not otherwise affected.

(3) Nothing in this division is intended to affect the status that any land has under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*.

159ZZR Mayor does not vote at meetings of trustee

(1) Meetings of the trustee of a community deed of grant in trust are chaired by the mayor of the indigenous regional council that is the trustee.

(2) However the mayor is not entitled to a vote on any matter arising at a meeting of the trustee, including on any trustee decision.

159ZZS Community forum constituted as land panel

(1) A community forum must separately constitute itself as a land panel in relation to any community deed of grant in trust whose trust land is within the division for which the community forum is established.

(2) The land panel has the separate function of advising the trustee of the community deed of grant in trust in relation to all matters arising about trust land the subject of the deed of grant in trust.

(3) The chairperson of the community forum is also the chairperson of the land panel.

(4) The Minister may decide the name of the land panel, but a land panel must be called '... (*insert* name of division or other distinguishing title) ... Land Panel'.

(5) In deciding, subject to subsection (4), the name of the land panel, the Minister must seek the advice of the trustee.

(6) Subject to the requirements of this section, the trustee must decide all matters necessary for the operation of the land panel.

(7) The Minister must publish in the gazette the name of each land panel and the names of its members.

159ZZT Convenor for land panel

The convenor for a community forum that is also a land panel is also the convenor for the land panel.

159ZZU Functions of convenor for land panel

The convenor for a land panel has the following functions—

(a) to the greatest practicable extent, to ensure the land panel operates in an effective and efficient way;

(b) if asked by the trustee of the community deed of grant in trust for which the land panel is constituted, to help the trustee to manage the trustee's responsibilities—

(i) under the *Land Act 1994*; and

(ii) under any other Act that applies to the trustee;

(c) to facilitate the meetings of the land panel;

(d) to report the decisions of the land panel to the trustee;

(e) to provide necessary administrative support to the land panel;

(f) to facilitate the attendance of the local community at meetings of the land panel;

(g) to communicate the trustee's views, information and requests about land matters to the land panel, and the land panel's views, information and requests about land matters to the trustee;

(h) other functions decided by the trustee by resolution.

159ZZV Trustee decisions

Requirements stated under this subdivision apply to the trustee of a community deed of grant in trust for any of the following decisions (each a ***trustee decision***) in relation to the trust land under the deed of grant in trust—

(a) any decision relating to the creation of an interest in the trust land;

Example—

a decision under the *Land Act 1994* to lease the trust land, to amend a trustee lease over the land, to approve the transfer, mortgage or sublease of a trustee lease or to issue a trustee permit

(b) any decision to establish an improvement on the trust land;

(c) any other decision in relation to the trust land that the trustee by resolution decides is a decision to which this section applies.

159ZZW Land panel participation in making of trustee decision

(1) When a trustee decision is to be made in relation to a community deed of grant in trust, the trustee must give written notice of its intention to make the decision to the land panel for the division that is the subject of the community deed of grant in trust.

(2) The written notice must give the land panel reasonably sufficient information about the trustee decision to be made, and reasonably sufficient time, to allow the land panel to form a view on what the decision should be.

(3) The land panel must within a reasonable time give written notice to the trustee, advising the trustee of what the land panel thinks the decision should be.

(4) The convenor for the land panel must keep the trustee informed of the progress of the land panel towards deciding what to advise the trustee.

(5) When the trustee makes the trustee decision, the trustee must have regard to any advice received from the land panel.

(6) Subsections (7) and (8) apply if—

(a) the trustee makes its trustee decision; and

(b) the decision is not consistent with the advice received from the land panel under this section.

(7) The trustee must give the land panel written notice of the reasons for its decision.

(8) If the land panel advises the trustee, or gives advice to the trustee to the effect, that it does not support the trustee's decision, the trustee must take reasonable steps to make the reasons publicly available.

159ZZX Special requirements for absolute majority and for agreement of councillor for relevant division

(1) This section states 2 special requirements for an effective trustee decision.

(2) Firstly, to have effect, a trustee decision must have the agreement of a majority of the councillors (other than the mayor) of the indigenous regional council that is the trustee, regardless of how many councillors take part in the meeting that makes the decision.

Example—

If the trustee is TSIRC, the number of votes needed would be 8, regardless of how many attend the meeting.

(3) Secondly, and subject to subsections (5) to (7), to have effect, a trustee decision must have the agreement of the councillor (the ***relevant councillor***) for the division that is the subject of the community deed of grant in trust.

(4) For subsection (3), it does not matter whether the agreement of the relevant councillor is given as part of the majority vote of the trustee or is in some other way clearly communicated to the trustee.

(5) The trustee must take all reasonable steps to ensure that the relevant councillor is able to vote on, or otherwise communicate the councillor's agreement or disagreement with, the trustee decision.

(6) If, despite the trustee's reasonable steps under subsection (5), the relevant councillor does not participate in the trustee decision either by vote or by communication of agreement or disagreement, the trustee—

(a) may proceed to decide what the trustee decision is proposed to be; and

(b) must advise the land panel of which the relevant councillor is the chairperson of its proposed decision; and

(c) must give the land panel a reasonable opportunity to state its views on the proposed decision.

(7) If the land panel does not advise its views to the trustee within a reasonable time, the trustee may nevertheless proceed to make the trustee decision.

159ZZY Seeking advice and views other than about trustee decision

(1) The trustee of a community deed of grant in trust may, by resolution, refer a matter, other than a trustee decision, about land to a land panel to obtain its advice.

(2) The trustee must allow the land panel a reasonable time to provide its advice.

159ZZZ Meetings of trustee to be open to the public unless otherwise resolved

(1) All meetings of the trustee of a community deed of grant in trust must be open to the public unless the trustee has resolved under this section that the meeting be closed to the public.

(2) A trustee, may resolve that a meeting mentioned in subsection (1) be closed to the public if the trustee considers it necessary to close the meeting to discuss—

(a) the appointment, dismissal or discipline of employees; or

(b) industrial matters affecting employees; or

(c) the trustee's budget; or

(d) contracts proposed to be made by the trustee; or

(e) starting or defending legal proceedings involving the trustee; or

(f) other business for which a public discussion would be likely to prejudice the interests of the trustee or someone else, or enable a person to gain a financial advantage.

(3) A resolution that a meeting be closed must specify the nature of the matters to be considered while the meeting is closed.

(4) The trustee must not make a resolution (other than a procedural resolution) in a closed meeting.

159ZZZA Grouping of trust land not available

The chief executive under the *Land Act 1994* must not approve the grouping of trust land under the *Land Act 1994*, section 62, if any of the trust land is the subject of a community deed of grant in trust.

Subdivision 3 Other matters

159ZZZB Extended jurisdiction

For an indigenous regional council, the jurisdiction of local government under section 25 includes to make local laws for, and to otherwise ensure the promotion, maintenance and regulation, in its local government area, of—

(a) peace and order; and

(b) the delivery of services appropriate to the social needs of its communities.

159ZZZC Additional reasons for appointment of financial controller

Without limiting section 188B, the Minister may recommend the Governor in Council act under section 188B(1) in relation to an indigenous regional council if the Minister is satisfied on reasonable grounds that the indigenous regional council—

(a) has made a disbursement from a fund that is not provided for in the indigenous regional council's budget; or

(b) has made a disbursement from grant moneys for a purpose other than the purpose for which the grant was given; or

(c) has failed to implement adequate financial management strategies for the funds under its control.

159ZZZD Revocation or suspension of particular resolutions or orders

(1) This section applies to an indigenous regional council in addition to section 188D.

(2) A financial controller for an indigenous regional council may, by written notice to the indigenous regional council's chief executive officer—

(a) revoke, or suspend the operation of, a resolution of the council or an order issued by the council to give effect to a resolution; and

(b) end the suspension of the resolution or order.

(3) However, the financial controller may revoke or suspend a resolution or order under subsection (1) only if the financial controller reasonably believes—

(a) the resolution or order will result in unlawful expenditure by the indigenous regional council; or

(b) the resolution or order will result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given; or

(c) the resolution or order will cause the indigenous regional council to become insolvent.

(4) The notice must state the reasons for the revocation or suspension.

(5) The suspension may be for a stated period or indefinite.

(6) A resolution or order that is revoked under this section—

(a) ceases to have effect on the day stated in the notice to the indigenous regional council's chief executive officer; or

(b) if no day is stated—is taken never to have had effect.

(7) A resolution or order of an indigenous regional council the operation of which is suspended under this section does not have effect while it is suspended.

(8) Neither the State nor the financial controller is legally liable for any loss or expense incurred by a person because of the

revocation or suspension of an indigenous regional council's resolution or order under this section.

159ZZZE Councillor to chair community forum

(1) This section applies to a person who is a councillor of an indigenous regional council in addition to section 229.

(2) The person must chair the community forum, and any land panel, for the division for which the person is the councillor.

159ZZZG Power of indigenous regional council to make and levy charge on residents

(1) An indigenous regional council may, by resolution, make and levy a charge on residents of residential premises in its local government area.

(2) However, the indigenous regional council may exempt a resident from payment of a charge under subsection (1).

(3) Without limiting subsection (2), the indigenous regional council may give an exemption if another amount is payable to the indigenous regional council in relation to the premises.

(4) This section does not limit section 973.

159ZZZH Limited application of ch 14

Chapter 14 does not apply to an indigenous regional council, or to the local government area of an indigenous regional council, to the extent that its application relies on the valuation of land under the *Valuation of Land Act 1944*.

159ZZZI Disposal of land

(1) Chapter 6, part 3, division 3 does not apply to the disposal of land, or an interest in land, the subject of a deed of grant in trust of which an indigenous regional council is the trustee.

(2) For applying section 492(1)(a) to any other land or interest in land of an indigenous regional council, the exemption from section 491 is taken to include an exemption for the disposal of the land or interest to persons whose restored enjoyment of

the land or interest would be consistent with Aboriginal tradition or Island custom.

Note—

Under transitional arrangements, chapter 6, part 3 applies to an indigenous regional council only to the extent a regulation states that it applies. See chapter 19, part 14.

Part 2 Intervention by the State

Division 1 Powers of intervention

160 Procedures before exercise of certain powers

(1) Before the Governor in Council or Minister exercises a power under this division in relation to a local government, the Minister must give written notice of the proposed exercise of the power to the local government.

(2) However, notice need not be given if—

(a) the power is proposed to be exercised at the local government's request; or

(b) in the Minister's opinion, giving notice—

(i) is likely to defeat the purpose of the proposed exercise of the power; or

(ii) would serve no useful purpose.

(3) The notice must state—

(a) the reasons for the proposed exercise of power; and

(b) a time within which the local government may make submissions to the Minister about the proposed exercise of power.

(4) Reasons stated in the notice are the only reasons that can be relied on in support of the exercise of the power.

(5) The Minister must have regard to all submissions made by the local government within the specified time.

(6) If—

(a) the proposed exercise of power is to proceed despite submissions of the local government; or

(b) no submissions of the local government are received by the Minister within the specified time;

the power may be exercised without further notice to the local government.

161 Revocation and suspension of resolutions and orders

(1) The Governor in Council may, by regulation—

(a) revoke, or suspend the operation of, a resolution of a local government or an order issued by a local government to give effect to a resolution; and

(b) end the suspension of the resolution or order.

(2) The suspension may be for a specified period or indefinite.

162 Effect of revocation or suspension

(1) A resolution or order of a local government that is revoked by regulation—

(a) ceases to have effect on the day specified by the regulation; or

(b) if no day is specified—is taken never to have had effect.

(2) A resolution or order of a local government whose operation is suspended by a regulation does not have effect while it is suspended.

(3) The State is not legally liable for any loss or expense incurred by a person because of the revocation or suspension by regulation of a local government's resolution or order.

163 Overruling local laws and subordinate local laws etc.

(1) The Governor in Council may, by regulation, declare that a local law or subordinate local law, or a provision of a local law or subordinate local law, ceases to have effect, if the

Governor in Council is of the opinion that it is necessary to make the declaration to protect State interests.

(2) The Governor in Council may, by regulation, later declare that the local law, subordinate local law or provision again has effect, if the Governor in Council is of the opinion that it is no longer necessary for the declaration under subsection (1) to continue to have effect to protect State interests.

164 Dissolution of local government

(1) The Governor in Council may, by regulation, dissolve a local government if the Minister is satisfied that the local government—

(a) has acted unlawfully or corruptly; or

(b) has acted in a way that puts at risk its capacity to exercise properly its jurisdiction of local government; or

(c) is incompetent or can not properly exercise its jurisdiction of local government.

(2) Subsection (1) is subject to the *Constitution of Queensland 2001*, chapter 7, part 2.

(3) If the Legislative Assembly ratifies the dissolution of the local government under subsection (1)—

(a) the local government's councillors go out of office; and

(b) the local government continues in existence and continues to be constituted by the local government's administrator.

165 Exclusion of part of local government area from Act

(1) The Governor in Council may, by regulation, declare that this Act does not apply to a specified part of a local government's area.

(2) On the making of the declaration, the local government's local laws and subordinate local laws cease to apply to the specified part of its area.

(3) The Governor in Council may, by regulation, later declare that this Act again applies to the specified part of the local government's area.

(4) On the making of the declaration, the local government's local laws and subordinate local laws again apply to the specified part of its area.

(5) Subsections (2) and (4) do not limit by implication the effect of a declaration under this section.

(6) In this section—

local law includes a planning scheme and interim development control provisions.

166 Abolition of joint local government and its area

(1) The Governor in Council may, by regulation, abolish a joint local government and its area.

(2) A regulation may provide for—

(a) the apportionment of the joint local government's assets and liabilities among its component local governments; and

(b) any other matter for which it is necessary or convenient to make provision on the dissolution of the joint local government.

Division 2 Inquiries, investigations and inspections

167 Inquiries, investigations and inspections by authorised persons

(1) The chief executive of the department may appoint an officer of the department or another appropriately qualified person (an ***authorised person***) to conduct an inquiry, investigation or inspection about—

(a) the functioning of local government in the State; or

(b) any matter relevant to the administration of this Act.

(2) However, subsection (1) does not permit the chief executive to appoint a person to conduct an inquiry, investigation or inspection about a reviewable local government matter.

(3) A local government must cooperate fully with an inquiry, investigation or inspection by a person appointed under subsection (1).

168 Reports on inquiries, investigations and inspections

(1) When an authorised person has completed the inquiry, investigation or inspection for which the person was appointed, the authorised person must, as quickly as possible, give the chief executive of the department a written report on the inquiry, investigation or inspection.

(2) The Minister may table a copy of the report in the Legislative Assembly.

169 Chief executive may request information from local government

(1) The chief executive of the department may, by written notice, request a local government to give to the chief executive information in writing about anything within its jurisdiction of local government.

(2) The request must specify a reasonable time within which the information must be given to the chief executive.

(3) The local government must comply with the request.

Maximum penalty for subsection (3)—35 penalty units.

Division 3 Conduct of inquiries

170 Authorised person's duties on inquiry

When conducting an inquiry, an authorised person—

(a) must observe natural justice; and

(b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.

171 Authorised person may decide procedures

(1) The authorised person—

(a) is not bound by the rules of evidence; and

(b) may inform himself or herself in any way the authorised person considers appropriate; and

(c) may decide the procedures to be followed at the inquiry.

(2) However, the authorised person must comply with this division and any procedural rules prescribed by regulation.

172 Public may attend

The authorised person must allow members of the public to attend the inquiry.

173 Authorised person's powers on inquiry

(1) In conducting the inquiry, the authorised person may—

(a) act in the absence of a person who has been given reasonable notice; and

(b) receive evidence on oath or affirmation or by statutory declaration; and

(c) adjourn the inquiry; and

(d) permit a document to be amended; and

(e) disregard any defect, error, omission or insufficiency in a document; and

(f) permit or refuse to permit a person (including a legal practitioner enrolled in Queensland or elsewhere) to represent someone else at the inquiry.

(2) The authorised person may administer an oath or affirmation to a person appearing as a witness before the inquiry.

174 Notice to witness

(1) The authorised person may, by written notice given to a person, require the person to attend at a specified time and place to give evidence or produce specified documents.

(2) A person who is given a notice must—

(a) attend as required by the notice; and

(b) continue to attend as required by the authorised person until excused from further attendance.

Maximum penalty—35 penalty units.

(3) A person required to appear as a witness before an inquiry is entitled to the witness fees prescribed by regulation or, if no witness fees are prescribed, the reasonable witness fees decided by the authorised person.

175 Duty of witness at inquiry

(1) A person appearing as a witness at the inquiry must not—

(a) fail to take an oath or make an affirmation when required by the authorised person; or

(b) fail, without reasonable excuse, to answer a question the person is required to answer by the authorised person; or

(c) fail, without reasonable excuse, to produce a document the person is required to produce by a notice under section 174(1).

Maximum penalty—35 penalty units.

(2) It is a reasonable excuse for a person to fail to answer a question or produce a document if answering the question or producing the document might tend to incriminate the person.

176 Contempt of authorised person

A person must not—

(a) insult the authorised person in the inquiry; or

(b) deliberately interrupt an inquiry; or

(c) create or continue, or join in creating or continuing, a disturbance in or near a place where the authorised person is conducting the inquiry; or

(d) do anything that would be a contempt of court if the authorised person were a judge acting judicially.

Maximum penalty—50 penalty units.

177 Change of authorised person

An inquiry is not affected by a change in the authorised person holding the inquiry.

Division 4 Administrators

178 When administrator must be appointed

(1) If a regulation is made under section 164(1) dissolving a local government, the Governor in Council must appoint a person as administrator of the local government.

(2) Notification of the appointment must be given by gazette notice.

(3) On the appointment, the local government is constituted by the administrator.

179 Jurisdiction, powers and duties of administrator

(1) The administrator of a local government has all the jurisdiction, powers and duties of the local government concerned.

(2) However—

(a) a regulation may limit the jurisdiction, powers and duties of the administrator; and

(b) the administrator does not have a duty of a local government appropriate only to a body of persons.

(3) If the mayor of a local government is required or permitted by law to exercise a power, the administrator is required or permitted to exercise the power instead of the mayor.

(4) This Act and other Acts apply to the administrator, with all necessary changes and any changes prescribed by regulation, as if the administrator were the local government.

180 Title of administrator

For the purpose of exercising the jurisdiction of local government, the title of an administrator is 'Administrator of the … (name of the local government).'.

181 Committee to help administrator

(1) When an administrator is appointed, the Minister may appoint a committee of persons to help the administrator in exercising the jurisdiction of local government of the local government concerned.

(2) A person may be appointed as a member of a committee for a limited time or indefinitely.

(3) The administrator is chairperson of the committee and must preside at every meeting of the committee at which the administrator is present.

(4) If, because of absence or incapacity, the administrator can not perform the functions of chairperson of the committee, the other members of the committee must appoint a member to act as chairperson at meetings of the committee until the administrator is able to perform the functions.

182 Conditions of appointment as administrator or member of committee

(1) An administrator or a member of a committee is entitled to the fees, allowances and expenses decided by the Governor in Council.

(2) The fees, allowances and expenses are payable by the local government concerned.

(3) An officer of the public service who is appointed as an administrator or as a member of a committee may hold the appointment as well as the public service office.

183 Recovery of amounts from local governments

(1) The Governor in Council may direct a local government for which an administrator is appointed to pay to the Minister an amount specified in the direction as the costs and expenses of the administrator.

(2) The specified amount may include salary and allowances payable to an officer of the public service who is appointed as administrator or a member of a committee.

(3) The direction may specify a time for payment.

(4) The specified amount is a debt payable to the State.

184 Role of committee

(1) An administrator appointed for a local government must ensure that every decision of the committee about the exercise of the jurisdiction of local government for the local government's area is implemented as soon as is practicable after the committee's decision is taken.

(2) However, if the administrator considers that implementing a decision of the committee would not be in the best interests of the area, the administrator must refer the issue to the Minister for decision.

(3) The referral must be made within 14 days after the administrator becomes aware of the committee's decision.

185 Decision by Minister on referral by administrator

(1) If an issue is referred to the Minister by an administrator under section 184(2), the Minister may cause the chief executive of the department to make the inquiries, investigations and inspections that the Minister considers appropriate.

(2) The Minister's decision on the issue is taken to be the decision of the committee and is final and binding on the administrator and the committee.

(3) The administrator must ensure the Minister's decision is implemented as quickly as practicable.

186 Procedures of committee

(1) In this section—

relevant provision means a provision of this Act that deals with any of the following matters for a local government—

(a) the times of its meetings;

(b) the quorum at its meetings;

(c) notice of its meetings;

(d) adjournment of its meetings;

(e) entitlements of members to vote at its meetings;

(f) disability of a member to vote because of material personal interest;

(g) registers of interests;

(h) minutes of its proceedings;

(i) revocation or amendment of its resolutions;

(j) a matter prescribed by regulation.

(2) A relevant provision applies to a committee appointed to help an administrator as if—

(a) the committee were a local government; and

(b) the administrator, or person acting as chairperson of the committee, were the mayor of the local government.

187 Termination of administrator's appointment

(1) The appointment of an administrator—

(a) may be terminated by the Governor in Council for any reason; or

(b) ceases on the conclusion of a fresh election of the councillors of the local government concerned.

(2) It is the intention of the Parliament that a fresh election of the councillors of the local government should be held as soon as possible after the Legislative Assembly ratifies the dissolution of the local government under section 164(1).

188 Termination of appointment of committee member etc.

(1) The appointment of all members or any member of a committee to help an administrator may be terminated by the Minister, for any reason, by written notice signed by the Minister and given to the members or member.

(2) A committee appointed to help an administrator ceases to exist on the conclusion of a fresh election of councillors of the local government concerned.

Division 5 Financial controllers

188A Procedures before appointment of financial controller

(1) Before the Governor in Council or Minister exercises a power under section 188B in relation to a local government, the Minister must give a written notice of the proposed exercise of the power to the local government.

(2) However, the notice need not be given if—

(a) the local government has asked for the power to be exercised; or

(b) the Minister reasonably considers giving the notice—

(i) is likely to defeat the purpose of the proposed exercise of the power; or

(ii) would serve no useful purpose.

(3) The notice must state—

(a) the reasons for the proposed exercise of the power; and

(b) a period within which the local government may make submissions to the Minister about the proposed exercise of the power.

(4) The reasons stated in the notice are the only reasons that can be relied on in support of the exercise of the power.

(5) The Minister must have regard to all submissions made by the local government within the stated period.

(6) The power may be exercised without further notice to the local government if—

(a) the proposed exercise of the power is to proceed despite the local government's submissions; or

(b) no submissions of the local government are received by the Minister within the stated period.

188B Appointment of financial controller

(1) The Governor in Council may, by gazette notice, appoint a financial controller for a local government.

(2) The Minister must not recommend the Governor in Council act under subsection (1) unless the Minister is satisfied on reasonable grounds that the local government—

(a) has not applied financial management policies and principles required by the Local Government Finance Standards for funds under its control; or

(b) has acted, or is about to act, in a way that—

(i) caused, or may cause, a significant deterioration in its financial viability; or

(ii) will, or may, cause it to become insolvent.

188C Functions of financial controller

(1) A financial controller appointed for a local government is responsible for ensuring the local government adheres to its budget.

(2) Also, the financial controller—

(a) may give advice about financial management to the local government, including, for example, advice about the preparation of a plan to address any financial difficulties it may be experiencing; and

(b) may undertake other administrative duties requested by the local government; and

(c) must undertake other administrative duties directed by the Minister.

188D Power of financial controller to advise chief executive about resolution or order

(1) This section applies if a financial controller for a local government reasonably believes a resolution of the local government, or an order of the local government giving effect to a resolution of the local government—

(a) will result in unlawful expenditure by the local government; or

(b) will result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given; or

(c) will cause the local government to become insolvent.

(2) The financial controller must advise the chief executive of the department of the resolution or order.

(3) The financial controller's advice to the chief executive under subsection (2) must include reasons for the financial controller's belief under subsection (1).

(4) Neither the State nor the financial controller is legally liable for any loss or expense incurred by a person because of the advice given under subsection (2).

188E Countersigning cheques and authorising electronic funds transfers

(1) If a financial controller is appointed for a local government, a payment may be made from an account with a financial institution kept by the local government only by a cheque countersigned, or an electronic funds transfer authorised, by the financial controller.

(2) However, the financial controller may refuse to countersign the cheque, or authorise the electronic funds transfer, only if the financial controller reasonably believes—

(a) the payment will result in unlawful expenditure by the local government; or

(b) the payment will result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given; or

(c) the payment will cause the local government to become insolvent.

188F Local government to cooperate with financial controller

If a financial controller is appointed for a local government, the local government must cooperate with the financial controller in relation to the performance of the financial controller's functions under section 188C.

188G Financial controller's employment conditions

A financial controller appointed for a local government is to be employed under the *Public Service Act 1996*.

188H Recovery of amounts from local government

(1) The Governor in Council may direct a local government for which a financial controller is appointed to pay the Minister a stated amount for the costs and expenses of the financial controller.

(2) The stated amount may include salary and allowances payable to the financial controller as a public service officer.

(3) The direction may state a time for payment.

(4) The stated amount is a debt payable to the State.

Part 3 Local Government Grants Commission

Division 1 Extended application of part

189 Application of part to Brisbane City Council

This part applies to the Brisbane City Council.

Division 2 Commission membership

191 Local Government Grants Commission and its members

(1) The Local Government Grants Commission is established.

(2) The commission is to consist of 6 members.

(3) The 6 members of the commission are to comprise—

(a) 4 persons with knowledge of local government; and

(b) 1 person with knowledge of—

(i) local government in relation to community government areas; and

(ii) local government in relation to local government areas of indigenous regional councils; and

(c) an officer of the department.

(4) The chairperson of the commission is to be a member mentioned in subsection (3)(a), and the deputy chairperson of the commission is to be the member mentioned in subsection (3)(c).

192 Appointments

(1) The members and chairperson of the commission are to be appointed by the Governor in Council.

(2) A member of the commission is to be appointed for a term of not longer than 3 years.

(3) A member is entitled to be paid the remuneration, fees and allowances decided by the Governor in Council.

(4) Payment for a member (as a member or in an additional or other capacity) may differ according to class or rate of payment from payment for another member.

(5) A member holds office on other terms not provided in this Act as are decided by the Governor in Council.

(6) If a provision of another Act—

(a) requires the holder of an office to devote all of the person's time to the duties of the office; or

(b) prohibits the holder of an office from engaging in employment outside the duties of the office;

the provision does not disqualify the holder of the office from—

(c) holding the office and the office of member of the commission at the same time; and

(d) accepting and retaining the remuneration, fees and allowances payable under this section.

193 Vacation of and removal from office

(1) The office of a member of the commission becomes vacant if the member—

(a) resigns by signed notice of resignation given to the Minister; or

(b) is convicted of an indictable offence; or

(c) is removed from office under subsection (2); or

(d) if the member is the officer of the department mentioned in section 191(3)(c)—stops being an officer of the department.

(2) The Governor in Council may remove a member from office if the member—

(a) engages in misbehaviour; or

(b) becomes incapable of performing the duties of a member because of physical or mental incapacity; or

(c) is incompetent; or

(d) uses the office for party political purposes; or

(e) does anything else that, in the Governor in Council's opinion, is a reasonable and sufficient justification for removal from office.

194 Acting members

(1) The Governor in Council may appoint a person to act in the office of the member if the member is absent or unable to

discharge the functions of the office (whether because of illness or otherwise).

(2) The acting member for the chairperson of the commission is the chairperson of the commission while acting.

(3) The acting member for the deputy chairperson of the commission is the deputy chairperson of the commission while acting.

Division 3 Role of commission

195 Commission makes recommendations to Minister

(1) The commission must make recommendations to the Minister about the allocation of the amount (the ***financial assistance amount***) the State is entitled to receive from the Commonwealth under the *Local Government (Financial Assistance) Act 1995* (Cwlth) (the ***Commonwealth Act***) for financial assistance for local government purposes.

(2) The commission must also make recommendations to the Minister about a matter referred to it by the Minister about the finances of 1 or more local governing bodies.

(3) In making recommendations under subsection (1), the commission must comply with the Commonwealth Act.

Division 4 Recommendations, allocation and distribution

196 Preparing recommendations

(1) In preparing its recommendations, the commission may inform itself in the way it considers appropriate.

(2) The commission must accept and consider any submission made to it by a local governing body or association of local governing bodies.

197 Commission's recommendations to Minister

(1) When the commission makes a recommendation to the Minister under section 195(1), the Minister may—

(a) accept the recommendation; or

(b) refer the recommendation back to the commission and ask it—

(i) to reconsider its recommendation or a part of it; or

(ii) to consider a matter raised by the Minister about the recommendation.

(2) The Minister must give the commission reasons for asking it to do something under subsection (1)(b).

(3) After doing what it is asked to do under subsection (1)(b), the commission must consider whether any change should be made to its recommendation, and resubmit its recommendation to the Minister with or without change.

(4) A member of the commission may submit a minority recommendation to the Minister.

198 Allocation of amount after recommendations

In allocating the financial assistance amount, the Minister must—

(a) have regard to the commission's recommendations about the allocation; and

(b) comply with the Commonwealth Act.

199 Recommendations to be tabled

When the Minister has allocated the financial assistance amount among local governing bodies, the following must be tabled in the Legislative Assembly—

(a) the commission's recommendations;

(b) particulars of the allocation of the financial assistance amount.

200 Distribution of financial assistance amount

(1) When the financial assistance amount is received from the Commonwealth, it must be distributed among local governing bodies as allocated by the Minister.

(2) However, the State must not distribute to a local governing body an amount equal to notional GST the body has not paid.

Division 5 Inquiries by commission

Subdivision 1 General

201 Commission may decide to hold inquiry

In considering a matter about which it is to make recommendations, the commission may decide to hold an inquiry under this division.

202 Notice of decision to hold inquiry

Before starting the inquiry, the commission must—

(a) publish in a newspaper circulating generally in the State a notice outlining the processes to be followed in the inquiry; and

(b) give a copy of the notice to all local governing bodies likely to be concerned in the inquiry.

Subdivision 2 Conduct of inquiries

203 Extended meaning of *commission* in subdivision

In this subdivision—

commission includes a member or members of the commission holding an inquiry on a direction given by the commission.

204 Commission's duties on inquiry

When conducting an inquiry, the commission—

(a) must observe natural justice; and

(b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of issues raised in the inquiry.

205 Commission may decide procedures

(1) The commission—

(a) is not bound by the rules of evidence; and

(b) may inform itself in any way it considers appropriate; and

(c) may decide the procedures to be followed at an inquiry.

(2) However, the commission must comply with this subdivision and any procedural rules prescribed by regulation.

206 Public may attend

The commission must allow members of the public to attend an inquiry unless in the commission's opinion it is in the public interest not to allow members of the public to attend the inquiry.

207 Commission's powers on inquiry

(1) In conducting an inquiry, the commission may—

(a) act in the absence of a person who has been given reasonable notice; and

(b) receive evidence on oath or by statutory declaration; and

(c) adjourn the inquiry; and

(d) permit a document to be amended; and

(e) disregard any defect, error, omission or insufficiency in a document; and

(f) permit or refuse to permit a person (including a legal practitioner enrolled in Queensland or elsewhere) to represent someone else at the inquiry.

(2) The commission may administer an oath to a person appearing as a witness before the inquiry.

208 Notice to witness

(1) The commission may, by written notice given to a person, require the person to attend an inquiry at a specified time and place to give evidence or produce specified documents.

(2) A person who is given a notice must—

(a) attend as required by the notice; and

(b) continue to attend as required by the commission until excused from further attendance.

Maximum penalty—35 penalty units.

(3) A person required to appear as a witness before an inquiry is entitled to the witness fees prescribed by regulation or, if no witness fees are prescribed, the reasonable witness fees decided by the commission.

209 Duty of witness at inquiry

(1) A person appearing as a witness at an inquiry must not—

(a) fail to take an oath or make an affirmation when required by the commission; or

(b) fail, without reasonable excuse, to answer a question the person is required to answer by the commission; or

(c) fail, without reasonable excuse, to produce a document the person is required to produce by a notice under section 208.

Maximum penalty—35 penalty units.

(2) It is a reasonable excuse for a person to fail to answer a question or produce a document if answering the question or producing the document might tend to incriminate the person.

210 Contempt of commission

A person must not—

(a) insult a member of the commission in an inquiry; or

(b) deliberately interrupt an inquiry; or

(c) create or continue, or join in creating or continuing, a disturbance in or near a place where the commission is conducting an inquiry; or

(d) do anything that would be a contempt of court if the commission were a judge acting judicially.

Maximum penalty—50 penalty units.

211 Change of member

An inquiry is not affected by a change in the member or members of the commission holding the inquiry.

Division 6 Commission proceedings

212 Time and place of meetings

(1) Meetings of the commission are to be held at the times and places it decides.

(2) However, the chairperson (or, in the absence of the chairperson, the deputy chairperson) of the commission may at any time call a meeting by giving the other members of the commission at least 7 days written notice of the meeting.

(3) The chairperson (or, in the absence of the chairperson, the deputy chairperson) of the commission must call a commission meeting if asked by the Minister.

213 Quorum at meetings

Business may be conducted at a commission meeting only if at least 4 members of the commission are present.

214 Presiding member

At a meeting—

(a) the chairperson (or, in the absence of the chairperson, the deputy chairperson) of the commission presides; or

(b) in the absence of the chairperson and deputy chairperson, the member chosen by the members present as chairperson for the meeting presides.

215 Voting at meetings

At a meeting—

(a) a question is to be decided by a majority of the members of the commission present and voting; and

(b) each member (including the member presiding) has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote.

216 Way business to be conducted

The commission must conduct its business in the way prescribed by regulation or, in the absence of a regulation, may conduct its business as it considers appropriate.

Division 7 Miscellaneous

217 Cooperation by departments etc.

(1) This section applies to the following entities—

(a) a government entity;

(b) a local governing body.

(2) An entity must—

(a) cooperate with the commission in performing its role; and

(b) give the commission all information it reasonably requires to perform its role.

218 Assistance to the commission

The chief executive of the department must make available to the commission the staff assistance it needs to perform its role effectively.

Chapter 4 Local government councillors

Part 1 Membership of local governments

Division 1 Extended application of part

219 Application of part to Brisbane City Council

This part applies to the Brisbane City Council.

Division 2 Qualifications and disqualifications

220 General qualifications for membership

(1) A person is qualified to become a councillor of a local government if the person is an Australian citizen who—

(a) lives in the local government's area; and

(b) is, under the *Electoral Act 1992*, an elector for an electoral district, or a part of an electoral district, included in the local government's area—

(i) for the person's election as a councillor, other than at a Brisbane City Council election—when the voters roll for the election is compiled under section 277 or 411; or

(ii) for the person's election as councillor of the Brisbane City Council at a quadrennial election—on 31 January of the year in which the election is to be held; or

(iii) for the person's election as a councillor of the Brisbane City Council at an election other than a quadrennial election—on the cut off day for the electoral rolls for the election;[15] or

(iv) for the person's appointment as a councillor under section 254—for at least 30 days before the appointment.

Example—

For a by-election in division 1 of a local government area, a person who lives in division 2 of the area and is an elector for division 2 of the area, when the voters roll is compiled for division 1, may nominate for election even though the person is not on the voters roll for division 1.

(2) A councillor, whether elected or appointed, is qualified to be a councillor of a local government only while the councillor lives in the local government's area and is, under the *Electoral Act 1992*, an elector for an electoral district, or a part of an electoral district, included in the local government's area.

(3) This section is subject to sections 221 and 222.

221 General disqualifications

(1) A person is not qualified to be or become a councillor if—

(a) the person is an undischarged bankrupt under the *Bankruptcy Act 1966* (Cwlth), or a corresponding law of another jurisdiction; or

(b) the person has executed a deed of arrangement under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of another jurisdiction, and the terms of the deed have not been fully complied with; or

15 The cut off day for electoral rolls for an election, other than a quadrennial election, for Brisbane City Council is decided under the *Electoral Act 1992*, section 80(1)(b) as applied by the *City of Brisbane Act 1924*, section 17(5).

(c) the person's creditors have accepted a composition under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of another jurisdiction, and a final payment has not been made under the composition; or

(d) the person is subject to a term of imprisonment or detention, periodic or otherwise; or

(e) the person has been convicted, and not pardoned, of treason, sedition or sabotage under the law of Queensland, another State or the Commonwealth; or

(f) for a candidate for an election, the person—

(i) has, within 2 years before the day of nomination, been convicted of an offence against the law of Queensland, another State or the Commonwealth, and been sentenced to more than 1 year's imprisonment; or

(ii) has, within 7 years before the day of nomination, been convicted of an offence against—

(A) for nomination as a councillor of the Brisbane City Council—section 98C of the Criminal Code; or

(B) for nomination as a councillor of another local government—section 385; or

(iii) has, within 10 years before the day of nomination, been convicted of—

(A) a disqualifying electoral offence; or

(B) an offence that would be a disqualifying electoral offence, except that the conviction was recorded before the commencement of the *Electoral and Other Acts Amendment Act 2002*; or

(g) for a councillor, the person is convicted of—

(i) an offence against—

(A) for a councillor of the Brisbane City Council—section 98C of the Criminal Code; or

(B) for a councillor of another local government—section 385; or

(ii) a disqualifying electoral offence; or

(h) the person is a member of an Australian Parliament; or

(i) the person is elected or appointed as mayor or a councillor of a local government of another State.

(2) For subsection (1)(d), the circumstances in which a person is subject to a term of imprisonment or detention—

(a) include circumstances in which the person is released from the term of imprisonment or detention on parole, home detention, leave of absence or otherwise without being discharged from all liability to serve all or part of the term; but

(b) do not include circumstances in which a person is subject to a term of imprisonment but is at liberty because the term of imprisonment has been suspended.

(3) For subsection (1)(f)(i)—

(a) the provision does not apply if the sentence of imprisonment is suspended; but

(b) the provision applies if the person is ordered at any time to actually serve more than 1 year of the suspended term of imprisonment.

(4) In this section—

corresponding law of another jurisdiction means a corresponding law of another jurisdiction, whether inside or outside Australia.

disqualifying electoral offence see the *Electoral Act 1992*, section 3.

222 Disqualification and vacation of office for certain offences

(1) This section applies if a person is convicted of an offence against—

(a) for the Brisbane City Council—section 98B, 98E or 98G(a) or (b) of the Criminal Code; or

(b) for another local government—section 383, 399 or 401(a) or (b); or

(c) for all local governments—section 242, 244, 247, 250 or 436.

(2) The person is not qualified to become a local government councillor for 4 years after the conviction and, if the person is a local government councillor, the person vacates the office—

(a) if the person appeals against the conviction—on the appeal being dismissed, struck out or discontinued; or

(b) if the person does not appeal against the conviction—at the end of the time fixed by law within which an appeal must be started.

(3) A court may, by order, direct that this section does not apply to a person if the court is satisfied that—

(a) for a person who is not a local government councillor—there are special circumstances why the person should not be disqualified under the subsection from becoming a local government councillor; or

(b) for a person who is a local government councillor—there are special circumstances why—

(i) the person should not be disqualified under the subsection from again becoming a local government councillor; and

(ii) the person's office as a local government councillor should not be vacated.

223 Review of lawfulness of membership of local government

(1) This section applies to an application for review under the *Judicial Review Act 1991* of—

(a) the lawfulness of the election or appointment of a councillor; or

(b) the continued eligibility of a person to act as a councillor.

(2) For the purposes of the *Judicial Review Act 1991*, any elector of the local government is a person who may make the application.

(3) However, subsection (2) does not limit the persons who may make the application.

224A Councillor ceases to be councillor on becoming candidate for the Legislative Assembly

A councillor ceases to be a councillor if under the *Electoral Act 1992*, section 88(3), the councillor becomes a candidate for an election as a member of the Legislative Assembly.

225 Councillor ceases to be councillor on becoming director of significant business entity

On a councillor becoming a director of a significant business entity contrary to section 620, the councillor ceases to be a councillor.

226 Termination of local government employment on becoming councillor

(1) If a local government employee is elected or appointed as a councillor, the person is taken to have resigned as an employee on the day the person becomes a councillor.

(2) In this section—

local government employee includes an employee of a local government's significant business entity but does not include—

(a) a person employed under a Commonwealth funded community development project for Aborigines or Torres Strait Islanders; or

(b) a person prescribed by regulation.

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.

Division 3 Term of office

227 Duration of membership

(1) If a councillor is elected at a quadrennial election, the councillor is elected until the next quadrennial election.

(2) If a councillor (the ***new councillor***) is elected or appointed to fill a vacancy in the office of a councillor (the ***former councillor***), the new councillor is elected or appointed for the balance of the former councillor's term of office.

(3) If a councillor is elected at a fresh election, the councillor is elected for a term of office to—

(a) if a declaration under section 413 applies to the election—the quadrennial elections after the next quadrennial elections; and

(b) in any other case—the next quadrennial elections.

(4) A councillor's term of office starts—

(a) if the councillor is elected—the day after the day of the conclusion of the councillor's election; or

(b) if the councillor is appointed—the day on which the councillor is appointed.

(5) A councillor's term of office ends on the day—

(a) the next relevant quadrennial election concludes; or

(b) the Legislative Assembly ratifies the dissolution of the applicable local government under section 164(1); or

(c) the councillor's office otherwise becomes vacant.

228 Resignation from office as a councillor

(1) A councillor may resign by signed notice of resignation given to the local government's chief executive officer.

(2) The resignation takes effect when it is given to the chief executive officer unless it is expressed to take effect on a future date.

Part 2 Councillors' roles

Division 1 Councillors' roles generally

229 Councillors' role

(1) A local government councillor—

(a) represents the overall public interest of the local government's area and, if the councillor is a councillor

for a division of the area, also represents the public interest of the division; and

(b) takes part in deciding the facilities, services and enterprises that are appropriate for the area; and

(c) takes part in formulating, adopting and reviewing—

(i) the local government's corporate plan and operational plans; and

(ii) the policies and goals of the local government; and

(d) takes part in making decisions for achieving the goals and implementing the policies of the local government.

(2) In performing the role, a councillor—

(a) must serve the overall public interest of the area and, if the councillor is a councillor for a division, the public interest of the division; and

(b) if conflict arises between the public interest and the private interest of the councillor or another person—must give preference to the public interest.

(3) A councillor must ensure there is no conflict, or possible conflict, between the councillor's private interest and the honest performance of the councillor's role of serving the public interest.

230 Limitations on councillors' roles

(1) A councillor who is not the mayor must not assume any part of the mayor's role without the mayor's prior approval.

(2) A councillor can not direct, and must not attempt to direct, an employee of the local government about the way in which the employee's duties are to be performed.

(3) Subsection (4) applies if a councillor directs, purports to direct or attempts to direct, an employee of the local government, or another person otherwise engaged to provide services to the local government, about the way the employee or other person is to perform a relevant duty.

(4) The councillor commits an offence.

Maximum penalty—85 penalty units.

(5) In this section—

relevant duty means the duty of giving the local government a recommendation or advice about—

(a) the grant of a licence, permit or approval, however named, under an Act or under a local law of the local government; or

(b) the grant of a concession, rebate or waiver in relation to an amount owed to the local government; or

(c) the local government entering into a contract under chapter 6, part 3; or

(d) disposing of land or a non-current asset; or

(e) allocating any of the local government's resources for carrying out local government programs or projects.

resources, of the local government, means staff, funds, plant and equipment of the local government.

231 Additional roles of mayor

(1) The mayor of a local government—

(a) presides at, and is responsible for the orderly conduct of, meetings of the local government at which the mayor is present; and

(b) ensures the carrying out of the local government's decisions; and

(c) exercises the powers, and performs the duties, given to the mayor by the local government; and

(d) ensures the appropriate representation of the local government at civic or ceremonial functions.

(2) In performing the role mentioned in subsection (1)(b), the mayor may identify to the chief executive officer of the local government the officer's duty in carrying out policies and decisions of the local government.

Division 2 Deputy mayor and acting mayor

232 Deputy mayor of local government

A local government must appoint a deputy mayor from its councillors, by resolution, at—

(a) its first meeting after the conclusion of each of the quadrennial elections; and

(b) its first meeting after the conclusion of a fresh election of all of its councillors; and

(c) its first meeting after the deputy mayor's office as councillor otherwise becomes vacant.

233 Office of deputy mayor may be declared vacant

(1) A local government may, by resolution, declare that the office of deputy mayor is vacant.

(2) The resolution may be passed only if written notice of the resolution has been given to the councillors at least 14 days before the meeting.

(3) If a local government declares that the office is vacant, it must immediately appoint a deputy mayor from its councillors.

234 Additional role of deputy mayor

The deputy mayor of a local government acts in the office, and performs the role, of the mayor during—

(a) a vacancy in the office of mayor; or

(b) the absence or temporary incapacity of the mayor.

235 Appointment of acting mayor

A local government may, by resolution, appoint from its councillors an acting mayor, if at any time—

(a) vacancies exist in the offices of mayor and deputy mayor; or

(b) a vacancy exists in the office of mayor and the deputy mayor is prevented, by absence or temporary incapacity, from acting in the office; or

(c) the mayor and deputy mayor are prevented, by absence or temporary incapacity, from performing the role of mayor.

236 Role of acting mayor

The acting mayor of a local government acts in the office of the mayor while the circumstances in which the person was appointed as acting mayor continue.

Part 3 Entitlements and obligations

Division 1 Entitlements of councillors and committee members

236A Remuneration for councillors of local governments

(1) For a year, a local government may, by resolution, authorise the payment of remuneration to a person who is a councillor of the local government.

(2) The resolution—

(a) must be made within 2 months after the remuneration schedule, that applies for the year for the category of local government, is published in the gazette under section 250AQ; and

(b) may authorise payment of remuneration on and after 1 January of the year; and

(c) must state—

(i) the purpose for which the remuneration is to be paid; and

(ii) the person who is entitled to the remuneration; and

(iii) the amount of remuneration that is to be paid; and

(iv) if the amount of remuneration to be paid to councillors, other than the mayor, varies as between councillors—the reason for the variation.

(3) The local government may authorise the payment of remuneration to a councillor of the local government only if the remuneration is the remuneration stated in the remuneration schedule for the category of local government to which the local government belongs.

(4) However, if the remuneration tribunal acting under section 250AL approves a different amount of remuneration for a councillor of the local government, the local government may authorise the payment of remuneration to the councillor only in accordance with the approval.

(5) If a councillor has entered into an arrangement with the local government under section 238A, the amount of remuneration that would otherwise be payable to the councillor under a resolution under this section is reduced by the percentage or amount the councillor has elected to forgo.

(6) A local government must not act under this section in relation to a payment to which section 236B applies.

236B Reimbursement of expenses and provision of facilities for councillors of local governments

(1) A local government may, by resolution, authorise either or both of the following—

(a) payment of the reasonable expenses incurred, or to be incurred, by the local government's councillors for discharging their duties and responsibilities as councillors;

(b) provision of facilities, including, for example, administrative support staff, to the councillors for discharging their duties and responsibilities as councillors.

(2) The local government may authorise payment or provision of facilities under subsection (1) only if the payment or provision

complies with the local government's expenses reimbursement policy approved under section 250AR.

(3) However, if a councillor of the local government is entitled to receive a benefit or entitlement from the local government because of the councillor's position as a councillor, the councillor may elect to take a lesser amount than the amount provided for under the expenses reimbursement policy.

237 Remuneration, reimbursement of expenses and provision of facilities for person serving on advisory committee

(1) A local government may, by resolution, authorise any of the following—

(a) payment of remuneration to a person who is a member of an advisory committee of the local government but is not a councillor;

(b) payment of the reasonable expenses incurred, or to be incurred, by the person for discharging the person's duties and responsibilities as a member of the advisory committee;

(c) provision of facilities, including, for example, administrative support staff, to the person for discharging the person's duties and responsibilities as a member of the advisory committee.

(2) The resolution must state—

(a) the purpose for which the remuneration or expenses are to be paid or the facilities provided; and

(b) the person who is entitled to the remuneration, expenses or facilities; and

(c) the amount of the remuneration or expenses or the basis on which it is calculated.

(3) The basis on which remuneration or expenses are calculated may vary according to the purpose for which the remuneration or expenses are paid or provided.

(4) The resolution must specify—

(a) the principles or remuneration system on which the remuneration is based; and

(b) the reasons for adopting the principles or system.

(5) A resolution under this section operates for no longer than 6 months after the next quadrennial elections.

238 Superannuation benefits for councillors

(1) In this section—

audit, of a superannuation scheme, means an audit required under the Commonwealth Superannuation Act.

scheme means a voluntary superannuation scheme for councillors.

standard permanent employee has the meaning given by section 1170.

(2) A local government may—

(a) establish and amend a scheme; or

(b) join in establishing and amending a scheme; or

(c) take part in a scheme.

(3) However, a local government may not establish or take part in a scheme—

(a) under which the contribution to the scheme payable by the local government for its councillors (expressed as a percentage of payment in the nature of salary) is more than—

(i) for the year starting 1 July 1995—11%; or

(ii) for the year starting 1 July 1996—11.5%; or

(iii) for each later year—12%;[16] or

(b) under which the proportion of contribution to the scheme payable by the local government for its councillors is more or less than the proportion of contribution to the LG Super scheme payable by the

16 The percentages mentioned in the paragraph represent local governments' liability for standard permanent employees under section 1182(2)(b) (Local governments' liability for permanent employees) less standard permanent employees' liability under section 1183(1)(b) (Permanent employees' liability for contributions).

local government for its standard permanent employees; or

(c) under which the local government is required to contribute to the scheme for a person who has ceased to be a councillor; or

(d) that does not meet the requirements of the Commonwealth Superannuation Act.

(3A) Subsection (3)(a) and (b) do not apply in relation to contributions payable by the local government under an arrangement entered into with a councillor under section 238A.

(4) If a local government acts under subsection (2), it may pay an amount from its operating fund by way of a subsidy or contribution to the scheme.

(5) An audit of a superannuation scheme established by a local government (whether alone or with another local government) must be carried out by the auditor-general.

238A Councillors may make salary sacrifice arrangements

(1) A councillor of a local government may enter into an arrangement with the local government under which—

(a) the councillor agrees to forgo a percentage or amount of the councillor's remuneration entitlement; and

(b) the local government agrees to make corresponding contributions for the councillor to a voluntary superannuation scheme for councillors established or taken part in by the local government under section 238.

(2) The percentage or amount forgone by the councillor must not be more than the equivalent of 50% of the councillor's remuneration entitlement.

(3) In this section—

remuneration entitlement, of a councillor, means the remuneration to which the councillor would be entitled under a resolution of the local government made under section 236A if the councillor had not entered into an arrangement under this section.

239 Insurance of councillors

(1) A local government may enter into a contract of insurance with WorkCover Queensland or another insurer for insurance for councillors.

(2) For the purpose of the insurance cover, a councillor's role includes, for example, attendance—

(a) at the meetings of the local government or its committees that the councillor is entitled or asked to attend, or at which the councillor has business for a resident of the local government's area; and

(b) at inspections or deputations, conferences and meetings at which the councillor's attendance is permitted by the local government; and

(c) at official functions organised for the local government; and

(d) on residents of the area for the purpose of local government business.

240 Indemnity for councillors

(1) A councillor does not incur civil liability for an act or omission done honestly and without negligence under this Act.

(2) A liability that would, apart from this section, attach to a councillor attaches instead to the local government.

Division 2 Obligations of councillors

241 Application to Brisbane City Council

This division applies to the Brisbane City Council.

242 Requirements of councillors before acting in office

(1) A person elected as a councillor must not act in the office until the person—

(a) gives the chief executive officer of the local government a return in the approved form;[17] and

(b) after giving the return, makes a declaration of office.

(2) A person appointed as a councillor must not act in the office until the person makes a declaration of office.

(3) The return under subsection (1)(a) must state the information the person is required to give under section 427 relating to the disclosure period for the election of the person to the extent that the person states the information is readily available when giving the return.

(4) The declaration of office for a councillor of Brisbane City Council must be in the following form—

'I, ..., having been elected/appointed as a councillor of Brisbane City Council, declare that I will faithfully and impartially fulfil the duties of the office to the best of my judgment and ability.'.

(4A) The declaration of office for a councillor of another local government must be in the following form—

'I, ..., having been elected/appointed as a councillor of the Council of the Region/City/Town/Shire of ....., declare that I will faithfully and impartially fulfil the duties of the office, including perform the role of a councillor under the *Local Government Act 1993*, section 229, to the best of my judgment and ability.'.

(4B) If, when the councillor is elected or appointed, there is a code of conduct for the local government, the declaration of office for the councillor must also include the following statement—

'I declare that I agree to comply with the Council's code of conduct.'.

(5) The chief executive officer of the local government is authorised to take the declaration.

(6) The chief executive officer must keep a record of the taking of the declaration.

17 For keeping of the return as part of a register that is open to inspection, see section 433 (Registers of electoral gifts).

(7) The person ceases to hold office as a councillor if the person does not comply with subsection (1) or (2) within 1 month after being elected or appointed or a longer period allowed by the Minister.

(8) The person must not give a return, under subsection (1)(a), containing particulars that are, to the knowledge of the person, false or misleading in a material particular.

Maximum penalty for subsection (8)—100 penalty units.

243 Acting as councillor without authority

A person must not act as a councillor if the person knows that—

(a) the person is not qualified to be a councillor; or

(b) the person's office as a councillor has been vacated.

Maximum penalty—85 penalty units.

243A Compliance with code of conduct

(1) A councillor must comply with the obligations stated in the local government's code of conduct.

(2) A contravention of subsection (1) is not an offence.

(3) However—

(a) under part 3A, division 4, the code of conduct may be enforced in relation to the contravention; and

(b) if the act or omission that is the contravention is an offence under another provision of this Act, subsection (2) does not prevent a proceeding being taken for the offence.

244 Exclusion from meeting of councillor with material personal interest

(1) A councillor who has a material personal interest in an issue to be considered at a meeting of the local government, or any of its committees—

(a) must disclose the interest to the meeting; and

(b) must not be present at or take part in the meeting while the issue is being considered or voted on.

(2) A councillor who is barred from a meeting under subsection (1) must not be in the chamber where the meeting is being conducted, including any area set apart for the public.

245 Removal of disability

(1) The Minister may, by signed notice, relieve a councillor of a local government of a disability to which the councillor is subject under section 244 if—

(a) because of the number of councillors subject to the disability, conduct of a meeting of the local government or committee would be obstructed if relief were not given; or

(b) it appears to the Minister to be in the interests of the local government's area that relief be given.

(2) The Minister may give the relief subject to conditions specified in the notice.

(3) A councillor does not contravene section 244 by taking part in a meeting, or being in the chamber where the meeting is being conducted, if—

(a) the councillor is a person to whom relief is given under subsection (1); and

(b) the councillor is complying with the conditions on which the relief is given.

246 Penalty for contravening exclusion from meeting

A councillor of a local government who contravenes section 244 is liable to a maximum penalty of—

(a) if the councillor voted on the issue with an intention to gain an advantage for the councillor or anyone else—200 penalty units;

(b) in any other case—85 penalty units.

246A Recording of conflict of interest

(1) This section applies if a councillor of a local government has a conflict of interest, or could reasonably be taken to have a conflict of interest, in an issue being considered or to be considered at a meeting of the local government or any of its committees.

(2) For subsection (1), a councillor has a conflict of interest in an issue if there is a conflict between the councillor's private interest and the honest performance of the councillor's role of serving the public interest.

(3) The councillor must declare the conflict of interest to the meeting.

(4) The local government must ensure the declaration is recorded in the minutes for the meeting.

(5) The record must include—

(a) the nature of the conflict of interest as described by the councillor; and

(b) how the councillor dealt with the conflict of interest; and

(c) if the councillor voted on the issue—how the councillor voted.

(6) In this section—

conflict of interest, for a councillor in an issue, does not include a conflict of interest arising out of a material personal interest the councillor has in the issue.

private interest includes both pecuniary and non-pecuniary interests, and may include having received a donation to be used for electoral purposes.

247 Registers of interests

(1) The chief executive officer of a local government must keep—

(a) a register of interests of each local government councillor; and

(b) a register of interests of the persons who, under a regulation, are related to the councillor.

(2) A register—

(a) must relate to only 1 person; and

(b) must contain the financial and non-financial particulars prescribed by regulation.

(3) If a councillor knows—

(a) of an interest that the chief executive officer must record in a register of interests kept under subsection (1) in relation to the councillor or a person who, under a regulation, is related to the councillor (a ***related person***); or

(b) that particulars of an interest recorded in a register kept under subsection (1) in relation to the councillor or a related person are no longer correct;

the councillor must tell the chief executive officer of the interest, or the correct particulars, in accordance with the regulations.

Maximum penalty for subsection (3)—85 penalty units.

248 Access to registers

(1) A register of councillor's interests is open to inspection.

(2) A register of other persons' interests is not open to inspection other than by, for each local government, the following—

(a) any councillor of the local government;

(b) the chief executive officer of the local government;

(c) a person permitted by law to have access to information in the register, or the person's agent.

(3) A person seeking access to a register must apply in writing to the chief executive officer.

(4) The chief executive officer must record—

(a) the name and home or business address of each person given access to the register; and

(b) the day the access is given.

(5) The chief executive officer must advise a councillor of any access given to the councillor's register and any register of a person who, under a regulation, is related to a councillor.

(5A) Subsections (3) to (5) do not apply to the accessing of information included in a register of councillor's interests if the information relates to any of the following—

(a) gifts received;

(b) hospitality benefits received;

(c) memberships of organisations.

(5B) The local government must ensure the information included in the register of councillor's interests about a matter mentioned in subsection (5A) is made available—

(a) to any member of the public who asks to see it, at the public office of the local government; and

(b) if the local government maintains a publicly accessible website—by being displayed, as soon as practicable after it is received, on the website.

(6) A person must not knowingly disclose information obtained from the register—

(a) if it is not a true copy, or a fair summary, of the particulars in the register; or

(b) for information from a register of other persons' interests—to a person other than—

(i) for the Brisbane City Council—a person mentioned in subsection (2)(a) or (c); or

(ii) for another local government—a person mentioned in subsection (2)(b) or (c).

Maximum penalty for subsection (6)—85 penalty units.

249 Queries on contents of register

(1) A person who suspects on reasonable grounds that a register does not contain particulars that should be in the register may inform the chief executive officer of the local government.

(2) The chief executive officer must immediately inform the councillor concerned.

(3) The councillor must, within 30 days of being informed—

(a) establish whether the register should be amended to make it a true record of fact; and

(b) if the register should be amended—give the chief executive officer the appropriate particulars in writing.

(4) If the councillor establishes that the register does not need to be amended, the councillor must—

(a) complete a statutory declaration to the effect that the particulars in the register are a true record of fact; and

(b) give the statutory declaration to the chief executive officer.

250 Improper use of information by councillors

(1) A person who is or has been a local government councillor must not make improper use of information acquired as a councillor—

(a) to gain, directly or indirectly, a financial advantage for the person or someone else; or

(b) to harm the local government.

(2) A person who is or has been a local government councillor must not release information that the person knows, or should reasonably know, is information that is confidential to the local government.

Maximum penalty—100 penalty units.

Division 3 Local Government Remuneration Tribunal

Subdivision 1 Establishment, functions and membership

250AA Establishment of Local Government Remuneration Tribunal

The Local Government Remuneration Tribunal is established.

250AB Functions

The remuneration tribunal has the following functions—

(a) to establish categories of local governments;

(b) to categorise local governments according to the established categories;

(c) to decide remuneration to be paid to councillors, including mayors and deputy mayors;

(d) the other functions that the Minister directs the remuneration tribunal to perform.

250AC Members of remuneration tribunal

(1) The remuneration tribunal consists of 3 persons, made up of a chairperson and 2 other members.

(2) Each member of the remuneration tribunal is to be appointed by the Governor in Council for a term of not more than 3 years.

(3) A person is qualified for appointment as a member only if the person—

(a) has extensive knowledge of and experience in 1 or more of the following—

(i) local government;

(ii) public administration;

(iii) law;

(iv) public finance;

(v) industrial relations;

(vi) community affairs; or

(b) has other knowledge and experience the Governor in Council considers appropriate.

(4) A person stops being a member if the person—

(a) resigns by signed notice of resignation given to the Minister; or

(b) completes a term of office but is not reappointed; or

(c) is removed as a member by the Governor in Council for misbehaviour or physical or mental incapacity; or

(d) can not continue as a member under section 250AD.

250AD Disqualification from membership

A person can not become, or continue as, a member of the remuneration tribunal if the person—

(a) is, or becomes—

(i) a councillor or an employee of a local government; or

(ii) a director of a significant business entity; or

(iii) a contractor of a local government; or

(iv) a consultant engaged by a local government; or

(b) is, or becomes, an insolvent under administration within the meaning of the Corporations Act, section 9; or

(c) is, or has been, convicted of an indictable offence and the conviction is not a spent conviction.

250AE Remuneration and appointment conditions of members

(1) A member of the remuneration tribunal is entitled to be paid the remuneration and allowances decided by the Governor in Council.

(2) A person appointed as a member is eligible for reappointment.

(3) A member of the remuneration tribunal holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

(4) If a commissioner under the *Industrial Relations Act 1999* is appointed as a member, the person's appointment does not entitle the person to any remuneration or allowance in addition to the person's salary or allowance as the holder of the person's office as a commissioner.

(5) However, the person is entitled to be paid expenses reasonably incurred by the person in performing the functions of a member.

Subdivision 2 Staffing arrangements and meetings

250AF Work performance arrangements

(1) The remuneration tribunal may, for performing its functions effectively and efficiently, enter into a work performance arrangement with the chief executive.

(2) A work performance arrangement may make provision for all matters necessary and convenient to be provided under the arrangement, including providing for—

(a) the appointment of a public service employee to an office, and the holding of the office by the person, for the arrangement; and

(b) the authorising of a public service employee to exercise powers for the arrangement.

(3) If a public service employee performs work for the remuneration tribunal under a work performance arrangement, the person—

(a) is not employed by the remuneration tribunal; and

(b) remains an employee of the department.

(4) To remove any doubt, it is declared that the remuneration tribunal is not authorised to employ a public service employee performing work for the remuneration tribunal under a work performance arrangement.

(5) In this section—

work performance arrangement means an arrangement under which a public service employee of the department performs work for the remuneration tribunal.

250AG Conduct of meetings

(1) Subject to subsections (2) and (3), meetings of the remuneration tribunal are to be held at the times and places it decides.

(2) A member of the remuneration tribunal may call a meeting at any time by giving the other members of the remuneration tribunal at least 7 days written notice of the meeting.

(3) If the Minister asks the remuneration tribunal to discuss a local government matter, a meeting of the remuneration tribunal to discuss the matter must be held within 14 days after the Minister's request.

Subdivision 3 Categorising local governments

250AH Establishing categories of local governments

(1) The remuneration tribunal must establish categories of local governments for this division.

(2) The purpose of establishing categories of local governments is to enable the remuneration tribunal to decide the remuneration that may be paid to mayors and other councillors of local governments in each category of local government.

250AI Criteria for establishing categories

For establishing categories of local governments, the remuneration tribunal must having regard to the following criteria—

(a) the size, and geographical and environmental terrain, of local government areas;

(b) the populations of local government areas, including the areas' demographics, the spread of populations serviced

by the local governments and the extent of the services the local governments provide;

(c) the size of local governments and the workload associated with particular sizes, including whether councillors of the local governments hold office on a full-time or part-time basis;

(d) the diversity, including cultural diversity, of local governments' communities;

(e) the extent of development of local government areas, including economic and community development, infrastructure and industry;

(f) other matters the remuneration tribunal considers relevant to the effectiveness, efficiency and sustainability of local governments;

(g) other matters prescribed under a regulation.

250AJ Deciding and reviewing categories of local governments to which local governments belong

(1) The remuneration tribunal must, for each local government, decide the category of local government to which the local government belongs.

(2) When making a decision about a local government under subsection (1), the remuneration tribunal must have regard to the criteria it used for establishing categories of local governments.

(3) The remuneration tribunal must, at least every 4 years, review the categories of local governments established under section 250AH.

(4) After reviewing the categories, the remuneration tribunal must—

(a) decide whether to amend the established categories; and

(b) if any category of local government is amended, again decide the categories of any local governments affected by the amendment.

Subdivision 4 Remuneration schedule

250AK Deciding remuneration

(1) The remuneration tribunal must, on or before 1 December in each year and for each category of local government, decide the remuneration that may be paid in the following year to—

(a) a councillor, other than a mayor or deputy mayor, of a local government in the category; and

(b) a mayor of a local government in the category; and

(c) a deputy mayor of a local government in the category.

(2) However, the remuneration decided under subsection (1) must not include any amount for expenses to be paid or facilities to be provided to a councillor of a local government under its expenses reimbursement policy.

(2A) Also, the remuneration decided under subsection (1) must not include any contribution a local government makes for a councillor of the local government to a voluntary superannuation scheme for councillors established or taken part in by the local government under section 238.

(3) The remuneration tribunal must prepare a schedule (the ***remuneration schedule***) that lists the amounts decided under subsection (1) for each category of local government for the year to which it applies.

(4) In making a decision under subsection (1), the remuneration tribunal must have regard to—

(a) the provisions of this Act about entitlements and responsibilities of councillors of local governments; and

(b) community expectations about what is appropriate remuneration in the circumstances.

(5) Remuneration decided under subsection (1) may include, or may separately provide for, remuneration for the duties a councillor may be required to perform if the councillor is appointed to a committee, or as chairperson of a committee, under section 452.

250AL Discretion to vary remuneration in exceptional circumstances

(1) This section applies if a local government considers that, having regard to exceptional circumstances that apply, a councillor of its local government is entitled to a different amount of remuneration from the remuneration stated in the remuneration schedule for the category of local government to which the local government belongs.

(2) The local government may make a submission to the remuneration tribunal for approval to vary the remuneration that the councillor may be paid.

(3) The remuneration tribunal may, but is not required to, consider the submission.

(4) If the remuneration tribunal considers the submission and is satisfied that, having regard to the exceptional circumstances that apply, the councillor is entitled to a different amount of remuneration from that stated in the remuneration schedule, the remuneration tribunal may approve payment of the different remuneration.

Subdivision 5 Inquiries conducted by remuneration tribunal

250AM Remuneration tribunal may make inquiries

For performing its functions under this Act, the remuneration tribunal may make the inquiries it considers necessary.

250AN Conduct of inquiries

(1) When making inquiries, the remuneration tribunal—

(a) is not bound by technicalities, legal forms or rules of evidence; and

(b) may inform itself in any way the remuneration tribunal considers appropriate; and

(c) may decide the procedures to be followed; and

(d) may conduct any proceedings in the way the remuneration tribunal considers appropriate.

(2) For subsection (1)(b), the remuneration tribunal may consult with persons as the remuneration tribunal considers appropriate.

(3) If the remuneration tribunal is conducting an inquiry, the remuneration tribunal must—

(a) invite submissions from local governments, interested groups and persons and members of the public; and

(b) state the period within which submissions must be made.

(4) Before making a decision for the purpose of performing its functions under this Act, the remuneration tribunal must have regard to any submissions made to the remuneration tribunal within the stated period.

(5) The remuneration tribunal may—

(a) require information or submissions to be presented in writing; and

(b) decide the matters on which information or submissions may be presented orally.

250AO Membership of remuneration tribunal changes during inquiry

(1) This section applies if—

(a) the remuneration tribunal is conducting an inquiry into a particular matter; and

(b) a member of the remuneration tribunal stops being a member and is replaced by another person who becomes a member.

(2) The inquiry may be finished by the remuneration tribunal as reconstituted.

(3) Any decision of the reconstituted remuneration tribunal in relation to a matter the subject of the inquiry has the same force and effect as if the membership of the remuneration tribunal had not changed.

Subdivision 6 Reports

250AP Remuneration tribunal reports

(1) The remuneration tribunal must prepare a written report each year on—

(a) the establishment of categories of local governments; and

(b) the category of local government to which each local government belongs; and

(c) the remuneration schedule for the year; and

(d) any approvals made under section 250AL in the previous year.

(2) The report must be signed by each member of the remuneration tribunal.

(3) The remuneration tribunal must, within 7 days after making a decision about the remuneration schedule for each year, give the report to the Minister.

250AQ Notification and tabling of report

The Minister must, as soon as practicable after receiving the report—

(a) publish in the gazette—

(i) the categories of local governments established by the remuneration tribunal; and

(ii) the category to which each local government belongs; and

(iii) the remuneration schedule; and

(b) table the report in the Legislative Assembly.

Division 4 Reimbursement of expenses and provision of facilities

250AR Chief executive to approve proposed expenses reimbursement policy or amendments of the policy

(1) A local government must give to the chief executive a copy of its proposed expenses reimbursement policy, or any proposed amendment of its expenses reimbursement policy, (the ***proposed policy document***) for consideration.

(2) The proposed policy document must comply with any relevant guidelines issued by the chief executive.

(3) If the chief executive considers the proposed policy document complies with the guidelines, the chief executive must approve the proposed policy document and give the local government written notice of the approval.

(4) Also, the chief executive may approve the proposed policy document subject to the local government making the minor changes to the proposed policy document that the chief executive identifies as necessary to comply with the guidelines.

(5) If subsection (4) does not apply and the chief executive considers the proposed policy document does not comply with the guidelines, the chief executive must give the local government written notice—

(a) advising how the proposed policy document does not comply; and

(b) requiring the local government to give the chief executive a copy of the revised proposed policy document for reconsideration.

250AS Requirement to adopt expenses reimbursement policy or amendment

(1) A local government may only adopt, by resolution, an expenses reimbursement policy or an amendment of the expenses reimbursement policy that is the same as the proposed policy document approved by the chief executive under section 250AR.

(2) Subsection (1) does not limit a local government's ability to publish the adopted expenses reimbursement policy in the way it chooses or to correct obvious errors in the approved proposed expenses reimbursement policy or amendment.

(3) The adopted expenses reimbursement policy or amendment must be notified as required under this division.

250AT Notification of adoption of expenses reimbursement policy

(1) As soon as practicable after a local government adopts its expenses reimbursement policy, the local government must give public notice of the policy.

(2) The public notice must be published in a newspaper circulating generally in the local government area.

250AU Meetings in public about expenses reimbursement policy

A local government must not resolve under section 463 that a meeting at which a proposed expenses reimbursement policy is discussed, or an expenses reimbursement policy is adopted or amended, be closed.

Part 3A Code of conduct for councillors

Division 1 Preliminary

250A Application of part to Brisbane City Council

This part applies to the Brisbane City Council.

250B Definitions for pt 3A

For this part—

committee of a local government means—

(a) for Brisbane City Council—a committee of the council; or

(b) for another local government—

(i) a standing committee or special committee of the local government; or

(ii) an advisory committee of the local government if all the members of the committee are councillors.

special committee, of a local government, includes, in relation to an indigenous regional council, a community forum or a land panel of the indigenous regional council.

statutory obligation for a councillor—

(a) means an obligation under this Act with which the councillor is required to comply only because of holding, or having held, office as a councillor; but

(b) does not include the following obligations—

(i) the obligation under section 243A to comply with the code of conduct;

(ii) an obligation under a local law.

Example for definition of statutory obligation—

The obligations under section 250 about use of information by persons who are or have been councillors would be statutory obligations. However, the obligation under section 1072(1), which applies to any person, would not be a statutory obligation.

250C Requirement to adopt code of conduct for councillors

(1) A local government must adopt, by resolution, a code of conduct for councillors that complies with the requirements under division 2—

(a) not later than 1 March 2006; and

(b) within 6 months after each quadrennial election held on or after 1 March 2006.

(2) A code of conduct for councillors adopted by the local government must be prepared and notified as required under division 3.

250D Model code of conduct for councillors

(1) A ***model code of conduct*** is a document that—

(a) complies with the requirements under division 2; and

(b) is proposed by the Minister as suitable for adoption by local governments as a code of conduct for councillors.

(2) A model code of conduct must be gazetted.

(3) If a model code of conduct has been gazetted—

(a) a local government may adopt the model code of conduct as its code of conduct under section 250C; and

(b) if a local government does not adopt a code of conduct on or before the day mentioned in section 250C(1)(a) or within the period mentioned in section 250C(1)(b)—the model code of conduct is taken to have been adopted by the local government as its code of conduct.

250E Application and duration of code of conduct

(1) A local government's code of conduct applies to all councillors of the local government in performing the duties of their office.

(2) The code of conduct has effect until—

(a) the next code of conduct is adopted by the local government as required under section 250C(1)(b); or

(b) the day by which the local government is next required to adopt a code of conduct under the section.

Division 2 Content of codes of conduct for councillors

250F Statutory and additional obligations of councillors

(1) A code of conduct for a local government must—

(a) identify each statutory obligation for councillors of the local government for which the Act provides a penalty for contravening; and

(b) identify each statutory obligation for councillors of the local government for which the Act does not provide a penalty for contravening.

(2) The code may state additional ethical and behavioural obligations with which councillors must comply.

(3) An obligation mentioned in subsection (2) must—

(a) not be inconsistent with a statutory obligation identified in the code; and

(b) be based on 1 or more of the ethics principles for local government councillors mentioned in section 250G.

250G Ethics principles for local government councillors

(1) For section 250F(3)(b), the ethics principles for local government councillors are the principles stated in schedule 1.

(2) The ethics principles must be stated in a local government's code of conduct.

250H Code must state what a *repeat breach* is

A local government's code of conduct must state the circumstances in which a meeting breach or minor breach of the code is a repeat breach of the code.

250I Information about making a complaint

A local government's code of conduct must include information about how a person can find out how to make a complaint about an alleged breach by a councillor of the code of conduct.

Division 3 Procedure for making code of conduct for councillors

250J Notice of draft code of conduct for councillors

(1) A local government may adopt a code of conduct for councillors only if notice of the proposed code has been given.

(2) Notice must be given by—

(a) publishing a prescribed notice—

(i) at least 6 weeks, and not more than 8 weeks, before the meeting at which it is proposed to adopt the code; and

(ii) in a newspaper circulated generally in the local government's area; and

(b) putting a copy of the prescribed notice on display in a conspicuous place in the local government's public office on the day on which the notice is published under paragraph (a); and

(c) keeping the copy of the prescribed notice on display until after the meeting.

(3) In this section—

prescribed notice means a notice stating—

(a) that the draft code of conduct has been prepared; and

(b) where copies of the draft code may be obtained; and

(c) an invitation for comments on the draft code; and

(d) the day by which comments must be received.

(4) The last day for making comments must be at least 21 days after publication of the notice under subsection (2)(a).

(5) This section does not apply to a code of conduct taken to have been adopted under section 250D(3)(b).

250K Requirement to consider comments

In preparing a final draft of a code of conduct for councillors, the local government must consider all comments made on or before the day stated in the notice given under section 250J.

250L Code of conduct to be available for inspection and purchase

A local government must—

(a) ensure its code of conduct is open to inspection; and

(b) make copies available for purchase at its public office at a price not more than the cost to the local government of producing the copy and, if a copy is supplied to a purchaser by post, the cost of postage.

Division 4 Enforcement of code of conduct for councillors

Subdivision 1 Preliminary

250M Categories of code of conduct breaches

(1) A councillor commits a ***meeting breach*** of the local government's code of conduct if the councillor breaches an obligation under the code, or under a local law, about councillors' behaviour at meetings of—

(a) the local government; or

(b) a committee of the local government.

(2) A councillor commits a ***minor breach*** of the local government's code of conduct if the councillor breaches an obligation stated in the code under section 250F(2), other than an obligation mentioned in subsection (1).

(3) A councillor commits a ***repeat breach*** of the code if the councillor commits a meeting breach or minor breach that, under the code, is a repeat breach.

(4) A councillor commits a ***statutory breach*** of the local government's code of conduct if the councillor breaches a statutory obligation identified in the code.

250N References in div 4 to code of conduct breaches

In this division, a reference to a breach of a local government's code of conduct includes, in the context of a complaint about an alleged breach of the code of conduct, a reference to the alleged breach.

Subdivision 2 Meeting breaches

250O Making a complaint about a meeting breach

(1) A complaint about a meeting breach of a local government's code of conduct by a councillor must be made—

(a) at the meeting of the local government, or the committee of the local government, at which the breach is alleged to have been committed; and

(b) by another councillor present at the meeting.

(2) The complaint may be made by stating it to the person chairing the meeting.

(3) If a complaint about a meeting breach is made at a meeting of a committee of the local government, the person chairing the meeting must, as soon as practicable, notify the chief executive officer of the local government of the complaint.

(4) The chief executive officer must, as soon as practicable after receiving a complaint under subsection (3), refer the complaint to the local government.

(5) This section does not limit a person's ability to make a complaint under a local law in relation to a breach of an obligation under the law mentioned in section 250M(1).

250P When local government must deal with the complaint

(1) The local government must deal with a complaint about a meeting breach of its code of conduct—

(a) for a complaint made at a meeting of the local government as required under section 250O(1)(a)—

(i) at the meeting; or

(ii) if the local government can not deal with the complaint at the meeting because a quorum is not present[18]—at the next meeting of the local government; or

(b) for a complaint made at a meeting of a committee of the local government as required under section 250O(1)(a)—at the next meeting of the local government held after the complaint is referred to it.

(2) In this section—

deal with a complaint means—

(a) decide, under section 250Q(1), to—

(i) take no further action in relation to the complaint; or

(ii) refer the complaint to the conduct review panel; or

(b) if paragraph (a) does not apply—make the decision about the complaint required under section 250Q(2).

250Q How local government must deal with complaint

(1) The local government may decide, by resolution, to do any of the following in relation to a complaint about a meeting breach of its code of conduct by a councillor—

(a) if the local government is satisfied the complaint concerns frivolous matter or is made vexatiously—take no further action; or

(b) if the local government is satisfied the complaint is actually a complaint about a statutory breach by the councillor—refer the complaint to the conduct review panel for review.

(2) If the local government does not deal with the complaint under subsection (1), the local government must decide, by

18 See also section 446 (Quorum at meetings).

resolution, whether the councillor has committed the alleged meeting breach.

(3) If the local government decides that the councillor committed the meeting breach, it may do any of the following—

(a) take no further action in respect of the breach;

(b) by resolution, impose a penalty on the councillor under subdivision 5;

(c) if it considers the breach may be a repeat breach of the code of the conduct—refer a complaint about the repeat breach to the conduct review panel for review.

(4) In deciding whether the councillor has breached the code of conduct and whether to impose a penalty on the councillor, the local government must comply with the principles of natural justice.

(5) This section does not limit the local government's ability to deal with breaches of obligations under a local law mentioned in section 250M(1).

Subdivision 3 Minor breaches

250R Making a complaint about a minor breach

A complaint about a minor breach of a local government's code of conduct by a councillor must be made under the local government's general complaints process.[19]

250S How local government must deal with complaints officer's report

(1) This section applies if—

(a) a report about a complaint about a minor breach of a local government's code of conduct is given to the local government by the complaints officer who investigated it under the general complaints process; and

19 See chapter 6 (General operation of local governments), part 5 (General complaints process).

(b) the report states the complaint has not been resolved through the process.

(2) The local government may decide, by resolution, to take no further action in relation to the complaint if the local government is satisfied it concerns frivolous matter or was made vexatiously.

(3) If the local government does not deal with the complaint under subsection (2), the local government must decide, by resolution, whether the councillor has committed the alleged minor breach.

(4) If the local government decides the councillor committed the minor breach, it may do any of the following—

(a) take no further action in respect of the breach;

(b) by resolution, impose a penalty on the councillor under subdivision 5;

(c) if it considers the breach may be a repeat breach of the code of conduct—refer a complaint about the repeat breach to its conduct review panel for review.

(5) In deciding whether the councillor has breached the code of conduct and whether to impose a penalty on the councillor, the local government must comply with the principles of natural justice.

Subdivision 4 Repeat breaches and statutory breaches

250T Making a complaint about a statutory breach

(1) A person may make a complaint about a statutory breach by a councillor by giving written notice of the complaint to the local government's chief executive officer.

(2) Subsection (1) does not limit a person's ability to make a complaint about a statutory breach under the *Crime and Misconduct Act 2001* or the *Ombudsman Act 2001*.

250U Referring complaints about statutory breaches to conduct review panel

(1) The chief executive officer must refer a complaint about a statutory breach of the local government's code of conduct by a councillor to the conduct review panel for review if—

(a) the complaint is made to the chief executive officer under section 250T(1) and the chief executive officer is not required, under the *Crime and Misconduct Act 2001*, to notify the CMC about the complaint; or

(b) a complaint about the breach has been made to the CMC or the ombudsman (the ***external review body***) and the external review body has notified the chief executive officer that the external review body—

(i) has decided not to take action, or to discontinue action, in relation to the complaint; and

(ii) recommends the complaint be referred to the local government's conduct review panel for review.

(2) If a complaint is referred to the conduct review panel under subsection (1), the chief executive officer must, as soon as practicable, give the councillor written notice that a complaint about a statutory breach by the councillor has been referred to the panel.

250V Review of complaints by conduct review panel

(1) The conduct review panel must review a complaint about a repeat breach or statutory breach of the local government's code of conduct by a councillor if the complaint is referred to the panel by—

(a) for a repeat breach—the local government under section 250Q or 250S; or

(b) for a statutory breach—the chief executive officer under section 250U.

(2) The conduct review panel must give a report to the local government about its review of the complaint.

(3) In the report, the panel may—

(a) state whether—

(i) the panel considers the complaint to concern frivolous matter or to have been made vexatiously; or

(ii) the panel considers more information would be required to make a recommendation mentioned in paragraph (b); and

(b) make recommendations to the local government about—

(i) whether the panel considers the councillor committed the alleged repeat breach or statutory breach; and

(ii) what the panel considers would be an appropriate penalty, as provided for under subdivision 5, for the councillor.

(4) Subsection (3)(a)(i) does not apply in relation to a complaint about a statutory breach mentioned in section 250U(1)(b).

(5) A councillor is not entitled to inspect, make a copy of, or take an extract from, a panel document relating to the complaint until the panel has given a report about the complaint to the local government as required under subsection (2).

(6) In this section—

panel document means any of the following—

(a) a document held by the conduct review panel;

(b) a record about a proceeding of the conduct review panel.

250W Decision by local government about repeat breach or statutory breach

(1) This section applies if the conduct review panel gives the local government a report on a complaint about a repeat breach or statutory breach it has reviewed as required under section 250V.

(2) Unless the report states the panel considers the complaint to concern frivolous matter or to have been made vexatiously, the local government must decide, by resolution, whether the councillor has committed the alleged repeat breach or statutory breach.

(3) If the local government decides the councillor has committed the breach, it may—

(a) take no further action in respect of the breach; or

(b) by resolution, impose a penalty on the councillor under subdivision 5.

(4) In deciding whether the councillor breached the code of conduct and whether to impose a penalty on the councillor, the local government must comply with the principles of natural justice.

(5) A resolution made by the local government under this section that does not adopt a recommendation made by the conduct review panel must include a statement of the reasons for not adopting the recommendation.

Subdivision 5 Penalties

250X Penalties local government may impose

(1) This section applies if a local government decides, under section 250Q, 250S or 250W, that a councillor has breached the local government's code of conduct.

(2) The local government may impose 1 or more of the following penalties on the councillor—

(a) a written reprimand;

(b) for a meeting breach—suspension from the remainder of the local government meeting at which the local government decides the councillor has breached the code;

(c) suspension for a stated period from future meetings of—

(i) the local government; and

(ii) a committee of the local government of which the councillor is a member.

(3) The maximum period of a suspension under subsection (2)(c) must not include more than—

(a) for a meeting breach or minor breach—1 ordinary meeting of the local government; or

(b) for a repeat breach or statutory breach—2 consecutive ordinary meetings of the local government.

250Y Effect of suspension of councillor for s 252

(1) This section applies if a local government imposes a penalty on a councillor under section 250X(2)(c).

(2) For section 252, the councillor is taken to have leave from the local government to be absent from the meetings of the local government from which the councillor is suspended.

Subdivision 6 Conduct review panel

250Z Pool of members for conduct review panel

(1) Each local government must appoint a pool of members for its conduct review panel.

(2) An individual must not be appointed to the pool of members unless, under section 250ZA, the individual is qualified for appointment as a member of the panel.

(3) An individual may be appointed to the pool of members for not more than 4 years.

(4) When the panel is convened, it must consist of not less than 3 individuals from the pool of members.

(5) The panel may be convened by the local government as required to review complaints referred to the panel under subdivision 4.

250ZA Qualifications for appointment as member of conduct review panel

(1) An individual is qualified for appointment as a member of a conduct review panel only if the individual—

(a) has extensive knowledge and experience in local government, public administration, law, public finance or community affairs; or

(b) has other qualifications and experience the local government considers appropriate.

(2) However, an individual who would otherwise be qualified for appointment under subsection (1) is not qualified if the individual—

(a) is a member of, or is a nominee for election as a member of, an Australian parliament; or

(b) is a councillor of, or is a nominee for election as a councillor of, a local government; or

(c) accepts appointment as a councillor of a local government; or

(d) is a member of a political party; or

(e) is a local government employee.

250ZB Removal from pool of conduct review panel members

Individuals may remove themselves from the pool of members for a conduct review panel by giving written notice to the local government.

250ZC Quorum for meetings of conduct review panel

A quorum for a meeting of a conduct review panel is the greater of the following—

(a) 3 panel members;

(b) a majority of the panel members.

250ZD Chairperson of conduct review panel

(1) If the local government does not appoint a chairperson for a conduct review panel, the panel may appoint 1 of its members as chairperson.

(2) If the chairperson is not present at a meeting, the members present may appoint a chairperson for the meeting.

250ZE Meetings of conduct review panel

(1) Meetings of a conduct review panel are to be held at the times and places it decides.

(2) At a meeting—

(a) a question is decided by a majority of the votes of the members present; and

(b) each member present has a vote on each question to be decided and, if the votes are equal, the chairperson for the meeting has a casting vote; and

(c) if a member present fails to vote, the member is taken to have voted in the negative.

250ZF Payment of fee to members of conduct review panel by local government

A member of a conduct review panel is entitled to be paid a fee for attending meetings of the panel as agreed with the local government.

250ZG Costs of conduct review panel to be met by local government

The costs of convening a conduct review panel must be paid by the local government.

Examples of costs—

- reimbursement of travel and accommodation expenses incurred by members in attending meetings of the panel
- meeting fees payable to members of the panel as agreed by the local government

250ZH Indemnity for panel members

(1) A member of a conduct review panel does not incur civil liability for an act or omission done honestly and without negligence under this Act.

(2) A liability that would, apart from this section, attach to a member of a conduct review panel attaches instead to the local government.

250ZI Indemnity for persons giving information to a conduct review panel

(1) A person giving information to a conduct review panel does not incur civil liability for giving information to the panel honestly and without negligence.

(2) This section does not limit the operation of the *Whistleblowers Protection Act 1994*.

Subdivision 7 Miscellaneous

250ZJ Frivolous or vexatious complaint

(1) A local government may give notice to a person that a complaint made by the person about a breach of the local government's code of conduct by a councillor will not be dealt with because it appears—

(a) to concern frivolous matter; or

(b) to have been made vexatiously.

(2) The notice must advise the person that if the person again makes the same or substantially the same complaint to the local government the person commits an offence under subsection (3).

(3) A person who, after receiving the notice mentioned in subsection (2), again makes the same or substantially the same complaint to the local government commits an offence.

Maximum penalty—20 penalty units.

(4) It is a defence to prove that the complaint did not concern frivolous matter and was not made vexatiously.

(5) This section does not apply in relation to a complaint about a statutory breach originally made to the CMC or the ombudsman and referred to the conduct review panel under section 250U.

Part 4 Vacancies in membership of local governments

251 Application of part to Brisbane City Council

This part applies to the Brisbane City Council.

252 When councillor's office becomes vacant

(1) A person's office as a local government councillor is vacated if the person—

(a) ceases to be qualified to be or become a councillor under part 1, division 2; or

(b) without the local government's leave, is absent from 3 or more consecutive ordinary meetings of the local government over at least 3 months; or

(c) on a review under the *Judicial Review Act 1991*, is found to be unlawfully elected or appointed, or ineligible to continue to act as, a councillor of the local government; or

(d) resigns as a councillor; or

(e) becomes a local government employee; or

(f) otherwise ceases to hold the office before the end of the councillor's term of office.

(2) In this section—

local government employee does not include—

(a) a person employed under a Commonwealth funded community development project for Aborigines or Torres Strait Islanders; or

(b) a person prescribed by regulation.

253 Filling of earlier vacancies by by-election

(1) This section applies if a person's office as a local government councillor becomes vacant before 1 March (the ***cut off date***)

in the year before the year in which the next quadrennial elections for the local government are to be held.

(2) The vacancy must be filled by a by-election.

254 Filling of later vacancies by appointment

(1) This section applies if the office of a person (the ***former councillor***) as a local government councillor becomes vacant on or after the cut off date.

(2) The local government must fill the office by appointing a qualified person (the ***new councillor***) to the office.

(3) Subsection (4) applies if—

(a) the last filling of the office of the former councillor was by an election; and

(b) the former councillor was a candidate for the election; and

(c) the former councillor was nominated for the election by a registered officer of a political party under—

(i) section 303(1)(a); or

(ii) if the former councillor was a councillor of the Brisbane City Council—the *Electoral Act 1992*, section 84(1)(a).[20]

(4) The new councillor must be the political party's nominee.

(5) If the last filling of the office of the former councillor was by an appointment of a political party's nominee made in accordance with subsection (4) or this subsection, the new councillor must be a nominee of the political party.

(6) If the former councillor held office as mayor of the local government, the local government must fill that office by appointing—

(a) an existing councillor as mayor; or

(b) another qualified person as mayor.

20 The *Electoral Act 1992*, section 84 is applied to nominations for election as a councillor of the Brisbane City Council under the *City of Brisbane Act 1924*, section 17(5).

(7) Subsection (8) applies if—

(a) the former councillor held office as mayor; and

(b) the last filling of the office of mayor was at an election; and

(c) the former councillor was a candidate for the election; and

(d) the former councillor was nominated for the election by a registered officer of a political party under—

(i) section 303(1)(a); or

(ii) if the former councillor was a councillor of the Brisbane City Council—the *Electoral Act 1992*, section 84(1)(a).[21]

(8) The person appointed under subsection (6) must be the political party's nominee.

(9) If the last filling of the office of mayor was by an appointment of a political party's nominee made in accordance with subsection (8) or this subsection, the person appointed under subsection (6) must be a nominee of the political party.

(10) If the former councillor held office as mayor, the local government may act under subsection (2) for the vacancy only if it has already appointed an existing councillor as mayor.

(11) If a vacancy that should be filled under this section is not properly filled within 2 months after the vacancy happens, the Governor in Council may appoint a qualified person to fill the vacancy.

(12) In this section—

qualified person means a person who is qualified to become a councillor of the local government.

21 The *Electoral Act 1992*, section 84 is applied to nominations for election as a councillor of the Brisbane City Council under the *City of Brisbane Act 1924*, section 17(5).

255 Duty to seek political party's nominee for appointment to vacancy

(1) This section applies if there is a vacancy in the office of a local government councillor and the vacancy is to be filled by the nominee of a political party.

(2) Within 14 days after the vacancy happens, the chief executive officer of the local government must, by written notice given to the political party, request the party to inform the officer of the full name and address of its nominee to fill the vacancy.

(3) The notice may be given to the political party by giving it to the party's registered officer under the *Electoral Act 1992*.

256 Duty to seek other nominees for appointment to vacancy

(1) This section applies if there is a vacancy in the office of a local government councillor and the vacancy is not to be filled by the nominee of a political party.

(2) Within 14 days after the vacancy happens, the chief executive officer must—

(a) by notice published in a newspaper circulating generally in the local government's area, invite nominations from persons qualified to fill the vacancy; and

(b) by written notice to each person who was a candidate for the office at the last election—

(i) inform the person of the vacancy; and

(ii) ask the person to indicate in writing whether the person is willing to accept the office if appointed.

(3) If persons qualified to fill the vacancy nominate for appointment or indicate a willingness to accept the office if appointed, the local government must fill the vacancy by appointment from among the persons.

Part 5 Membership of joint local governments

257 Election of members

(1) Each component local government or group of component local governments of a joint local government must elect the number of representatives to which the local government or group is entitled on the joint local government.

(2) The representatives must be elected from—

(a) for a component local government—its councillors; or

(b) for a group of local governments—the councillors of the local governments in the group.

(3) This section is subject to any regulation made for the joint local government under section 48(2).

258 When members are to be elected

The election of the members of a joint local government must be held—

(a) before the first meeting of the joint local government; and

(b) within 1 month after each of the later quadrennial elections of local governments.

259 Delegate members

(1) Each component local government or group of component local governments must elect 1 person as a delegate representative on the joint local government.

(2) The delegate representative must be elected from—

(a) for a component local government—its councillors; or

(b) for a group of local governments—the councillors of the local governments in the group.

(3) In the absence of a representative of a component local government or group of component local governments, the delegate representative may act as the representative.

260 Filling of casual vacancies

(1) If a vacancy happens in the office of a representative or delegate representative of a component local government or group of component local governments, the component local government or group must, within 2 months after the vacancy happens, elect a new representative or new delegate representative to fill the vacancy.

(2) The representative or delegate representative must be elected from—

(a) for a component local government—its councillors; or

(b) for a group of local governments—the councillors of the local governments in the group.

(3) This section is subject to any regulation made for the joint local government under section 48(2).

261 Returning officer for elections

The returning officer for an election of a representative or delegate representative of a group of component local governments in a joint local government is—

(a) the joint local government's chief executive officer; or

(b) if there is no chief executive officer of the joint local government—a person appointed by the Minister for the purpose.

262 Appointment of representatives on default

If a component local government or group of component local governments fails to elect the number of representatives in a joint local government to which it is entitled at or within the time it is required to elect them, the Governor in Council may, by gazette notice, appoint a number of councillors of the component local government or group of component local

governments necessary to make up the required number of representatives.

263 President and deputy president

(1) A joint local government must appoint a president and deputy president from its members, by resolution, at—

(a) the first meeting of the joint local government; and

(b) at its first meeting after each of the later quadrennial elections of local governments.

(2) For the purpose of electing the president, the chief executive officer or someone else appointed by the Minister is to preside (without entitlement to vote).

(3) This section applies subject to any regulation made for the joint local government under section 44(b).

264 Presiding at meetings

(1) The president of a joint local government presides at meetings of the joint local government at which the president is present.

(2) If the president is not present at a meeting, the deputy president is to preside.

265 Overriding duty of joint local government member

In taking part in the exercise of a joint local government's jurisdiction, a member of the joint local government must act in the best interests of—

(a) the whole of its area; and

(b) the responsible exercise of the joint local government's jurisdiction in its area.

Chapter 5 Local government elections

Part 1 General

266 Quadrennial elections

Councillors of a local government are to be elected once every 4 years.

267 Types of elections

(1) A quadrennial or fresh election of the mayor of a local government is an election for the whole of the local government's area.

(2) A quadrennial or fresh election for another councillor of a local government is—

(a) if the local government's area does not have divisions—an election for the whole of the area; or

(b) if the local government's area has divisions—an election for each division of the area.

(3) A by-election to fill a vacancy in the office of a local government councillor is an election for its area, or the division of its area, for which the councillor was elected.

268 Elections to be held on a Saturday

Every local government election must be held on a Saturday.

269 Date of quadrennial elections

(1) A quadrennial election must be held in, and every fourth year after, 2000.

(2) A quadrennial election must be held on the last Saturday in March.

(3) However, a regulation may fix a different date for a particular year.

270 Date of by-elections

(1) A by-election to fill a vacancy in the office of a local government councillor is to be held on the date fixed by the returning officer for the election.

(2) The date fixed must be within 10 weeks after the vacancy happens.

271 Local governments responsible for expenditure for conducting elections

A local government is responsible for expenditure incurred for the conduct of an election in its local government area.

Part 2 Returning officers

272 Chief executive officer is returning officer

(1) The chief executive officer of a local government is the returning officer for every election of a councillor of the local government.

(2) This section is subject to section 273.

273 Appointment of returning officer in place of the chief executive officer

(1) If the chief executive officer considers on reasonable grounds that it is appropriate to appoint another individual as returning officer for an election, the chief executive officer may make the appointment in the approved form.

(2) An individual who is not a current employee of the local government can not be appointed as returning officer for an election unless the chief executive officer—

(a) has to the extent practicable, by public notice in a newspaper circulating generally in the local government area and in any other newspaper the chief executive officer considers appropriate, invited expressions of

interest from individuals who are suitably qualified to conduct elections; and

(b) if the chief executive officer considers it appropriate—has invited submissions for appointment as returning officer from any individual the chief executive officer considers may be suitably qualified to conduct elections; and

(c) has taken into account—

(i) the individual's qualifications to be a returning officer; and

(ii) information supplied by the individual and any referees; and

(iii) the cost of the individual providing the services required.

(3) Subsections (4) to (6) apply if a returning officer appointed by the chief executive officer is, for any reason, unable to perform the duties of the returning officer.

(4) If possible, the returning officer must immediately inform the chief executive officer.

(5) The chief executive officer may become the returning officer or appoint another individual to be the returning officer for the election.

(6) To the extent practicable, subsection (2) applies to the appointment of a returning officer under subsection (5) who is not a current employee of the local government.

(7) If the chief executive officer believes he or she can not properly perform the duties of returning officer for an election because of a possible conflict of interest, the chief executive officer must ask the Minister to appoint another individual as returning officer for the election.

(8) The Minister may appoint another individual as returning officer for the election.

274 Returning officer's duty for by-election

As soon as practicable after fixing the day for holding a by-election, the returning officer must—

(a) publish, in a newspaper circulating generally in the local government area and in the other ways that the officer may consider appropriate, notice of—

(i) the day fixed; and

(ii) the cut off day for the voters roll for the by-election; and

(b) take the steps required by this Act for holding the by-election.

Part 3 Voters roll

275 Returning officer must compile voters roll

The returning officer for a local government election must compile the roll of persons entitled to vote at the election (the ***voters roll***).

276 Qualification for enrolment on voters roll

A person is entitled to vote at a local government election if the person is an elector under the *Electoral Act 1992* for an electoral district, or a part of an electoral district, included—

(a) for an election for the whole of the local government's area—in the area; or

(b) for an election for a division of the local government's area—in the division.

277 Cut off day for voters roll

A voters roll must be compiled to 1 of the following dates—

(a) for a quadrennial election—31 January in the year of the election;

(b) for a by-election to fill a vacancy in the office of a local government councillor—at least 5 days, and not more

than 7 days, after the publication in a newspaper, under section 274, of notice of the day of the by-election.

278 Use of electoral roll when practicable

(1) The voters roll for an election for a local government must consist of the persons enrolled on an electoral roll for an electoral district, or a part of an electoral district, included—

(a) for an election for the whole of the local government's area—in the area; or

(b) for an election for a division of the local government's area—in the division.

(2) However, the returning officer may make the changes to the electoral roll, compiled to the cut off day for the voters roll, that are necessary because the boundaries of the area or its divisions are not identical with the boundaries of the electoral district.

279 Requirements of voters roll

(1) A voters roll for an election must—

(a) show the names of all persons entitled to vote at the election; and

(b) be in the form of the electoral roll used for elections of the Legislative Assembly.

(2) The returning officer must not include in a voters roll an elector's address that, under the *Electoral Act 1992*, is excluded from the publicly available part of an electoral roll.

280 Voters roll to be open to inspection and purchase

(1) A voters roll for an election is open to inspection.

(2) Copies of the voters roll must be available for purchase at the local government's public office.

(3) The price of a copy of the voters roll must be no more than the cost to the local government of having the copy available for purchase and, if the copy is posted to the purchaser, the postage cost.

281 Electoral registrars to help returning officers

An electoral registrar under the *Electoral Act 1992* must give a returning officer the assistance that the returning officer reasonably requires to compile a voters roll for a local government election.

Part 4 Voting

282 Compulsory voting

Voting at an election for a local government is compulsory and each elector is entitled to 1 vote only.

283 System of voting

The system of voting at an election for a councillor is—

(a) for a local government area divided into single-member divisions—optional-preferential voting; and

(b) in any other case—first-past-the-post voting.

Part 5 Division of local government areas

Division 1 Preliminary

284 Application of part to Brisbane City Council

This part applies to the Brisbane City Council.

284AA Non-application of part to indigenous regional councils

(1) This part does not apply to an indigenous regional council.

(2) For any election of a councillor of an indigenous regional council after the 2008 quadrennial elections, the following matters must be provided for under a regulation—

(a) whether the council's local government area is divided;

(b) if the area is divided—

(i) what the divisions are; and

(ii) the number of councillors assigned to each division.

284A Definition for pt 5

In this part—

information date means—

(a) for Brisbane City Council—1 October in the year that is 2 years before the year of the quadrennial elections for local governments; or

(b) for another local government—1 March in the year before the year of the quadrennial elections for local governments.

Division 2 Quota requirements for divided local governments

285 Equitable division of local government areas

(1) For each divided local government area and each local government area, or proposed local government area, that is proposed to be divided, there must be a quota of voters for each councillor to be elected for a division of the area.

(2) The quota is worked out by dividing the total number of electors, as nearly as can be found out, by the number of councillors (other than the mayor) of the local government.

286 Quota to be complied with in division of local government area and assignment of councillors

(1) The quota worked out for a local government area or proposed local government area under section 285 must be complied with in the determination of—

(a) a reviewable local government matter (other than a limited reviewable local government matter); or

(b) a limited reviewable local government matter.

(2) However, a margin of allowance may be adopted if necessary, but the quota must not be departed from—

(a) for a local government area with more than 10000 electors—by more than 10%; or

(b) for another local government area—by more than 20%.

(3) Also, an electoral and boundaries review commission may, if it is satisfied it is appropriate in its determination, under section 93(4) or 102(4), of a reviewable local government matter, adopt a margin of allowance, but the quota must not be departed from—

(a) for a local government area with more than 10000 electors—by more than 20%; or

(b) for another local government area—by more than 40%.

(4) However, a commission must not make a determination under subsection (3) in the period starting on the information date mentioned in section 287 for a local government and ending on the date of the next quadrennial elections.

(5) Also, subsection (3) does not apply if—

(a) the reference for the matter includes a reviewable local government matter mentioned in section 64(1)(a) or (f); or

(b) the matter is referred to the commissioner under section 288.

(6) For subsection (2), the quota must be worked out as near as practicable to—

(a) if the matter is a reviewable local government matter (other than a limited reviewable local government

matter)—the time notice of the proposed determination of the matter is given under section 90 or 100; or

(b) if the matter is a limited reviewable local government matter—the time notification in the gazette of the determination of the matter is given under section 109.

(7) For subsection (3), the quota must be worked out as near as practicable to the time notice of the proposed determination of the matter is given under section 90 or 100.

Division 3 Disclosure requirements and references

287 Disclosure of compliance or noncompliance with quota requirements

(1) Not later than the information date, each local government whose area is divided must inform the Minister, in writing, whether each division of its area is consistent with the basis specified in section 286(2).

(2) The information must be based on the roll of electors in each division available as near as practicable to the information date.

(3) However, subsection (1) does not apply to a local government, if—

(a) an electoral and boundaries review commission has made a delayed implementation determination for a reviewable local government matter for the local government's area; and

(b) the determination was made after the conduct of the last election of all councillors for the local governments affected by the determination.

288 Matter of area's division referred to commissioner

(1) The Minister must refer the matter of the division of a local government's area to the commissioner if the local government informs the Minister—

(a) for the 2004 quadrennial elections for local governments or the quadrennial elections held every 8 years after the 2004 quadrennial elections—

(i) if the local government has less than 6 divisions—2 or more divisions in its area are not consistent with the basis specified in section 286(2); or

(ii) if the local government has 6 or more divisions—one-third or more of the divisions in its area are not consistent with the basis specified in section 286(2); or

(b) for the 2008 quadrennial elections for local governments or the quadrennial elections held every 8 years after the 2008 quadrennial elections—a division in its area is not consistent with the basis specified in section 286(2).

(2) Also, the Minister must refer the matter of the division of a local government's area to the commissioner if—

(a) the local government fails to inform the Minister as required by section 287 about its area; or

(b) the Minister reasonably believes information given under section 287 is incorrect.

(3) In addition, the Minister must refer the matter of the division of a local government's area to the commissioner—

(a) if—

(i) an electoral and boundaries review commission has made a determination, under section 93(4) or 102(4), for a reviewable local government matter for the area; or

(ii) an electoral and boundaries review commission has made a delayed implementation determination for a reviewable local government matter for the area; and

(b) the determination was made since the conduct of the last election of all councillors for the local governments affected by the determination.

(4) If the number of divisions in a local government area is not a multiple of 3, the area is, for subsection (1)(a)(ii), taken to

have the number of divisions that is the next lower number to the actual number of divisions that is a multiple of 3.

(5) A reference under subsection (3) must be made as soon as practicable after the information date for the local government.

Part 6 Conduct of elections

Division 1 Preliminary

289 Conduct of elections

An election must be conducted under this part.

Division 2 Electoral officers

290 Returning officer

The returning officer for an election is responsible for its proper conduct.

291 Assistant returning officers

(1) The returning officer for an election may appoint 1 or more assistant returning officers for the election.

(2) An appointment under subsection (1) must be in the approved form.

292 Presiding officers

(1) The returning officer—

(a) may be presiding officer at a polling booth; and

(b) must appoint an adult as presiding officer at each polling booth other than the booth where the returning officer is the presiding officer.

(2) A presiding officer at a polling booth is responsible for the proper conduct of the poll at the booth and for carrying out the other duties for the election that are required by the returning officer.

(3) If a person is unable to act as presiding officer at a polling booth, the returning officer, or someone else with the returning officer's approval, may appoint an adult as presiding officer at the booth while the person is unable to act.

(4) An appointment under subsection (1) or (3) must be in the approved form.

293 Issuing officers

(1) The returning officer, or a presiding officer with the returning officer's approval, may appoint adults (***issuing officers***) to—

(a) give ballot papers, declaration envelopes and declaration forms to electors; and

(b) perform the other duties for the election that are required by the presiding officer.

(2) The appointment must be in the approved form.

(3) Anything done by an issuing officer under subsection (1)(b) is taken to be done by the returning officer or the presiding officer.

294 Declaration by issuing officers

An issuing officer must make a declaration in the approved form before acting as an issuing officer.

295 Returning officer may act through other officers

If—

(a) the returning officer may, under this part, do anything; and

(b) the returning officer authorises an assistant returning officer, presiding officer or issuing officer (the ***authorised officer***) to do the thing; and

(c) the authorised officer does the thing;

the thing is taken to have been done by the returning officer.

Examples—

1 For an election, if the returning officer authorises an assistant returning officer to conduct the election in a division, and the assistant returning officer does so, the returning officer is taken to have conducted the election in the division.

2 For an election, if the returning officer authorises an assistant returning officer to carry out the functions of the returning officer under section 366, the returning officer is taken to have carried out those functions.

3 Under section 351, declaration envelopes are to be posted or given to the returning officer. For an election, the returning officer could authorise an issuing officer to receive declaration envelopes, to remove the declaration envelopes containing the ballot papers from the return address envelopes and place the declaration envelopes in a ballot box.

296 Assistant returning officer may act through certain authorised officers

If—

(a) an assistant returning officer may, under this part, do anything; and

(b) the assistant returning officer authorises a presiding officer or issuing officer to do the thing; and

(c) the presiding officer or issuing officer does the thing;

the thing is taken to have been done by the assistant returning officer.

297 Supply and use of voters rolls

(1) The returning officer must give to the presiding officer at each polling booth enough copies of the voters roll certified in the approved form by the returning officer.

(2) An issuing officer must use a certified copy of the voters roll for taking the ballot in the election.

Division 3 Candidates for election or appointment

298 Qualification for nomination

(1) Subject to subsection (3), a person who is qualified under chapter 4, part 1, division 2, to become a councillor of a local government may nominate for election or appointment to the local government.

(2) A person is not disqualified from nominating because the person is a member of the Legislative Assembly or a local government employee.

(3) A person who is a candidate for election as a member of an Australian Parliament, is not qualified to be nominated for election or appointed as a councillor of a local government until—

(a) for an election under the *Electoral Act 1992*—the day the Electoral Commission is notified, under section 122(1) of that Act, of the candidate elected for the electoral district for which the person is a candidate; or

(b) for an election under the *Commonwealth Electoral Act 1918* (Cwlth)—

(i) the day the result of the election and the candidates elected are declared under section 283 of that Act; or

(ii) the day the candidate elected for the division for which the person is a candidate is declared under section 284 of that Act.

(4) This section applies to the Brisbane City Council.

299 Prohibition of dual candidature

(1) A person can not, at the same time, be a candidate—

(a) for election as mayor of a local government and as another councillor of the local government; or

(b) for election as a councillor of a local government for more than 1 division of the local government's area.

(2) If, at noon on the nomination day, a person is nominated as a candidate in contravention of subsection (1), each of the nominations is of no effect.

(3) This section applies to the Brisbane City Council.

300 Leave to local government employee to contest election

(1) A local government employee who nominates as a candidate for election as a local government councillor is entitled to leave of absence for a period of not more than 2 months to contest the election.

(2) A local government employee may use any entitlement to accrued leave with pay as leave to which the employee is entitled under subsection (1).

(3) Unless leave is taken under subsection (2), the local government employee is not entitled to payment of salary or wages for any period of leave taken under subsection (1).

(4) This section applies to the Brisbane City Council.

Division 4 Nominations of candidates for election

301 Calling for nominations

(1) The returning officer must publish notice of the election in a newspaper circulating generally in the local government area, or division of the local government area, for which the election is to be held.

(2) The notice must—

(a) be in the approved form; and

(b) specify a day as the nomination day—

(i) not less than 10, or more than 21, days after the day of publication of the notice; and

(ii) not less than 21, or more than 42, days before the day on which the election is to be held; and

(c) specify a place of nomination; and

(d) invite nominations of candidates for the election.

(3) The place of nomination must be—

(a) the local government's public office; or

(b) a place in its area convenient generally to persons in its area.

302 Who may nominate

(1) A candidate for election as a councillor of a local government must be a person who is qualified under section 298 to nominate for the election.

(2) This section applies to the Brisbane City Council.

303 How and when nomination is given

(1) A person who wishes to be a candidate for election must be nominated by—

(a) the registered officer under the *Electoral Act 1992* of a political party that has endorsed the person as a candidate for the election; or

(b) at least 6 electors for the local government area, or division of the local government area, for which the election is to be held.

(2) A nomination must be—

(a) in the approved form; and

(b) given to the returning officer after the nominations are invited for the election but before noon on the nomination day.

304 Deposit to accompany nomination

(1) Before noon on the nomination day, the person nominating as a candidate, or another person on behalf of the person nominating as a candidate, must deposit, in cash or by a cheque drawn by a financial institution, with the returning officer—

(a) $150; or

(b) if another amount is prescribed by regulation—the amount.

(2) The deposit must be held in the trust fund of the local government until it is refunded, or becomes the property of the local government, under this part.

305 Special grounds for deciding a person is not properly nominated

(1) In this section—

nomination name means the name proposed by a candidate to be used on the ballot paper as the candidate's name under section 325(3).

parliamentary party means an organisation—

(a) whose object or activity, or 1 of whose objects or activities, is the promotion of the election to an Australian parliament of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part; and

(b) of which at least 1 member is a member of an Australian parliament.

party name means the name, or an abbreviation or acronym of the name of—

(a) a parliamentary party; or

(b) a political party; or

(c) an organisation or group whose object or activity, or 1 of whose objects or activities, is the promotion of the election of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part to—

(i) an Australian parliament; or

(ii) an office of councillor of a local government.

public body name means the name, or an abbreviation or acronym of the name, of a prominent public body.

(2) The returning officer may decide that a person whose name has been changed is not properly nominated because the nomination name—

(a) is a party name; or

(b) so nearly resembles a party name that it is likely to be confused with or mistaken for the party name; or

(c) includes the word 'independent'; or

(d) is a public body name; or

(e) so nearly resembles a public body name that it is likely to be confused with or mistaken for the public body name; or

(f) is obscene or offensive.

(3) The returning officer may also decide that a person whose name has been changed is not properly nominated if the returning officer considers the name could cause confusion.

Example of subsection (3)—

If a person's name is 'Informal', the returning officer may consider that the name could cause confusion to electors.

(4) If the returning officer decides a person is not properly nominated under this section for an election, the returning officer must give the person a notice stating—

(a) the decision; and

(b) the reasons for the decision; and

(c) the person's right to apply for an injunction.[22]

22 For a person's right to seek an injunction, see section 407 (Injunctions to restrain contravention of chapter).

306 Certificate of returning officer

(1) If the returning officer is satisfied a person has been properly nominated for election, the returning officer must—

(a) certify the nomination, in the approved form; and

(b) give a copy of the certificate to the candidate.

(2) The certificate must specify the time, day and place proposed for a draw, if necessary, for the order of listing of candidates' names on the ballot paper.

(3) A person is properly nominated for election if—

(a) sections 302 to 304 have been complied with, or have been substantially complied with apart from a mere formal defect or error in the nomination; and

(b) section 299 does not apply to the person's nomination; and

(c) the nomination has not been withdrawn.

(4) The returning officer is not obliged to look beyond—

(a) the form of nomination and payment of the deposit; and

(b) the voters roll; and

(c) documentary evidence produced by the nominee or nominator that at the time the voters roll is compiled for the election—

(i) the nominator is an elector for the election or the registered officer under the *Electoral Act 1992* of a political party; or

(ii) the nominee is, under the *Electoral Act 1992*, an elector for an electoral district, or part of an electoral district, included in the local government's area.

(5) If a nomination is wrongly certified by the returning officer, the certification, or the issue of a copy of the certificate, does not validate the nomination.

307 Display of nominations

As soon as practicable after receipt of a nomination, the returning officer must display a copy of the nomination in a conspicuous position at the place of nomination and, if that place is not the local government's public office, at the public office.

308 Termination of candidature before noon on nomination day

(1) A person nominated as a candidate for election may withdraw the person's agreement to the nomination by signed notice given to the returning officer before noon on the nomination day.

(2) If this happens—

(a) the nomination is of no effect; and

(b) the person's deposit must be refunded to the person who paid the deposit.

309 Death of candidate

If a person nominated as a candidate for election dies before noon on the nomination day—

(a) the nomination is of no effect; and

(b) the person's deposit must be refunded to—

(i) if the deposit was paid by someone other than the person—the other person; or

(ii) otherwise—the person's personal representative.

310 Procedure if number of candidates not more than number required

(1) If the number of candidates properly nominated for election does not exceed the number required to be elected—

(a) the nominees are taken to have been elected; and

(b) the returning officer must, as soon as practicable after the nomination day, publish a notice in the approved

form in a newspaper circulating generally in the local government area, or division of the local government area, for which the election was to be held, that the nominees are taken to have been elected.

(2) If—

(a) no-one is nominated as a candidate for an election; or

(b) the number of candidates nominated is less than the number required to be elected;

the Governor in Council may, by gazette notice, appoint as councillors of the local government, the number of persons necessary to constitute fully the local government.

(3) Each person appointed as a councillor must be qualified to be elected as a councillor of the local government for the local government area, or division of the local government area, for which the election was to be held.

(4) The persons appointed are taken to have been properly elected as councillors of the local government.

311 Procedure if number of candidates exceeds number required

(1) If the number of candidates properly nominated for election exceeds the number required to be elected, a poll must be conducted under this part.

(2) The returning officer must give public notice that a poll will be conducted.

(3) The notice must—

(a) be in the approved form; and

(b) specify—

(i) the day the poll will be conducted; and

(ii) the names of all candidates properly nominated for election in the order decided under section 327; and

(iii) the location of all ordinary polling booths to be used for taking the ballot in the poll; and

(iv) that the ordinary voting hours are from 8a.m. to 6p.m; and

(c) be displayed in a conspicuous position at the place of nomination and, if that place is not the local government's public office, displayed at the public office; and

(d) be published in a newspaper circulating generally in the local government area, or division of the local government area, for which the poll will be conducted.

(4) Display of a notice under subsection (3)(c) must—

(a) start as soon as practicable after noon on the nomination day; and

(b) continue until the close of the poll.

312 Supply of voters roll

(1) If a poll is to be conducted in the election, the returning officer must give a copy of the voters roll to each candidate as soon as practicable after the nomination day.

(2) The copy of the roll must be certified by the returning officer in the approved form.

313 Procedure on death of candidate when poll to be conducted

(1) If a poll is to be conducted and a candidate dies after noon on the nomination day but before the polling day—

(a) for a candidate as mayor—the proceedings for the election of the mayor must start again; and

(b) for a candidate as councillor (other than mayor) if the local government's area is undivided—the proceedings for the election of the councillors must start again; and

(c) for a candidate as a councillor for a division of local government's area—the proceedings for the election of councillors for the division must start again.

(2) The deceased candidate's deposit must be refunded to—

(a) if the deposit was paid by someone other than the candidate—the other person; or

(b) otherwise—the candidate's personal representative.

(3) The deposits of other candidates must be refunded to the persons who paid the deposits.

(4) Despite subsection (1), the Minister may, by gazette notice, direct that proceedings for holding an election of all councillors of the local government start again.

(5) If proceedings are started again, the Minister must, by gazette notice, fix a new polling day for the election.

314 Disposal of deposits generally

(1) As soon as practicable after the conclusion of an election, each candidate's deposit must be refunded to the person who paid the deposit if—

(a) the candidate is elected; or

(b) if the system of voting at the election is optional-preferential voting—the number of first preference votes received by the candidate is more than 4% of the total number of formal first preference votes cast in the election; or

(c) if the system of voting at the election is first-past-the-post voting—the number of votes received by the candidate is more than 4% of the total number of formal votes cast in the election.

(2) Despite subsection (1), a candidate's deposit must not be refunded until—

(a) if, under section 427, the candidate is required to give a return under the section for the candidate's disclosure period for the election—the candidate gives the return; or

(b) if, under section 427(3), the candidate is not required to give a return under the section for the candidate's disclosure period for the election—the end of the disclosure period.

(3) All other candidates' deposits become the property of the local government and must be paid into its operating fund.

(4) This section applies to Brisbane City Council.

315 If successful candidate dies

If a candidate who is successful at the election dies before the final result of the poll is declared, the candidate must be declared elected to the office for which the person was a candidate.

316 Extension of times

(1) This section applies if—

(a) a nomination day is specified under section 301 for the election; or

(b) a polling day is specified under section 311 for the election.

(2) The Minister may, by gazette notice, fix a later day as the nomination or polling day.

(3) The returning officer must publish a notice in a newspaper circulating generally in the local government area, or division of the local government area, for which the election is to be held giving any necessary directions to candidates for election, and to electors, about the procedures to be followed.

316A Special provision about refunding deposits

If under this division a deposit is to be refunded to a person (the ***person entitled***), it may be refunded to someone else with the written authority of the person entitled.

Division 5 Ballots

317 Poll by ballot

A poll must be conducted by ballot taken under this part.

318 Direction that poll be conducted by postal ballot

(1) If the local government's area includes a large rural sector, large remote areas or extensive island areas, the Governor in Council may, by gazette notice, direct that a poll be conducted by postal ballot.

(2) The direction may be given for—

(a) the whole of its area; or

(b) 1 or more divisions of its area; or

(c) a part of its area marked on a map.

(3) The map is open to inspection at the public office of the local government.

Division 6 Polling booths

319 Polling booths—general

(1) A place on or from which liquor may lawfully be sold can not be used as a polling booth.

(2) However, a civic or cultural centre, community hall or similar place under the local government's control, may be used as a polling booth if—

(a) the floor area for taking the ballot is designated in the notice of the conduct of the poll under section 311; and

(b) the local government ensures that no liquor will be sold or supplied in that area during the taking of the ballot.

(3) The returning officer—

(a) may arrange for a polling booth within or outside the local government area, or division of the local government area, to be used in an election; and

(b) may arrange for 2 or more polling booths at any place if the number of electors likely to vote at the place is greater than could conveniently vote in 1 booth at the place; and

(c) must ensure that each polling booth is provided with enough ballot boxes, ballot papers and materials to enable electors to mark the ballot papers.

(4) The returning officer may arrange for all polling booths or specified polling booths for an election in a division of the local government area to also be used for any other election conducted at the same time for, or for a division of, the local government area.

320 Provision of ordinary polling booths

(1) For the purpose of taking a ballot in the election, the returning officer must arrange for places, or parts of places, to be used on polling day as ordinary polling booths to enable electors in general to vote.

(2) The returning officer may—

(a) less than 3 days before polling day, arrange for an ordinary polling booth to be used; or

(b) less than 6 days before polling day, cancel arrangements for the use of an ordinary polling booth;

only if it is necessary because of circumstances beyond the returning officer's control.

(3) If, after publication of the notice under section 311, the returning officer arranges for the use of an ordinary polling booth, the officer must give public notice—

(a) of the location of the booth; and

(b) that the ordinary voting hours of the booth are from 8a.m. to 6p.m.

(4) If the returning officer cancels arrangements for the use of an ordinary polling booth, the officer must give public notice of the cancellation.

(5) Notice under subsection (3) or (4) must be given in the way that the returning officer considers is the best way to inform electors generally.

321 Declaration of mobile polling booths

(1) If the returning officer is satisfied residents in an institution should be able to vote at the institution in a poll, the returning officer may arrange for the whole or a part of the institution to be available as a mobile polling booth to enable residents in the institution to vote there in the poll.

(2) If the returning officer is satisfied a part of the local government area or division of the local government area does not have enough electors to justify the use of an ordinary polling booth in the part, the returning officer may arrange for the whole or part of any place in the part to be available as a mobile polling booth to enable electors in the part to vote in the poll.

(3) If the returning officer acts under subsection (1) or (2), the officer must fix the times, during the period starting 11 days before the polling day and ending at 6p.m. on the polling day, when the mobile polling booth may be used for voting.

(4) The returning officer must, by notice published in a newspaper circulating generally in the relevant part of the local government area—

(a) declare the whole or part of the relevant institution or place as a mobile polling booth for the election; and

(b) specify the times at which votes may be cast at the booth.

(5) The notice must be in the approved form.

(6) The returning officer also must give written notice to the candidates for election of the declaration of the mobile polling booth and the times at which votes may be cast at the booth.

(7) On the declaration of a mobile polling booth for an election, the electors resident in the relevant institution or the electors resident in the part of the local government area in which the booth is situated, may vote in the election at the booth during the times specified for the booth in the notice published under subsection (4).

322 Duty of person in charge of institution

(1) If the returning officer arranges for the whole or part of an institution to be used as an ordinary polling booth, the person in charge of the institution must allow electors and issuing officers to have access to the booth whenever votes may be cast at the booth.

(2) If the returning officer declares the whole or part of an institution as a mobile polling booth, the person in charge of the institution must allow residents in the institution and issuing officers to have access to the booth whenever votes may be cast at the booth.

323 Privacy of voting

The returning officer must ensure that each polling booth is provided with enough voting compartments, or other adequate facilities, to allow the casting of votes in private.

Division 7 Ballot boxes, papers and other documents

324 Ballot boxes generally

(1) A ballot box used in a poll must be under the scrutiny and effective control of an issuing officer.

(2) A ballot box must—

(a) have an opening of a size sufficient to allow folded ballot papers and declaration envelopes to be put in the box; and

(b) be open to inspection by issuing officers, candidates for election at the poll, and scrutineers properly appointed for the poll, before the box is locked or sealed for receipt of ballot papers.

325 Requirements of ballot papers

(1) If a poll is to be conducted, the returning officer must arrange for the printing of all ballot papers to be used in taking the ballot in the poll.

(2) A ballot paper must—

(a) be in the approved form; and

(b) be of material that, when folded, the vote cast by the elector on the paper is effectively concealed; and

(c) be attached to a butt that—

(i) is not part of the ballot paper; and

(ii) is perforated to allow the ballot paper to be easily detached from the butt; and

(iii) is numbered in regular arithmetical sequence, starting with the numeral 1 and proceeding by intervals of one whole numeral, so that each butt for the local government area, or division of the local government area, for which the poll is conducted has a unique number; and

(d) show the name of each candidate for election as required by subsection (3); and

(e) if the names of 2 or more candidates are so similar as to be likely to cause confusion to electors—contain an appropriate description or addition, in the returning officer's opinion, to distinguish the persons' names; and

(f) if a candidate endorsed by a political party was nominated under section 303(1)(a)—contain, printed adjacent to the candidate's name, the name of the political party as it would be required to be shown in a ballot paper under the *Electoral Act 1992*.

(3) A ballot paper must—

(a) contain the name of each candidate once only by showing first the surname followed by the given name or names; and

(b) show the names of the candidates in the order decided under section 327.

(4) A ballot paper must not contain anyone else's name.

326 Separate ballot papers for separate polls

(1) This section applies if a poll for election of mayor of the local government is to be conducted when a poll for election of another councillor of the local government is conducted.

(2) Separate ballot papers must be used for the polls unless the returning officer decides to use a combined ballot paper.

327 Order of listing of candidates' names

(1) The order in which names of candidates for election are to be listed on ballot papers and notices under section 311 is to be decided under this section.

(2) The order must be decided by the returning officer as soon as practicable after noon on the nomination day.

(3) The returning officer must, in the presence of 2 witnesses—

(a) write the name of each candidate on a separate sheet of paper; and

(b) ensure that each piece of paper is of the same kind, shape, size and colour; and

(c) put each separate piece of paper in a separate envelope and, if it is necessary to fold the piece of paper to make it fit in the envelope, fold each piece of paper in the same way to make each the same size and thickness; and

(d) ensure that each envelope is opaque and of the same kind, shape, size and colour; and

(e) after each piece of paper has been placed in an envelope, seal the envelope; and

(f) put all the envelopes in a container and shuffle them; and

(g) draw out the envelopes, 1 at a time; and

(h) as each envelope is drawn out, open it and record the name of the candidate shown on the piece of paper in the envelope.

(4) The order in which the names are recorded is the order in which the names are to appear on the ballot paper and notices under section 311.

(5) The returning officer must allow each candidate, or the candidate's representative, to be present when the order of candidates' names is decided.

328 Distribution of ballot papers

(1) The returning officer must ensure a sufficient number of ballot papers is available at all polling booths.

(2) The returning officer must prepare a delivery note in the approved form in triplicate for each parcel of ballot papers supplied by the returning officer to presiding officers at polling booths.

(3) The approved form must—

(a) show details of the number of ballot papers supplied; and

(b) show the range of numbers of the ballot papers; and

(c) include a form of acknowledgment of receipt of the ballot papers.

(4) Two copies of the delivery note must be included in the parcel of ballot papers.

(5) As soon as practicable after a presiding officer receives a parcel of ballot papers, the presiding officer must—

(a) check the contents against the details shown in the delivery note; and

(b) complete the particulars prescribed by the delivery note; and

(c) sign the form of acknowledgment included in the delivery note.

(6) If there is a discrepancy between the details shown in the delivery note and the contents of the parcel, the presiding officer must cause a countercheck to be made by—

(a) if another presiding officer is available—the other presiding officer; or

(b) if another presiding officer is not available—a responsible person.

(7) A discrepancy confirmed by a countercheck must be noted in the form of acknowledgment and the form must be signed by the presiding officer and the person who made the countercheck.

(8) The presiding officer must return 1 copy of the delivery note to the returning officer and retain the other copy of the delivery note until it is given to the returning officer with the sealed parcels of ballot papers under section 363.

329 Correction of errors etc.

Any error, omission or delay in respect of any voters roll, ballot papers or other document to be used in a poll may be corrected by procedures directed by the Minister, by gazette notice.

Division 8 Scrutineers

330 Candidates' entitlement to scrutineers

A candidate for election is entitled to have 1 scrutineer present for each issuing officer at a polling booth or at a place for examination of declaration envelopes or counting of votes—

(a) before and at all times when electors may vote in the booth; and

(b) at all times during the examination or counting.

331 Appointment of scrutineers

(1) A candidate for election may, in the approved form, appoint adults as scrutineers for the candidate.

(2) On appointment, a scrutineer must make a declaration in the approved form before the returning officer or a presiding officer.

332 Proof of identification

A scrutineer must—

(a) carry evidence of identification and of the person's appointment as a scrutineer; and

(b) on demand, produce the evidence to an issuing officer.

333 Powers of scrutineers

(1) A scrutineer for a candidate for election is entitled to be present—

(a) in a polling booth—before taking the ballot in the poll starts to inspect ballot boxes; and

(b) in a polling booth and any office of the presiding officer at the booth—when electors may vote in the booth; and

(c) in a polling booth or other place—to watch the examination of declaration envelopes and counting of votes.

(2) A scrutineer may—

(a) object to an issuing officer's decision on a person's entitlement to vote at the election; and

(b) object to the acceptance or rejection of a ballot paper by the returning or presiding officer; and

(c) record details of persons who vote at the election at a polling booth and remove the record from the booth.

Division 9 Voting generally

334 Who may vote

Only electors may vote in a ballot taken in a poll.

335 When votes may be cast at an ordinary polling booth or mobile polling booth

(1) Voting at an ordinary polling booth must take place between 8a.m. and 6p.m. on polling day.

(2) However, an elector who is in an ordinary polling booth at 6p.m. on polling day, for the purpose of voting in the poll, must be allowed to vote.

(3) Voting at a mobile polling booth must take place during the times fixed for the booth by the returning officer.

(4) However, an elector who is in a mobile polling booth at the time of the close of voting at the booth, for the purpose of voting in the poll, must be allowed to vote.

336 Procedure for voting at a polling booth

(1) Subject to sections 338 and 340, an elector, other than a declaration voter, must vote at a polling booth under the procedures set out in this section.

(2) The elector must enter a polling booth for the local government area, or division of the local government area, during voting hours at the booth.

(3) In the polling booth, the elector must give the elector's full name and address to an issuing officer.

(4) If the elector—

(a) has a ballot paper and declaration envelope for the election; and

(b) does not intend to cast a declaration vote;

the elector must return the ballot paper and declaration envelope to the issuing officer.

(5) The issuing officer must give a ballot paper to a person asking for it if the issuing officer is satisfied the person is entitled to vote at the election.

(6) The issuing officer may ask a person questions to decide whether the person is entitled to vote at the election.

(7) If, because of the answers to the questions—

(a) the issuing officer is satisfied the person is an elector mentioned in section 344(1)(a), (b), (c) or (d); or

(b) the issuing officer suspects, on reasonable grounds, that the person is not entitled to vote at the election;

the person may only cast a declaration vote.

(8) The issuing officer must place a mark, in ink, on the officer's copy of the voters roll against the name of each person given a ballot paper by the officer.

(9) An issuing officer who gives a ballot paper to a person must, if asked by a scrutineer, keep a record of the objection by the scrutineer to the entitlement of the person to vote.

(10) On being given the ballot paper, the elector must, without delay—

(a) go alone into an unoccupied voting compartment in the polling booth; and

(b) there, in private, mark a vote on the ballot paper in accordance with division 11; and

(c) fold the ballot paper, concealing the vote, and put it in the appropriate ballot box in the polling booth; and

(d) leave the polling booth.

337 Duties of issuing officer for returned papers

(1) An issuing officer must—

(a) record in the approved form the giving of a ballot paper to a person who has returned a ballot paper and declaration envelope to the officer under section 336(4); and

(b) attach to the form all ballot papers and declaration envelopes returned to the officer; and

(c) give the form and the attached documents to the presiding officer.

(2) The presiding officer must set aside the form and attached documents in the officer's custody for separate identification under section 363(1)(g)(ii).

338 Arrangements for electors with disability

(1) This section applies if an elector can not enter a polling booth because of illness, disability or advanced pregnancy, but is able to come to a place (the ***voting place***) close to the polling booth.

(2) The issuing officer may perform the issuing officer's functions, and the elector may vote at the voting place, as if it were the polling booth.

(3) However, the issuing officer must—

(a) before taking any action under subsection (2), inform the scrutineers present of the proposed action; and

(b) allow 1 scrutineer for each candidate to be present at the voting place; and

(c) ensure that after the ballot paper is marked, it is—

(i) folded to conceal the vote; and

(ii) put in an envelope or, if the vote is a declaration vote, a declaration envelope; and

(d) seal the envelope; and

(e) if—

(i) the vote is a declaration vote—put the sealed declaration envelope in the appropriate ballot box inside the polling booth; or

(ii) the vote is not a declaration vote—open the envelope inside the polling booth in the presence of any scrutineers, ensuring the ballot paper remains folded, and put the folded ballot paper in the appropriate ballot box.

(4) The issuing officer must ensure that, as far as practicable—

(a) for a declaration vote—section 348 is complied with when the elector votes; or

(b) for another vote—section 336 is complied with when the elector votes.

(5) Subsections (2) and (3) apply to all types of voting under this division.

339 Arrangements for electors at institutions

(1) If a polling booth is an institution or part of an institution, an issuing officer may visit electors resident in the institution, or part of the institution, for the purpose of enabling them to vote.

(2) Before taking action under subsection (1), the issuing officer must inform the scrutineers present of the proposed action.

(3) When visiting an elector in an institution, the issuing officer must—

(a) take to the elector—

(i) a ballot paper or a declaration form, ballot paper and declaration envelope; and

(ii) a ballot box; and

(iii) anything else necessary to enable the elector to vote; and

(b) if a scrutineer wishes—be accompanied by the scrutineer.

(4) The issuing officer must ensure that, as far as practicable—

(a) for a declaration vote—section 348 is complied with when the elector votes; or

(b) for another vote—section 336 is complied with when the elector votes.

340 Arrangements for electoral visitor voting

(1) The following electors are entitled to be electoral visitor voters—

(a) electors who, because of illness, disability or advanced pregnancy, will be prevented from voting at a polling booth;

(b) electors who, because they are caring for a person who is ill, has a disability or is pregnant, will be prevented from voting at a polling booth.

(2) An elector who is entitled to be an electoral visitor voter may apply to the returning officer to vote as an electoral visitor voter.

(3) The application must be in the approved form.

(4) If the application is received not later than 6p.m. on the Thursday before polling day, the returning officer must direct an issuing officer to visit the elector to enable the elector to vote.

(5) As soon as practicable after the returning officer has directed an issuing officer to visit electors, the returning officer must inform each candidate for election of—

(a) the place from which the issuing officer proposes to start making visits; and

(b) the time or times on the day or days when the issuing officer proposes to start making visits.

(6) The issuing officer must visit an elector at a reasonable hour before 6p.m. on polling day.

(7) When visiting an elector, the issuing officer must—

(a) take to the elector—

(i) a ballot paper or a declaration form, ballot paper and declaration envelope; and

(ii) a ballot box; and

(iii) anything else necessary to enable the elector to vote; and

(b) if a scrutineer wishes—be accompanied by the scrutineer.

(8) The issuing officer must ensure that, as far as practicable—

(a) for a declaration vote—section 348 is complied with when the elector votes; or

(b) for another vote—section 336 is complied with when the elector votes.

341 Help for electors in voting

(1) If an elector satisfies an issuing officer that the elector can not vote without help, the elector may be accompanied into an unoccupied voting compartment in a polling booth, or be otherwise helped, by someone chosen by the elector.

(2) The person may help the elector in any of the following ways—

(a) if asked by the elector—stating the names of candidates;

(b) acting as interpreter;

(c) explaining the ballot paper and the requirements of division 11 about its marking;

(d) marking, or helping to mark, the ballot paper in the way the elector wishes;

(e) folding the ballot paper and putting it into a ballot box or a declaration envelope;

(f) sealing a declaration envelope or putting it into a ballot box.

(3) Subsections (1) and (2) apply to all types of voting.

(4) This section applies despite any of the following provisions—

- section 336(10)
- section 348
- section 351.

342 Adjournment of poll

(1) If the conduct of a poll is, or is likely to be, obstructed or interrupted from any cause, the returning officer may adjourn the conduct of the poll generally or at a particular polling booth.

(2) If the conduct of a poll at a particular polling booth is, or is likely to be, obstructed or interrupted from any cause, the presiding officer at the booth may adjourn the conduct of the poll at the booth.

(3) If a poll is adjourned under subsection (1) or (2), the returning officer must fix a day (not later than 34 days after the day on which the poll is adjourned) for conducting the adjourned poll.

(4) The returning officer must give public notice of the day fixed—

(a) in a newspaper circulating generally in the relevant part of the local government area; and

(b) in other ways the returning officer considers appropriate.

Division 10 Declaration voting

343 Who may cast a declaration vote

The following electors may cast a declaration vote—

(a) an elector who, during ordinary voting hours on polling day, will not be within 8km, by the nearest practicable route, from a polling booth;

(b) an elector who, during ordinary voting hours on polling day, will be working or travelling under conditions that prevent voting at a polling booth;

(c) an elector who, because of illness, disability or advanced pregnancy, will be prevented from voting at a polling booth;

(d) an elector who, because the elector is caring for a person who is ill, has a disability or is pregnant, will be prevented from voting at a polling booth;

(e) an elector who, because of membership of a religious order or because of religious beliefs, will be prevented from voting at a polling booth for all, or most, of the ordinary voting hours on polling day;

(g) an elector whose address has been omitted from a voters roll—

(i) because of the *Electoral Act 1992*, section 58; or

(ii) under an arrangement under the *Electoral Act 1992*, section 62 because of the *Commonwealth Electoral Act 1918* (Cwlth), section 104.

344 Who must cast a declaration vote in ordinary elections

(1) In an election (other than a postal ballot election), the following persons must cast a declaration vote—

(a) an elector whose name is not on the voters roll apparently because of an official error;

(b) an elector who is not enrolled on the voters roll, but is entitled to be enrolled, because of the *Electoral Act 1992*, section 64(1)(a)(ii);

(c) an elector who appears, from a record apparently made in error, to have already voted in the election;

(d) an elector who is serving a sentence of imprisonment on the cut off day for the election, but who is not serving a sentence of imprisonment on the polling day for the election;

(e) a person who is given a ballot paper and declaration envelope for voting because an issuing officer suspects, on reasonable grounds, that the person is not entitled to vote at the election.

(2) For subsection (1)(d), a person is serving a sentence of imprisonment only if—

(a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory; and

(b) the detention is attributable to the sentence of imprisonment concerned.

345 Declaration voting for postal ballot elections

An elector in a postal ballot election must cast a declaration vote.

346 How declaration vote is cast

Subject to section 336, an elector who may or must make a declaration vote must cast the vote by—

(a) if the elector can not enter a polling booth because of illness, disability or advanced pregnancy—going to a place close to a polling booth and voting at that place; or

(b) going to a polling booth in the local government area, or division of the local government area, during voting

hours at the booth and following the procedures set out in section 348; or

(c) going to the local government's public office before polling day and following the procedures set out in section 352; or

(d) if the elector is an elector mentioned in section 343 or an elector for a postal ballot election—using the ballot paper and declaration envelope given to the elector by the returning officer, and following the procedures set out in section 351.

346A Distribution of ballot papers to certain electors who may cast declaration vote

(1) This section applies to an elector mentioned in section 343(g).

(2) As soon as practicable after the nomination day for an election, the returning officer for the election must give the following things to the elector—

(a) a ballot paper;

(b) the approved declaration envelope;

(c) written instructions in the approved form on how the vote may be cast;

(d) an unsealed reply paid post envelope addressed to the returning officer and bearing the words 'Ballot paper—(*insert* Region, City, Town or Shire) of (*insert* name of local government area)'.

(3) However, if the things mentioned in subsection (2) are posted to an address outside Australia, the envelope mentioned in subsection (2)(d) need not be reply paid.

347 Distribution of ballot papers to other electors who may or must cast declaration vote

(1) An elector mentioned in section 343(a) to (e) may apply to the returning officer, or a presiding officer for the election, for a ballot paper and a declaration envelope.

(2) The application must be in the approved form.

(3) The returning officer or presiding officer must, as soon as practicable, give a ballot paper, the approved declaration envelope and written instructions in the approved form on how the vote may be cast to the applicant if—

(a) the application is received by the officer not later than 6p.m. on the Thursday before polling day; and

(b) the officer is satisfied the applicant is entitled to vote and make the application.

(4) If the returning officer or presiding officer is satisfied the applicant is an elector mentioned in section 344, the officer—

(a) must not give a ballot paper to the applicant; but

(b) must give to the applicant an approved declaration form.

(5) If the returning officer or presiding officer is satisfied the applicant has properly completed the declaration form, the officer must, as soon as practicable, give a ballot paper, the approved declaration envelope and written instructions in the approved form on how the vote may be cast to the applicant.

(6) The things given to an applicant under subsection (3) or (5) must be accompanied by an unsealed reply paid post envelope addressed to the returning officer and bearing the words 'Ballot paper—(*insert* Region, City, Town or Shire) of (*insert* name of local government area)'.

(7) The returning officer may give things to be given to an applicant under subsection (3) or (5) by posting the things to the applicant's address stated in the voters roll, an electoral roll mentioned in the *Electoral Act 1992*, section 58(5),[23] the application or the declaration form.

Example of addresses—

An applicant's address could be stated as a residential address, post office box number, mail service number or in another appropriate way.

(8) If things mentioned in subsection (6) are posted to an address outside Australia, the envelope mentioned in subsection (6) need not be reply paid.

23 An electoral roll mentioned in the *Electoral Act 1992*, section 58(5) may be in a form other than a printed form.

348 How declaration vote may be cast at a polling booth

(1) An elector who must cast a declaration vote, other than an elector for a postal ballot election, may cast the vote by—

(a) entering a polling booth in the local government area, or division of the local government area, during voting hours at the booth; and

(b) completing the declaration form given to the elector by an issuing officer.

(2) If the issuing officer is satisfied the elector has properly completed the declaration form, the officer must give a ballot paper and the approved declaration envelope to the elector.

(3) On being given the ballot paper and the declaration envelope, the elector must, without delay—

(a) sign the appropriate declaration on the declaration envelope before the issuing officer and have the officer sign the envelope as witness; and

(b) go alone into an unoccupied voting compartment in the polling booth; and

(c) there, in private, mark a vote on the ballot paper in accordance with division 11; and

(d) fold the ballot paper, put it in the envelope and seal the envelope; and

(e) put the sealed envelope in the appropriate ballot box in the polling booth; and

(f) leave the polling booth.

349 Distribution of ballot papers to electors for postal ballot election

(1) For a postal ballot election, the returning officer must post a ballot paper, the approved declaration envelope and written instructions in the approved form on how the vote may be cast to each elector for the postal ballot election as soon as practicable after the nomination day.

(2) However, if—

(a) the issuing officer is satisfied a person is an elector mentioned in section 344(1)(a), (b), (c) or (d); or

(b) the issuing officer suspects, on reasonable grounds, that the person is not entitled to vote at the election;

the officer—

(c) must not give a ballot paper and declaration envelope to the elector; and

(d) must give to the elector an approved declaration form.

(3) If the returning officer is satisfied the elector has properly completed the declaration form, the officer must, as soon as practicable, give a ballot paper, the approved declaration envelope and written instructions in the approved form on how the vote may be cast to the elector.

(4) The things posted to electors under subsection (1) or (3) must be accompanied by an unsealed reply paid post envelope addressed to the returning officer and bearing the words 'Ballot paper—(*insert* Region, City, Town or Shire) of (*insert* name of local government area)'.

(5) The returning officer may post the things to an elector under subsection (1), by posting them to the elector's address stated in the voters roll or an electoral roll mentioned in the *Electoral Act 1992*, section 58(5).[24]

(6) The returning officer may give the things to a person to whom subsection (2) applies by posting them to the elector's address stated in the voters roll or an electoral roll mentioned in the *Electoral Act 1992*, section 58(5), or to another address given by the person.

(7) The returning officer may give the things to an elector under subsection (3), by posting them to the elector's address stated in the voters roll, an electoral roll mentioned in the *Electoral Act 1992*, section 58(5) or the declaration form.

Example of addresses for subsections (6) and (7)—

An address could be stated as a residential address, post office box number, mail service or in another appropriate way.

24 An electoral roll mentioned in the *Electoral Act 1992*, section 58(5) may be in a form other than a printed form.

(8) If things for an elector mentioned in subsection (4) are posted to an address outside Australia, the envelope mentioned in subsection (4) need not be reply paid.

350 Record of ballot papers given to postal voters

The issuing officer who gives a ballot paper and declaration envelope under section 346A, 347 or 349 must—

(a) keep a record of the ballot paper and envelope given; and

(b) sign the record.

351 Casting a declaration vote by post

(1) An elector who has received a ballot paper and declaration envelope under section 346A, 347 or 349 must, before 6p.m. on polling day—

(a) sign the declaration on the declaration envelope in the presence of an adult, and have the adult sign the envelope as witness; and

(b) in private, mark a vote on the ballot paper in accordance with division 11; and

(c) fold the ballot paper, put it in the declaration envelope and seal the envelope; and

(d) put the sealed declaration envelope containing the ballot paper in the reply paid post envelope mentioned in section 346A(2), 347(6) or 349(4) and post or give the envelope to the returning officer for the election.

(2) On receipt of the sealed envelope, the returning officer must put it in the appropriate ballot box.

352 Declaration voting before polling day

(1) The returning officer must declare at least 1 of the following places as a polling booth to enable electors entitled to cast a declaration vote under section 343(a) to (e) to cast a vote at the election before polling day—

(a) the local government's public office, or a part of the public office;

(b) another office used by the local government to receive rate payments;

(c) another convenient place in the local government area.

(2) An elector mentioned in subsection (1) may, at any time during the relevant election period when the declared place is open for the conduct of business, ask an issuing officer at the declared place for a ballot paper.

(3) Subject to section 336(5) to (7), the issuing officer must comply with the request.

(4) An elector who wishes to vote under subsection (1)—

(a) must complete and sign the approved application form; and

(b) must comply with section 336; and

(c) need not complete a declaration envelope.

(5) If an elector is an elector who must cast a declaration vote under section 344, the elector—

(a) must complete and sign the approved application form and declaration form; and

(b) on being given a ballot paper and the approved declaration envelope, must comply with section 348(3) without delay.

(6) In subsection (2)—

relevant election period means the period—

(a) not earlier than—

(i) 14 days before polling day; or

(ii) the longer period that the returning officer fixes and notifies in a newspaper circulating in the local government area, or division of the local government area; and

(b) not later than 6p.m. on the day before polling day.

353 Distribution of declaration envelopes when separate ballot papers or polls on same day

(1) This section applies if—

(a) under section 326, separate ballot papers are used in polls for elections of the mayor and another councillor conducted on the same day; or

(b) under this part, a local government conducts a poll under chapter 6, part 2, on the day of the poll for an election.

(2) In the conduct of the polls—

(a) only 1 declaration envelope may be distributed to a declaration voter with the ballot papers for use in the polls; and

(b) this part, other than this section, applies (with any necessary changes) as if the references to the distribution, marking and other dealing with a ballot paper were a reference to all or each of the ballot papers in the polls, as the case requires.

Division 11 Marking of ballot papers

354 Optional-preferential voting

(1) For an election of a councillor if the local government area is divided into single-member divisions, a vote is validly cast if the elector votes in accordance with subsection (2) or (3).

(2) An elector may vote by marking on a ballot paper the numeral 1, or a tick or a cross, in the square opposite the name of the candidate whom the elector prefers.

(3) Instead of voting in accordance with subsection (2), an elector may vote by—

(a) marking on a ballot paper the numeral 1, or a tick or a cross, in the square opposite the name of a candidate to record the elector's first preference for the candidate; and

(b) marking—

(i) the numeral 2 in another square; or

(ii) the numerals 2, 3, and so on (in regular arithmetical sequence by intervals of 1 whole numeral) in other squares;

to record the order of the elector's preferences for 1 or more (but not necessarily all) of the other candidates.

355 First-past-the-post voting

(1) For an election other than one mentioned in section 354, a vote is validly cast if the elector votes in accordance with this section.

(2) For an election of mayor, the elector must mark on the ballot paper the numeral 1, or a tick or cross, in the square opposite the name of the candidate whom the elector prefers.

(3) For an election of other councillors, the elector must mark on the ballot paper—

(a) if 1 candidate is to be elected—the numeral 1, or a tick or cross, in the square opposite the name of the candidate whom the elector prefers; or

(b) if 2 or more candidates are to be elected—

(i) the numeral 1, or a tick or a cross, in the square opposite the name of 1 candidate for whom the elector wishes to vote; and

(ii) the numeral 2, or the numerals 2, 3 and so on (in regular arithmetical sequence by intervals of 1 whole numeral), as the case may be, in the squares opposite the names of the other candidate or candidates for whom the elector wishes to vote, up to the number of candidates to be elected.

Division 12 Replacement ballot papers

356 Use of replacement ballot papers

(1) If, while voting at a polling booth or voting under section 338 or 340, a ballot paper given to an elector is accidentally

defaced or destroyed, an issuing officer must give to the elector a replacement ballot paper for use in the poll.

(2) However, before a replacement ballot paper can be given—

(a) the ballot paper it replaces (the ***replaced ballot paper***) must not have been already put in a ballot box in use in the poll; and

(b) the elector must declare, in the approved declaration form, before the issuing officer that—

(i) the replaced ballot paper has been accidentally defaced or destroyed; and

(ii) the elector has not voted in the election; and

(c) if the replaced ballot paper has been accidentally defaced—the elector must give the defaced ballot paper to the issuing officer; and

(d) if the replaced ballot paper has been accidentally destroyed—the elector must give to the issuing officer, if practicable, the remains of the ballot paper; and

(e) the issuing officer must put the defaced ballot paper, or any remains of the destroyed ballot paper, in an envelope, seal the envelope and set it aside in the officer's custody for separate identification under section 363(1)(g)(ii).

(3) If a ballot paper given to an elector under section 346A, 347 or 349 is lost in transit or is accidentally defaced or destroyed, the returning officer for the election must, before 6p.m. on polling day, give to the elector a replacement ballot paper and the approved declaration envelope for use in the election.

(4) However, before a replacement ballot paper can be given—

(a) the elector must declare, in the approved declaration form, before the issuing officer or an adult witness that—

(i) the ballot paper it replaces (the ***replaced ballot paper***) has not been received by the elector or has been accidentally defaced or destroyed; and

(ii) the elector has not voted in the election; and

(b) if the replaced ballot paper has been accidentally defaced—the elector must put the defaced ballot paper into the elector's original declaration envelope or a replacement declaration envelope, seal the envelope and give the envelope to the issuing officer; and

(c) if the replaced ballot paper has been accidentally destroyed—the elector must, if practicable, put the remains of the destroyed ballot paper into the elector's original declaration envelope or a replacement declaration envelope, seal the envelope and give the envelope to the issuing officer; and

(d) the issuing officer must set aside the elector's declaration envelope in the officer's custody for separate identification under section 363(1)(g)(ii).

(5) The returning officer must record, in the approved form, the name and place of residence of each person to whom a replacement ballot paper is given.

(6) If a replacement ballot paper is used for voting—

(a) the voting must take place under the appropriate provisions of division 9 or 10; and

(b) the vote cast must be dealt with under the appropriate provisions of division 14.

Division 13 Effect of ballot papers

357 Effect of ballot papers—optional-preferential voting

(1) This section applies to the election if the system of voting is optional-preferential voting.

(2) For a ballot paper to have effect as recording a vote in the election—

(a) the ballot paper—

(i) must be completed in accordance with section 354; or

(ii) must contain writing or marking, other than marks mentioned in the section, indicating the elector's

intended preference, or intended order of preferences; and

(b) the ballot paper must not contain any writing or mark (other than one permitted by this part) by which the elector can, in the returning officer's opinion, be identified; and

(c) the ballot paper must have been put into the appropriate ballot box as required by this part; and

(d) for a ballot paper put into a declaration envelope as required by section 351—

(i) section 351(1) must have been complied with; and

(ii) if the elector is an elector mentioned in section 343(a) to (e) or 344, or an applicant who is given an approved declaration form under section 347(4) or an elector who is given an approved declaration form under section 349(2), and the declaration on the envelope is witnessed by a person other than an issuing officer—the signature of the person making the declaration must correspond to the signature of the relevant applicant under section 347, or the relevant elector under section 349; and

(iii) if the declaration envelope is posted to the returning officer—it must be received by the returning officer within 10 days after polling day.

(3) If a ballot paper shows 2 or more squares in which the same numeral is marked, those numerals and any higher numerals marked in other squares must be disregarded.

(4) If a ballot paper shows a break in the sequence of numerals marked in the squares on the ballot paper to indicate preferences, the numeral that breaks the sequence and any higher numerals marked in other squares must be disregarded.

358 Effect of ballot papers—first-past-the-post voting

(1) This section applies to the election if the system of voting is first-past-the-post voting.

(2) For a ballot paper to have effect as recording a vote in the election—

(a) the ballot paper—

(i) must be completed in accordance with section 355; or

(ii) must contain writing or marking indicating the elector's intended preference, or intention to vote for any particular candidate or candidates; and

(b) the ballot paper must not contain any writing or mark (other than one authorised by this part) by which the elector can, in the returning officer's opinion, be identified; and

(c) the ballot paper must have been put in the appropriate ballot box as required by this part; and

(d) for a ballot paper put into a declaration envelope as required by section 351—

(i) section 351(1) must have been complied with; and

(ii) if the elector is an elector mentioned in section 343(a) to (e) or 344 or an applicant who is given an approved declaration form under section 347(4) or an elector who is given an approved declaration form under section 349(2), and the declaration on the envelope is witnessed by a person other than an issuing officer—the signature of the person making the declaration must correspond to the signature of the relevant applicant under section 347, or the relevant elector under section 349; and

(iii) if the declaration envelope is posted to the returning officer—it must be received by the returning officer within 10 days after polling day.

(3) A ballot paper must not be rejected merely because it indicates the elector's intention to vote for a number of candidates greater than the number to be elected.

359 Posted vote presumed valid until contrary proved

If a declaration envelope and ballot paper to which section 351 applies is received by a returning officer by post, it must be presumed the provisions of section 351(1) have been

complied with in relation to the declaration on the envelope until the contrary is proved.

360 Formal and informal ballot papers

(1) A ballot paper that has effect to record a vote is a formal ballot paper.

(2) A ballot paper that has no effect to record a vote is an informal ballot paper.

361 Ballot paper partly formal and partly informal

(1) This section applies if—

(a) an election for mayor and an election for the other councillors of the local government are held at the same time and 1 ballot paper is used for both elections; and

(b) the ballot paper, as completed for an election, is informal but, as completed for the other election, is formal.

(2) The informal part of the ballot paper must be rejected and the formal part of the ballot paper must be counted under division 14.

Division 14 Counting of votes

362 Votes to be counted in accordance with this division

Votes cast in an election are to be counted as required by this division.

363 Preliminary counting by presiding officer

(1) As soon as practicable after the end of ordinary voting hours on polling day, the presiding officer for a polling booth, at a place nominated by the presiding officer, in the presence of another issuing officer and any candidates and scrutineers who wish to attend, must—

(a) open all ballot boxes used at the polling booth; and

(b) identify, and keep in a separate parcel, all declaration votes; and

(c) examine all ballot papers that are not in declaration envelopes, and—

(i) identify, and keep in a separate parcel, all informal ballot papers; and

(ii) if the system of voting is first-past-the-post voting—count the number of votes for each candidate marked on all formal ballot papers, and keep the ballot papers in a separate parcel; and

(iii) if the system of voting is optional-preferential voting—arrange all formal ballot papers under the names of the candidates by putting in a separate parcel all formal ballot papers on which a first preference vote is recorded for the same candidate; and

(d) prepare a written statement in duplicate in the approved form that—

(i) sets out, in words and numerals, the number of votes for each candidate if subsection (1)(c)(ii) applies, or the number of first preference votes for each candidate if subsection (1)(c)(iii) applies; and

(ii) sets out the number of declaration envelopes and informal ballot papers; and

(iii) is signed by the presiding officer, and the issuing officer and any scrutineers who are present and wish to sign; and

(e) seal up in separate parcels all formal and informal ballot papers, declaration envelopes and unused ballot papers; and

(f) endorse on each parcel a description of its contents, sign the endorsement and allow any scrutineers, who wish to do so, to countersign the endorsement; and

(g) put into separate parcels—

(i) the voters roll and all books and papers used by the presiding officer in the poll with 1 copy of the statement prepared under paragraph (d); and

(ii) all ballot papers or remains of ballot papers set aside, under section 337(2) or 356(2)(e) or (4)(d), for separate identification;

and endorse on each parcel a description of its contents; and

(h) endorse on each parcel—

(i) the name of the local government area, or division of the local government area, for which the election was held; and

(ii) the name of the polling booth from which the parcel has come; and

(i) sign each endorsement.

(2) The presiding officer must then, if the officer is not the returning officer, give to the returning officer, or to a person nominated by the returning officer, as soon as practicable—

(a) the parcels mentioned in subsection (1); and

(b) the copy of the statement prepared under subsection (1)(d) (other than the copy mentioned in subsection (1)(g)); and

(c) a reconciliation statement in the approved form for all ballot papers given out at the presiding officer's polling booth and all votes put in ballot boxes at the booth.

(3) The returning officer or other person who receives things from the presiding officer under subsection (2) must give to the presiding officer a receipt for the things.

(4) The presiding officer may do anything required under subsection (1) or (2) through an issuing officer authorised by the presiding officer for that purpose.

Example for subsection (4)—

An issuing officer could be authorised to sort and bundle ballot papers and prepare a reconciliation statement for the presiding officer.

363A Preliminary processing of declaration votes by returning officer—postal ballot election

(1) This section applies to an election for which a direction has been given under section 318(2)(a).

(2) After 8a.m. on the day before polling day, the returning officer may open all ballot boxes and examine the declaration envelopes to decide whether the ballot papers in the envelopes are to be accepted for counting.

364 Preliminary processing of declaration votes by returning officer—other elections

(1) This section applies to an election other than an election for which a direction has been given under section 318(2)(a).

(2) After 8a.m. on polling day, the returning officer may open all ballot boxes containing only declaration votes and examine the declaration envelopes to decide whether the ballot papers in the envelopes are to be accepted for counting.

(3) As soon as practicable after 6p.m. on polling day, the returning officer may open all other ballot boxes containing declaration votes and examine the declaration envelopes to decide whether the ballot papers in the envelopes are to be accepted for counting.

(4) As soon as practicable after receipt by the returning officer of a parcel of declaration votes from a polling booth, the returning officer may open the parcel and examine the declaration envelopes to decide whether the ballot papers in the envelopes are to be accepted for counting.

365 Procedure for processing declaration envelopes

(1) The returning officer must inform all candidates for election of the times when, and the places where, declaration envelopes will be examined by the returning officer and allow them, or their scrutineers, to attend at the processing of declaration votes.

(2) On examining the declaration envelopes, if the returning officer is satisfied the declaration has been properly completed, the envelope is sealed and the declarant on the

envelope is entitled to cast a declaration vote, the returning officer must—

(a) detach the elector's declaration from the envelope; and

(b) either—

(i) place a mark in ink against the declarant's name on the voters roll; or

(ii) if the voters roll is kept in an electronic form—record in a way approved by the returning officer that the declarant has voted; and

(c) place the envelope containing the ballot paper (the ***accepted envelope***) in a locked or sealed ballot box; and

(d) keep the accepted envelope in the ballot box until dealt with under subsection (3) or section 366.

(3) The returning officer may take the accepted envelopes from the locked or sealed ballot box and remove the ballot papers from the envelopes, without unfolding them, or allowing anyone else to unfold them, and keep them in a locked or sealed ballot box until dealt with under section 366.

(4) The returning officer must—

(a) put all ballot papers (not in declaration envelopes) that are in a ballot box opened under section 364(3) into a locked or sealed ballot box, without unfolding them, or allowing anyone else to unfold them; and

(b) keep them there until they are dealt with in the official counting of votes.

(5) If a declaration envelope is rejected, the returning officer must set it aside in the officer's custody for separate identification.

(6) The returning officer must seal up in separate parcels, and keep in the officer's custody for separate identification, all rejected declaration envelopes, accepted envelopes from which ballot papers have been removed and elector's declarations that have been removed from declaration envelopes.

366 Official counting of votes

(1) As soon as practicable after close of the poll in an election, the returning officer must follow the procedures set out in this section, in the presence of candidates for election, or scrutineers, who wish to attend.

(2) First, the returning officer must ascertain from the presiding officers' statements under section 363(2)—

(a) if the system of voting is first-past-the-post voting—the number of votes cast for each candidate; or

(b) if the system of voting is optional-preferential voting—the number of first preference votes cast for each candidate.

(3) Second, the returning officer must—

(a) open all sealed parcels of ballot papers given to the returning officer under section 363(2); and

(b) examine all ballot papers that are not in declaration envelopes and—

(i) if the system of voting is first-past-the-post voting—count the number of votes cast for each candidate on formal ballot papers, and keep the ballot papers in a separate parcel; or

(ii) if the system of voting is optional-preferential voting—arrange all formal ballot papers under the names of the candidates by putting in a separate parcel the formal ballot papers on which a first preference vote is indicated for the same candidate, and count the number of first preference votes for each candidate on the formal ballot papers.

(4) Third, the returning officer must—

(a) open all other ballot boxes on hand; and

(b) open all accepted envelopes mentioned in section 365(2)(d) that have not yet been opened and remove the ballot papers; and

(c) identify, and keep in a separate parcel, all informal ballot papers; and

(d) examine all formal ballot papers and—

(i) if the system of voting is first-past-the-post voting—count the number of votes cast for each candidate on the ballot papers, and keep the ballot papers in a separate parcel; or

(ii) if the system of voting is optional-preferential voting—arrange the ballot papers under the names of the candidates by putting in a separate parcel the ballot papers on which a first preference vote is recorded for the same candidate, and count the number of first preference votes for each candidate on the ballot papers.

(5) Fourth, the returning officer must add together—

(a) if the system of voting is first-past-the-post voting—the number counted under subsections (3)(b)(i) and (4)(d)(i); or

(b) if the system of voting is optional-preferential voting—the number counted under subsections (3)(b)(ii) and (4)(d)(ii).

(6) Fifth, the returning officer must reapply subsections (4) and (5) as more declaration envelopes are received by the returning officer under section 351 after close of the poll.

367 Treatment of ballot paper to which objection is made

(1) If, while a presiding officer or returning officer is complying with section 363 or 366, a candidate or scrutineer objects to treatment of a ballot paper as informal, the officer must mark on the back of it 'formal' or 'informal' according to whether the officer's decision is to treat it as formal or informal.

(2) If, while a presiding officer or returning officer, is complying with section 363 or 366, a candidate or scrutineer objects to the counting of a vote for a particular candidate, the officer must mark on the back of the relevant ballot paper the name of the candidate for whom it is counted.

368 Counting of votes for optional-preferential system

(1) This section applies to the counting of votes in an election in which the system of voting is optional-preferential voting.

(2) If, on final counting under section 366, a majority of the first preference votes is for 1 candidate, that candidate is elected.

(3) If not, a second count must take place.

(4) On the second count—

(a) the candidate who has the fewest first preference votes must be excluded; and

(b) each ballot paper that records a first preference vote for the excluded candidate, and is not an exhausted ballot paper, must be transferred to the candidate next in the order of the elector's preference; and

(c) the ballot paper must be counted as recording a vote for the candidate to whom it is transferred.

(5) If, on the second count, a candidate has a majority of the votes remaining in the count, the candidate is elected.

(6) If not, the process of—

(a) excluding the candidate who has fewest votes; and

(b) transferring each ballot paper that records a vote for the excluded candidate, and is not an exhausted ballot paper, to the continuing candidate next in order of the elector's preference; and

(c) counting the ballot paper as recording a vote for the candidate to whom it is transferred;

must be repeated until 1 candidate has a majority of the votes remaining in the count.

(7) The candidate who under subsection (6) has a majority of the votes remaining in the count is elected.

(8) If, 2 or more candidates have an equal number of votes and 1 of them must be excluded—

(a) if there has been an earlier count—the candidate who had the fewest votes at the last count at which the candidates did not have an equal number of votes must be excluded; or

(b) if there has not been an earlier count or the candidates had an equal number of votes at all earlier counts—the

candidate whose name is on a slip chosen under subsection (9) must be excluded.

(9) For the purposes of subsection (8)(b), the returning officer must—

(a) write the names of the candidates who have an equal number of votes on similar slips of paper; and

(b) fold the slips, concealing the names; and

(c) put the slips in an opaque container and shuffle them; and

(d) raise the container so that its contents can not be seen and choose a slip at random.

(10) If, after a count at which the candidate with fewest votes must be excluded, 2 candidates have an equal number of votes and are the only candidates not excluded, the candidate whose name is recorded under subsection (11)(g) is elected.

(11) The returning officer must, in the presence of 2 witnesses—

(a) prepare a list of the candidates; and

(b) assign a different number or colour to each candidate; and

(c) place only the marbles, balls or other similar things (***marbles***), complying with subsection (12), in an opaque container large enough to allow the marbles in it to move about freely when it is rotated; and

(d) rotate the container and permit another person present who wishes to do so to rotate it; and

(e) raise the container so that its contents can not be seen; and

(f) while the container is raised, take 1 of the marbles out of it or allow 1 of the marbles to come out of it; and

(g) record the name of the candidate assigned the numbered or coloured marble that, under paragraph (f), is taken or allowed to come out of the container.

(12) For subsection (11)(c), the marbles must be—

(a) the same size and weight; and

(b) the same colours or numbers as the colours or numbers assigned under subsection (11)(b) to the candidates.

(13) The returning officer must allow each of the 2 candidates, or their representative, to be present for the process mentioned in subsection (11).

369 Counting of votes for first-past-the-post system

(1) This section applies to the counting of votes in an election in which the system of voting is first-past-the-post voting.

(2) If the election is for mayor of the local government, the candidate who receives the greatest number of votes is elected.

(3) If the election is for councillors (other than the mayor) of the local government—

(a) if 1 person only is to be elected—the candidate who receives the greatest number of votes is elected; and

(b) if 2 or more persons are to be elected—the candidates elected are—

(i) the candidate who receives the greatest number of votes; and

(ii) the candidate who receives the next highest number of votes; and

(iii) the candidate who receives the next highest number of votes;

and so on, up to the number of persons to be elected.

(4) If 2 or more candidates receive the same number of votes so that subsection (2) or (3)(a) or (b) can not be applied, the candidate whose name is recorded under subsection (5)(g) is elected.

(5) The returning officer must, in the presence of 2 witnesses—

(a) prepare a list of the candidates; and

(b) assign a different number or colour to each candidate; and

(c) place only the marbles, balls or other similar things (***marbles***), complying with subsection (6), in an opaque container large enough to allow the marbles in it to move about freely when it is rotated; and

(d) rotate the container and permit another person present who wishes to do so to rotate it; and

(e) raise the container so that its contents can not be seen; and

(f) while the container is raised, take 1 of the marbles out of it or allow 1 of the marbles to come out of it; and

(g) record the name of the candidate assigned the numbered or coloured marble that, under paragraph (f), is taken or allowed to come out of the container.

(6) For subsection (5)(c), the marbles must be—

(a) the same size and weight; and

(b) the same colours or numbers as the colours or numbers assigned under subsection (5)(b) to the candidates.

(7) The returning officer must allow each of the candidates, or their representative, to be present for the process mentioned in subsection (5).

370 Returning officer's duty after counting votes

(1) When the result of the poll for the election is known, the returning officer must—

(a) seal up all of the formal ballot papers, informal ballot papers, rejected declaration envelopes, accepted envelopes from which ballot papers have been removed, electors' declarations that have been removed from declaration envelopes, defaced ballot papers, remains of destroyed ballot papers, unused ballot papers, books and papers (other than the voters roll) of each presiding officer used in the poll; and

(b) endorse on each parcel a description of its contents and sign the endorsement; and

(c) allow any scrutineers, who wish to do so, to countersign the endorsement.

(2) The returning officer must then—

(a) examine the voters rolls used in the election and marked by issuing officers to ascertain whether any elector has voted more than once; and

(b) make a list in the approved form of the names and numbers on the voters roll of all electors who appear to have voted more than once in the election, enclose the original of the list with the voters rolls in a sealed up parcel, and give a copy of the list to each person who was a candidate in the election.

Division 15 Actions following poll

371 Declaration of poll

(1) As soon as practicable after the result of a poll for the election is known, the returning officer must, by notice in the approved form, declare—

(a) the result of the poll; and

(b) the names of each candidate who has been elected.

(2) The returning officer must—

(a) display the notice in a conspicuous place in the local government's public office; and

(b) publish the notice in a newspaper circulating generally in the local government area, or the division of the local government area, for which the election was held.

(3) The returning officer must not delay complying with subsection (1) or (2) merely because some ballot papers have not been received by the returning officer, if it is clear the votes recorded on the ballot papers could not affect the result of the election.

372 Notice of final result of poll

(1) The returning officer must give notice of the final result of the poll to each candidate as soon as practicable after—

(a) all ballot papers used in the poll have been examined; and

(b) all votes cast in the poll on ballot papers that appear to be formal have been counted.

(2) The notice must be in the approved form.

373 Resolution about electors who fail to vote

As soon as practicable after the conclusion of the election, the local government must make a resolution deciding whether to take action under section 375 about electors who failed to vote in the election.

374 List of electors failing to vote

(1) This section applies only if the local government makes a resolution under section 373 deciding to take action under section 375 about electors who failed to vote in the election.

(2) The returning officer must make a list of the names and addresses, and the numbers shown on the voters roll, of all electors who—

(a) have not been issued with ballot papers for the election; or

(b) in the case of electors mentioned in section 343 or electors for a postal ballot election—have not given their ballot papers to the returning officer.

(3) The returning officer must—

(a) certify the list by declaration in the approved form; and

(b) deposit the list with the local government.

(4) The list is to be held in the local government's public office, in the chief executive officer's custody.

375 Notice of failure to vote etc.

(1) Subject to subsection (2), the local government—

(a) must, as soon as practicable after a resolution by the local government to take action under this section, send a notice in the approved form to each elector shown on the list deposited under section 374 at the elector's address shown on the list; and

(b) must record on the list, against the elector's name, the fact that the notice has been given.

(2) The notice must—

(a) show the elector's full name and address and number on the voters roll; and

(b) state that—

(i) the elector appears to have failed to vote at the election; and

(ii) it is an offence to fail, without a valid and sufficient reason, to vote at an election; and

(iii) the elector may, if the elector considers the elector has committed the offence, pay one-half of a penalty unit (the ***penalty***) to the local government by a specified day, not earlier than 21 days after the elector receives the notice (the ***appropriate day***), and, if the local government receives the payment by the appropriate day, no further steps will be taken against the elector about the offence; and

(c) require the elector—

(i) if the elector intends paying the penalty by the appropriate day—to sign the approved form about payment of the penalty included in or with the notice and post or give the form, together with the amount of the penalty, to the local government so it is received by the appropriate day; or

(ii) if the elector does not intend paying the penalty by the appropriate day—to state, in the approved form included in or with the notice, whether the elector voted and, if not, the reason for failing to vote and

to sign the form and post or give it to the local government so it is received by the appropriate day.

(3) The elector must comply with the requirements of the notice.

(4) If—

(a) the elector is absent, or unable, because of physical incapacity, to comply with the requirements of the notice; and

(b) another elector who has personal knowledge of the facts complies with the requirements and in doing so also has his or her signature on the form witnessed;

the first elector is taken to have complied with the notice's requirements.

376 Payments for failure to vote

(1) If the local government sends an elector a notice under section 375(1) for an election and payment is made to the local government under section 375(2) to (4), the local government must—

(a) accept the payment; and

(b) give the person a receipt for the payment; and

(c) not take any proceeding against the elector for failing to vote at the election.

(2) In this section—

proceeding includes serving an infringement notice.

377 Recording response to notice

The local government must record against the name of an elector who is given a notice under section 375 on the list made under section 374 whether the elector—

(a) has complied with the requirements of the notice under section 375(2)(c); and

(b) had a valid and sufficient reason for failing to vote at the election.

378 Evidentiary value of list under s 374

In a proceeding, a document purporting to be a list, or a copy of or extract from a list, made under section 374, and to be certified by the local government's chief executive officer is evidence of the matters contained in the document.

379 Disposal of material resulting from election

(1) As soon as practicable after giving notice of the final result of the poll to candidates, the returning officer must—

(a) destroy all unused ballot papers; and

(b) seal up in packets all other parcels sealed up under section 370; and

(c) endorse on each packet—

(i) a description of its contents; and

(ii) the name of the local government area, or division of the local government area, for which the election was held; and

(iii) the polling day;

and sign the endorsement; and

(d) if the returning officer is not the local government's chief executive officer—give each packet to the chief executive officer.

(2) The chief executive officer must keep the packets in safe custody for 1 year.

(3) At the end of the year, the chief executive officer must—

(a) destroy all ballot papers contained in the packets; and

(b) dispose of the other contents of the packets in the way the officer considers appropriate.

(4) Each councillor of the local government may attend during the destruction of ballot papers by, or at the direction of, its chief executive officer to ensure the papers are destroyed.

380 Ballot papers as evidence

In a proceeding, a ballot paper apparently used at an election and identified by evidence as 1 of the ballot papers given to, or held by, the local government's chief executive officer under section 379 is evidence of the vote or votes cast in the election as recorded on the ballot paper.

381 Notice to electors whose ballot papers are not accepted

(1) Subsection (2) applies if—

(a) in an election, a person makes a declaration vote under section 344(1)(a); and

(b) the person's ballot paper is not accepted for counting under section 365 because the returning officer is not satisfied that the declarant on the declaration envelope is entitled to cast a declaration vote in the election.

(2) As soon as practicable after an election, the local government must send a notice in the approved form to the person advising the person why the ballot paper was not accepted for counting.

382 Notice to electoral commission of certain declaration votes

As soon as practicable after the election, the returning officer must give to the electoral commission notice of the names and addresses of all persons permitted to vote at the election whose names are not on the voters roll, apparently because of official error, if the error relates to the keeping of an electoral roll under the *Electoral Act 1992*.

Division 16 Enforcement

Subdivision 1 Offences in general

383 False or misleading information

(1) A person must not give information under this chapter to a returning officer or to the chief executive officer of a local government, including information in a document, that the person knows is false or misleading in a material particular.

Maximum penalty—7 years imprisonment.

(2) Subsection (1) does not apply to a person giving a document if, when giving the document to someone, the person—

(a) informs the other person, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the other person the correct information.

(3) It is enough for a charge against a person for an offence against subsection (1) to state the information, without specifying which part of the information, was 'false or misleading'.

385 Bribery

(1) In this section—

election conduct of a person means—

(a) the way in which the person votes at an election; or

(b) the person's nominating as a candidate for an election; or

(c) the person's support of, or opposition to, a candidate or a political party at an election.

(2) A person must not—

(a) ask for or receive; or

(b) offer, or agree, to ask for or receive;

property or a benefit of any kind (whether for the person or someone else) on the understanding that the person's election conduct will be influenced or affected.

Maximum penalty—7 years imprisonment.

(3) A person must not, in order to influence or affect another person's election conduct, give, or promise or offer to give, property or a benefit of any kind to anyone else.

Maximum penalty for subsection (3)—7 years imprisonment.

386 Providing money for illegal payments

A person must not knowingly give money for—

(a) any payment that is contrary to law relating to elections; or

(b) replacing any money that has been spent in making a payment mentioned in paragraph (a).

Maximum penalty—2 years imprisonment.

387 Improperly influencing electoral officers

A person must not improperly influence an electoral officer in the performance of the officer's duties under this Act.

Maximum penalty—35 penalty units or 1 year's imprisonment.

388 Interfering with election right or duty

A person must not hinder or interfere with the free exercise or performance, by another person, of another right or duty under this Act that relates to an election.

Maximum penalty—20 penalty units or 6 months imprisonment.

389 Forging or uttering electoral papers

(1) A person must not—

(a) forge an electoral paper; or

(b) utter a forged electoral paper knowing it to be forged.

Maximum penalty—10 years imprisonment.

(2) A person must not make someone else's signature on an electoral paper.

Maximum penalty for subsection (2)—10 years imprisonment.

390 Wilful neglect etc. of electoral officers

An electoral officer must not wilfully neglect or fail to perform a duty under this Act.

Maximum penalty—20 penalty units.

391 No record to be made of vote cast

An electoral officer, or scrutineer, must not make a mark, memorandum or note on a voters roll or other list of voters or otherwise—

(a) that indicates for whom a person has cast a vote; or

(b) that would enable the officer or scrutineer to know or remember for whom a person has cast a vote.

Maximum penalty—10 penalty units.

Subdivision 2 Offences about electoral advertising and information

392 Responsibility for election matter

(1) A person must not, during the election period for an election—

(a) print, publish, distribute or broadcast; or

(b) permit or authorise someone else to print, publish, distribute or broadcast;

any advertisement, handbill, pamphlet or notice containing election matter unless there appears, or is stated, at its end the particulars required by subsection (2).

Maximum penalty—

(a) for an individual—20 penalty units; or

(b) for a corporation—85 penalty units.

(2) The particulars are the name and address, other than a post office box or facility, of the person who authorised the advertisement, handbill, pamphlet or notice.

(3) Subsection (1) does not apply to an advertisement that—

(a) is printed, published or distributed on a car sticker, T-shirt, lapel badge, pen, pencil or balloon; or

(b) is of a kind prescribed by regulation.

(4) Also, subsection (1) does not apply to distributing, or permitting or authorising someone else to distribute, a how-to-vote card.

392A Distribution of how-to-vote cards

(1) During the election period for an election, a person must not distribute, or permit or authorise someone else to distribute, a how-to-vote card that does not comply with subsections (2) to (5).

Maximum penalty—

(a) for an individual—20 penalty units; or

(b) for a corporation—85 penalty units.

(2) A how-to-vote card must state the name and address of the person who authorised the card.

(3) For subsection (2)—

(a) the address must not be a post office box; and

(b) if the card is authorised for a group of candidates or for a candidate who is a member of a group of candidates, the authorising person must be a member of the group.

(4) A how-to-vote card must also state—

(a) if the card is authorised for a political party or a candidate endorsed by a political party—the party's name; or

(b) if paragraph (a) does not apply and the card is authorised for a group of candidates or for a candidate who is a member of a group of candidates—the group's name; or

(c) otherwise—the candidate's name and the word 'candidate'.

Example for paragraph (a)—

'Authorised P. Smith, 100 Green Street Brisbane for *[name of political party]*'.

Example for paragraph (c)—

'Authorised R. Jones, 1 Green Street Brisbane for R. Jones (candidate)'.

(5) The particulars mentioned in subsections (2) and (4) must appear—

(a) at the end of each printed face of the how-to-vote card; and

(b) in prominent and legible characters in print no smaller than—

(i) if the card is not larger than A6—10 point; or

(ii) if the card is larger than A6 but not larger than A3—14 point; or

(iii) if the card is larger than A3—20 point.

(6) During the election period for an election, a person must not distribute, or permit or authorise someone else to distribute, a how-to-vote card if the person knows, or ought reasonably to know, that the particulars, or any of the particulars, mentioned in subsections (2) and (4) on the card are false.

Maximum penalty—

(a) for an individual—20 penalty units; or

(b) for a corporation—85 penalty units.

(7) In this section—

group of candidates means a group of candidates, within the meaning given by section 426, that has a name.

name, of a political party, means—

(a) if the register includes an abbreviation of the party's name—the abbreviation; or

(b) otherwise—the party's full name included in the register.

register means the register of political parties kept under the *Electoral Act 1992*.

392B Lodging of how-to-vote cards

(1) The person who authorised a how-to-vote card for a political party, or for a candidate endorsed by a political party, for an election must, not later than 5p.m. on the Friday that is 7 days before the polling day for the election, lodge with the returning officer for the election—

(a) the required number of the how-to-vote cards; and

(b) a statutory declaration relating to any financial contribution received from another political party or another candidate, whether directly or from someone else on behalf of the party or candidate, in relation to the production of the how-to-vote card that states—

(i) who the financial contribution was received from or on behalf of; and

(ii) the nature and amount of the financial contribution.

(2) The person who authorised a how-to-vote card for a candidate or a group of candidates for an election, other than a candidate or group of candidates endorsed by a political party for the election, must, by 5p.m. on the Friday that is 7 days before the polling day for the election, lodge with the returning officer for the election—

(a) the required number of the how-to-vote cards; and

(b) a statutory declaration relating to any financial contribution received from a political party or another candidate, whether directly or from someone else on behalf of the party or candidate, in relation to the production of the how-to-vote card that states—

(i) who the financial contribution was received from or on behalf of; and

(ii) the nature and amount of the financial contribution.

Example for subsections (1) and (2)—

If polling day is Saturday, 15 January, the how-to-vote cards and statutory declaration must be lodged by 5p.m. on Friday, 7 January.

(3) The returning officer must reject a how-to-vote card received under subsection (1) or (2) that does not comply with section 392A.

(4) Before polling day, the returning officer must make a how-to-vote card that the returning officer has not rejected available for public inspection for free at—

(a) the place of nomination under section 301; and

(b) if the place of nomination is not also the public office of the local government to which the election relates—the local government's public office.

(5) On polling day, the returning officer must, to the extent that it is reasonably practicable to do so, make the how-to-vote card mentioned in subsection (4) available for public inspection for free at each polling booth for which the how-to-vote card is relevant.

(6) An election is not invalid only because the returning officer does not comply with subsection (4) or (5).

(7) A person must not distribute, or permit or authorise someone else to distribute, a how-to-vote card to which subsection (1) or (2) applies on polling day unless subsection (1) or (2) has been complied with for the card.

Maximum penalty—20 penalty units.

(8) If, on polling day, an electoral officer reasonably suspects a person is distributing a how-to-vote card to which subsection (1) or (2) applies and that subsection (1) or (2) has not been complied with for the card, the electoral officer may—

(a) require the person to produce the how-to-vote card for inspection; and

(b) confiscate any how-to-vote cards that have not been lodged as required by subsection (1) or (2).

(9) A person must not obstruct an electoral officer in the exercise of the power under subsection (8)(b), unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(10) In this section—

financial contribution means a contribution in the form of money, property or other valuable consideration.

obstruct includes hinder and attempt to obstruct.

required number, of how-to-vote cards, means 12 more than the number of polling booths within the local government's area at which the cards are to be distributed.

393 Headline to electoral advertisements

The proprietor of a newspaper commits an offence if—

(a) an article, or a paragraph, containing matter about an election is printed in the newspaper; and

(b) either—

(i) the insertion of the article or paragraph is, or is to be, paid for; or

(ii) any reward or compensation, or promise of reward or compensation, is, or is to be, made for the insertion of the article or paragraph; and

(c) the proprietor does not cause the word 'advertisement' to be printed as a headline to the article or paragraph in letters not smaller than 10 point or long primer.

Maximum penalty—

(a) for an individual—10 penalty units; or

(b) for a corporation—40 penalty units.

394 Misleading voters

(1) During an election period, a person must not print, publish, distribute or broadcast anything that is intended or likely to

mislead an elector about the way of voting at the election.

Maximum penalty—40 penalty units.

(2) A person must not, for the purpose of affecting the election of a candidate, knowingly publish a false statement of fact about the personal character or conduct of the candidate.

Maximum penalty—40 penalty units.

(3) During an election period, a person must not print, publish, distribute or broadcast by television anything that purports to be a representation of a ballot paper for use in the election, if it is likely to induce an elector to vote other than in accordance with this part.

Maximum penalty—40 penalty units.

(4) In this section—

publish includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland.

Subdivision 3 Offences about voting

395 Failure to vote

(1) An elector must not—

(a) fail to vote at an election without valid and sufficient reason; or

(b) fail to comply with the requirements of a notice given to the elector under section 375; or

(c) purport to comply with the requirements of a notice given to the elector under section 375, make a statement the elector knows to be false or misleading in a material particular.

Maximum penalty—1 penalty unit.

(2) An elector's belief that it is part of the elector's religious duty not to vote at elections is valid and sufficient reason for the elector's failure to vote in a particular election.

(3) A complaint against a person for a contravention of subsection (1)(c) is sufficient if it states that the statement was false or misleading to the person's knowledge.

396 Leave to vote

(1) This section applies if—

(a) an employee who is an elector asks his or her employer, before polling day for an election, for leave of absence to vote at the election; and

(b) the absence is necessary to enable the employee to vote at the election.

(2) The employer must allow the employee leave of absence for a reasonable period (not more than 2 hours) to enable the employee to vote at the election, unless the absence is reasonably likely to cause danger or substantial loss to the employer in relation to the employment concerned.

(3) The employer must not impose any penalty or disproportionate deduction of pay for the leave of absence.

(4) An employee must not ask for leave of absence under subsection (1) to vote at an election unless the employee genuinely intends to vote at the election.

Maximum penalty—

(a) for an individual—10 penalty units; or

(b) for a corporation—40 penalty units.

397 Canvassing in or near polling booths

(1) During an election period, a person must not do any of the things mentioned in subsection (2)—

(a) inside a polling booth; or

(b) within 6m, or a shorter distance approved under subsection (3), of an entrance to a building if—

(i) the building is, or is part of, a polling booth; and

(ii) either a ballot box is in the building for use in the election, or a person is in the building for the purpose of casting a vote in the election.

(2) The things are—

(a) canvassing for votes; or

(b) inducing an elector not to—

(i) vote in a particular way; or

(ii) vote at all in the election; or

(c) loitering; or

(d) obstructing the free passage of a person seeking to vote.

Maximum penalty—10 penalty units.

(3) The returning officer may approve a shorter distance for subsection (1)(b) only on the conditions mentioned in subsection (4).

(4) For subsection (3), the conditions are—

(a) the shorter distance applies only in relation to canvassing for votes mentioned in subsection (2)(a); and

(b) the polling booth mentioned in subsection (1)(b)(i) must be a place declared as a polling booth under section 352(1); and

(c) the shorter distance applies only in relation to the casting of declaration votes before polling day under section 352.

398 Interrupting voting etc.

A person must not—

(a) enter or remain in a polling booth other than under this Act; or

(b) wilfully interrupt, obstruct or disturb any proceeding at an election; or

(c) enter a voting compartment other than under this Act; or

(d) prevent a scrutineer from entering or leaving a polling place—

(i) during voting hours for the polling place; or

(ii) while votes are being counted at the polling place; or

(e) obstruct or wilfully mislead an electoral officer in the performance of a duty.

Maximum penalty—10 penalty units.

399 Influencing voting

A person must not, by violence or intimidation, influence a person's vote at an election.

Maximum penalty—2 years imprisonment.

400 Party badges not to be worn in polling booths

A person must not wear or display any badge or emblem of a political party in a polling booth.

Maximum penalty—1 penalty unit.

401 Voting if not entitled

A person must not, at an election—

(a) vote in someone else's name (including a dead or fictitious person); or

(b) vote more than once; or

(c) cast a vote that the person knows the person is not entitled to cast; or

(d) if the person knows someone else is not entitled to vote at the election—procure the other person to vote.

Maximum penalty—3 years imprisonment.

402 Offences relating to ballot papers

(1) A person must not—

(a) wilfully fail to comply with section 336 or 351; or

(b) take a ballot paper out of a polling booth other than under this part; or

(c) place in a ballot box a ballot paper that has not been—

(i) given to an elector under this part; or

(ii) marked by the elector.

(2) A person must not, without lawful excuse, obtain possession of or have in the person's possession—

(a) a ballot paper that has been marked by anyone else; or

(b) a declaration form or envelope that has been signed by anyone else.

Maximum penalty—20 penalty units or 6 months imprisonment.

403 Failure to deliver or post documents for someone else

(1) If a person is given, for delivery or posting to the returning officer—

(a) an application by someone else to be treated as a declaration voter; or

(b) a declaration form that appears to be completed;

the person must promptly deliver or post it to the returning officer.

(2) If a person is given, for delivery or posting to the returning officer, a declaration envelope that appears to be completed, the person must give or post it to the returning officer before 6p.m. on polling day.

Maximum penalty—20 penalty units or 6 months imprisonment.

404 Breach of confidentiality of vote

(1) A person must not examine a ballot paper used in the election to ascertain the candidates for whom an elector has voted.

(2) Subsection (1) does not apply to a proceeding in a court or a person in the performance of functions under this Act.

(3) If, in performing a function for an election, a person has ascertained the candidates for whom an elector has cast a vote, the person must not disclose, or assist in disclosing, that fact, unless the person is required by law to make the disclosure.

Maximum penalty—20 penalty units or 6 months imprisonment.

405 Breaking seals on parcels

A person must not wilfully open or break the seal of a parcel or packet sealed under this part unless the person is authorised under this Act or ordered by a court to open or break the seal.

Maximum penalty—20 penalty units or 6 months imprisonment.

406 Duty of witness to signing of declaration voting papers

A person (the ***witness***) must not sign a declaration envelope as witness under section 351 unless—

(a) the witness is satisfied of the identity of the elector who signs the declaration before the witness; and

(b) the witness has seen the elector sign the declaration; and

(c) either—

(i) the witness knows that the declaration made by the elector is true; or

(ii) the witness is satisfied that the declaration is true because of inquiries of the elector or otherwise.

Maximum penalty—20 penalty units or 6 months imprisonment.

Subdivision 4 Injunctions

407 Injunctions to restrain contravention of chapter

(1) An application may be made to the Supreme Court for an injunction if—

(a) either—

(i) a person (the ***offending party***) has engaged, is engaging or proposes to engage in conduct; or

(ii) a person (also the ***offending party***) has failed, is failing or proposes to fail to do anything; and

(b) the conduct or failure constituted, constitutes or would constitute a contravention of, or an offence against, this chapter.

(2) Without limiting the operation of subsection (1), an application may also be made to the Supreme Court for an injunction if a returning officer for an election decides a person is not properly nominated for the election.

(3) The application may be made by the returning officer or a candidate, or nominee as a candidate, for election.

(4) The court may grant an interim injunction pending determination of the application.

(5) If a returning officer makes the application, the court must not require the officer or anyone else to give an undertaking about damages as a condition of granting an interim injunction.

(6) On consideration of the application, the court may—

(a) if subsection (1)(a)(i) applies—

(i) grant an injunction restraining the offending party from engaging in the conduct concerned; and

(ii) also require the offending party to do anything to prevent or remedy the contravention; or

(b) if subsection (1)(a)(ii) applies—grant an injunction requiring the offending party to do the thing in question; or

(c) if subsection (2) applies—grant an injunction requiring the returning officer to accept the person's nomination for the election.

(7) The court may grant the injunction—

(a) if the court is satisfied the offending party has engaged in the conduct, or failed to do the thing, mentioned in

subsection (1)—whether or not it appears to the court that the offending party intends—

(i) to engage again or continue to engage in the conduct; or

(ii) to fail or continue to fail to do the thing; or

(b) if it appears to the court that, if the injunction is not granted, it is likely the offending party will engage in the conduct, or fail to do the thing, mentioned in subsection (1), whether or not—

(i) the offending party has previously engaged in the conduct or failed to do the thing; or

(ii) there is imminent danger of substantial damage to any person if the offending party engages in the conduct or fails to do the thing.

(8) The court may refuse to grant an injunction if it appears to the court that application was not made to the court at the earliest possible opportunity.

(9) The court may discharge or vary the injunction or an interim injunction.

(10) The powers conferred on the court by this section are in addition to, and do not limit, other powers of the court.

Part 7 Fresh elections

408 Requirements for fresh election

(1) A regulation may direct that a fresh election of councillors of a local government be held if the Legislative Assembly ratifies the dissolution of the local government under section 164(1).

(2) A regulation may direct that a fresh election of councillors of a local government, or a division of a local government, be held if action is taken to implement a reviewable local government matter under chapter 3, part 1.

(3) However, subsection (2) does not apply if the matter is the subject of a determination of an electoral and boundaries review commission under section 93(4) or 102(4).

(4) A direction under subsection (1) may be given only after the ratification of the dissolution.

(5) A direction under subsection (2) may be given at the time the action mentioned in that subsection is taken or at a later time.

409 Time for fresh election

The day on which a fresh election is to be held is a Saturday fixed by regulation made under section 408.

410 Returning officer for fresh election

The returning officer for a fresh election of councillors of a local government is the local government's chief executive officer or, if there is no chief executive officer, a person appointed by the Minister.

411 Voters roll for fresh election

A voters roll for a fresh election must be compiled under the regulation directing the holding of the fresh election.

412 Other provisions of chapter apply

The provisions of this chapter (other than this part) apply, with all necessary changes and any changes prescribed by regulation, to a fresh election as if the election were a quadrennial election.

413 Extension of term of councillors

In directing a fresh election, a regulation may declare that the councillors elected at the fresh election are elected for a term ending at the conclusion of the quadrennial elections after the next quadrennial elections.

Part 8 Disclosure of election gifts and loans and requirements for accounts

Division 1 Preliminary

413A Application of pt 8 to Brisbane City Council

This part applies to Brisbane City Council.

414 Definitions for pt 8

In this part—

associated entity means an incorporated or unincorporated body, or the trustee of a trust, that—

(a) is controlled by 1 or more political parties; or

(b) operates wholly or mainly for the benefit of 1 or more political parties.

disclosure period—

(a) for a candidate for an election—see division 2, subdivision 1; and

(b) for sections 427A, 428(1A), 428B and 428C—see section 423A; and

(c) for section 430—see section 424; and

(d) for section 430A—see section 425.

disposition of property means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

(a) the allotment of shares in a corporation; and

(b) the creation of a trust in property; and

(c) the grant or creation of a lease, mortgage, charge, servitude, licence, power, partnership or interest in property; and

(d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in property; and

(e) the exercise by a person of a general power of appointment of property in favour of someone else; and

(f) a transaction by a person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of someone else's property; and

(g) payment for attendance at or participation in a fundraising activity.

Example for paragraph (g)—

a payment made for admission to a social function, as the highest bidder for an item at an auction or for buying a ticket in a raffle

gift means the disposition of property or the provision of a service, without consideration or for a consideration less than the full consideration, but does not include—

(a) transmission of property under a will; or

(b) provision of a service by volunteer labour.

prescribed amount means an amount prescribed under a regulation but, until a regulation is made, means—

(a) in sections 427(2)(b)(iii), 427A(2)(e), 428(1), 428B(4), 428C(1), 430A(1)(b) and 431A(6)—$200; or

(b) in section 430(1)(b) and (6), definition *prescribed gift*, paragraph (c)—$1000.

prescribed period means a period prescribed under a regulation but, until a regulation is made, means 30 days.

register, for a local government, see section 433(1).

registered industrial organisation means an organisation registered under a law of the State, another State or the Commonwealth about the registration of industrial organisations.

relevant details, for a gift, means the value of the gift and when the gift was made and—

(a) for a gift purportedly made on behalf of the members of an unincorporated association—

(i) the association's name; and

(ii) unless the association is a registered industrial organisation—the names and residential or business addresses of the members of the executive committee (however described) of the association; or

(b) for a gift purportedly made out of a trust fund or out of the funds of a foundation—

(i) the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation; and

(iii) if the gift is made out of a trust account of a lawyer or accountant under the instructions of a person who is in substance the giver of the gift—the name and residential or business address of the person; or

(c) for a gift not mentioned in paragraph (a) or (b)—the name and residential or business address of the person who made the gift.

value, for a gift, means—

(a) if the gift is money—the amount of the money; or

(b) if the gift is property other than money—

(i) the market value of the property; or

(ii) if a regulation prescribes principles under which the value of the property is to be determined—the value determined under the principles; or

(c) if the gift is the provision of a service—

(i) the amount that would reasonably be charged for providing the service if the service were provided on a commercial basis; or

(ii) if a regulation prescribes principles under which the amount that would reasonably be charged for providing the service is to be determined—the amount determined under the principles.

415 Candidates

(1) For this part, a reference to a candidate for an election is a reference to a person who, at noon on the nomination day for the election, is properly nominated for the election.

(2) In this section—

nomination day, for an election for Brisbane City Council, means the day of nomination specified in the notice for the election published under the *City of Brisbane Act 1924*, section 17(4).

416 Things taken to be done by political party

For this part, for a political party that is not a body corporate, things done by or with the authority of members or officers of the party on behalf of the party are done by or for a political party.

417 Related corporations

For this part—

(a) a body corporate and any other body corporate related to it are taken to be the 1 person; and

(b) whether a body corporate is related to another body corporate must be decided in the same way a body corporate is decided to be related to another body corporate under the Corporations Act.

417A Adjustment of prescribed amount in relation to disclosure period

(1) This section applies if—

(a) during a disclosure period under this part, a regulation prescribes an amount (the ***new amount***) as the

prescribed amount for section 414, definition *prescribed amount*, for a provision of this part; and

(b) the new amount is still in force as the prescribed amount for the provision at the end of the disclosure period; and

(c) a person is required, under the provision, to give the chief executive officer of a local government a return that relates to the disclosure period.

(2) For the completion of the return, the prescribed amount is taken always to have been, for the whole of the disclosure period, the new amount.

Division 2 Disclosure periods

Subdivision 1 Disclosure periods for candidates for elections

418 Purpose of subdivision

This subdivision defines the disclosure periods for candidates for elections.

419 Disclosure period for candidates at previous elections

(1) This section applies if a candidate for an election (the ***current election***) was a candidate for another election relating to any local government the conclusion of which was within the relevant period before the polling day for the current election.

(2) The disclosure period for the candidate for the current election starts at the end of the prescribed period after the conclusion of the most recent election happening before the current election in which the candidate was a candidate.

(3) The disclosure period ends at the end of the prescribed period after the conclusion of the current election.

(4) In this section—

relevant period means the period prescribed under a regulation but, until a regulation is made, means 5 years.

420 Disclosure period for candidates at previous fresh elections

(1) This section applies if a person—

(a) was a candidate at a fresh election (the ***previous election***) relating to a local government (the ***first local government***); and

(b) is a candidate for a subsequent election relating to any local government (the ***relevant election***) up to and including the next quadrennial election relating to the first local government.

(2) Despite section 419, the disclosure period for the candidate for the relevant election starts at the end of the prescribed period after the conclusion of whichever is the later of—

(a) the previous election; or

(b) a later election in which the candidate was a candidate before the relevant election.

(3) The disclosure period ends at the end of the prescribed period after the conclusion of the relevant election.

421 Disclosure period for new candidates

(1) This section applies if sections 419, 420 and 422 do not apply to a person who is a candidate for an election.

(2) The disclosure period for the candidate for the election starts when the first of the following happens or, if they happen at the same time, when they happen—

(a) the person announces the person is to be a candidate in the election;

(b) the person nominates as a candidate in the election.

(3) The disclosure period ends at the end of the prescribed period after the conclusion of the election.

422 Disclosure period for certain candidates who are appointed councillors

(1) This section applies if a candidate for an election, when nominating as a candidate, is an appointed councillor of a

local government to whom neither section 419 nor section 420 applies.

(2) Despite section 421, the disclosure period for the candidate for the election starts when the candidate was appointed a councillor.

(3) The disclosure period ends at the end of the prescribed period after the conclusion of the election.

Subdivision 2 Disclosure period for groups of candidates and third parties for elections

423 Purpose of subdivision

This subdivision defines the disclosure period for sections 427A and 430 for an election.

423A Disclosure period for particular sections

For sections 427A, 428(1A), 428B and 428C, the disclosure period for an election—

(a) starts at the end of the prescribed period after the conclusion of the immediately preceding quadrennial elections for the relevant local government under the section; and

(b) ends at the end of the prescribed period after the conclusion of the election.

424 Disclosure period for s 430

For section 430, the disclosure period for an election—

(a) starts at the end of the prescribed period after the date of the immediately preceding quadrennial elections for the relevant local government under the section; and

(b) ends at the end of the prescribed period after the polling day for the election.

425 Disclosure period for s 430A

(1) For section 430A, the disclosure period for an election for a local government other than the Brisbane City Council—

(a) starts on the day after the day the returning officer publishes notice of the election in a newspaper under section 301; and

(b) ends at 6p.m. on the polling day for the election.

(2) For section 430A, the disclosure period for an election for the Brisbane City Council—

(a) starts on the day after the day of the issue of the writ for the election; and

(b) ends at 6p.m. on the polling day for the election.

Division 3 Disclosure of gifts and loans and requirements for accounts

Subdivision 1 Preliminary

426 Definitions for div 3

In this division—

agent, for a group of candidates for an election, means the agent for the group recorded in a register of group agents under section 435E.

candidate's campaign committee, for a candidate for an election, means a committee formed to help the candidate's campaign in the election but does not include a committee that is recognised by a political party as being part of the political party.

gifts received by a candidate for an election includes gifts received by the candidate's campaign committee for or on behalf of the candidate.

group of candidates, for an election—

1 A *group of candidates*, for an election, means a group of individuals, each of whom is a candidate for the election, if the group was formed—

(a) to promote the election of the candidates; or

(b) to share in the benefits of fundraising for the purposes of promoting the election of the candidates; or

(c) for both paragraphs (a) and (b).

2 However, a *group of candidates*, for an election, does not include a political party or an associated entity.

group's campaign committee, for a campaign committee of a group of candidates for an election, means a committee formed to help the election campaign of members of the group.

Subdivision 1A Disclosure by candidates for elections

427 Gifts to candidates

(1) This section applies to gifts received by a candidate for an election during the candidate's disclosure period for the election but not to a gift made in a private capacity to the candidate, for the candidate's personal use, that the candidate has not used, and does not intend to use, solely or substantially for a purpose related to any election.

(2) Each candidate for the election must, within 15 weeks after the conclusion of the election, give to the chief executive officer of the local government to which the election relates a return, in the approved form, stating—

(a) whether the candidate received any gifts to which this section applies; and

(b) if so—

(i) the total value of all of the gifts; and

(ii) how many persons made the gifts; and

(iii) the relevant details for each gift made by a person to the candidate, if the total value of all gifts made by the person to the candidate during the disclosure period is the prescribed amount or more.

(3) A candidate need not comply with subsection (2) if—

(a) the candidate gives a return under section 242(1)(a) and the return states the candidate—

(i) does not expect to receive gifts in the disclosure period for the election after giving the return; and

(ii) will give a return under the section if gifts are received in the disclosure period for the election after giving the return; and

(b) the candidate does not receive gifts in the disclosure period for the election after giving the return.

427A Gifts to groups of candidates

(1) This section applies if—

(a) a candidate for an election is a member of a group of candidates; and

(b) the group, or the group's campaign committee for the election, receives gifts for the election during the disclosure period for this section for the election.

(2) Within 15 weeks after the conclusion of the election, the group's agent must give to the chief executive officer of the local government to which the election relates a return, in the approved form, stating the following—

(a) the names of the candidates forming the group;

(b) the name, if any, of the group;

(c) the total value of all of the gifts;

(d) how many persons made the gifts;

(e) the relevant details for each gift made by a person to the group if the total value of all gifts made by the person to the group during the disclosure period is the prescribed amount or more.

(3) The agent need not comply with subsection (2) if—

(a) each candidate who is a member of the group gives a return under section 242(1)(a) and the return states—

(i) the candidate does not expect the group or the group's campaign committee for the election to receive further gifts in the disclosure period for the election after giving the return; and

(ii) the group's agent will give a return under this section if further gifts are received in the disclosure period for the election after giving the return; and

(b) the group or the group's campaign committee for the election does not receive further gifts in the disclosure period for the election after giving the return.

428 Certain gifts not to be received

(1) It is unlawful for a candidate for an election, or a person acting on behalf of a candidate for an election, to receive, during the disclosure period for the candidate for the election, a gift made to or for the benefit of the candidate the value of which is the prescribed amount or more unless—

(a) the relevant details for the gift are known to the person receiving the gift; or

(b) when the gift is made—

(i) the person making the gift gives to the person receiving the gift details of the gift; and

(ii) the person receiving the gift has no reasonable grounds to believe that the details given are not the relevant details for the gift.

(1A) It is unlawful for a group of candidates for an election, or a person acting on behalf of a group of candidates for an election, to receive, during the disclosure period for the election, a gift made to or for the benefit of the group of candidates, the value of which is the prescribed amount or more unless—

(a) the relevant details for the gift are known to the group or person receiving the gift; or

(b) when the gift is made—

(i) the person making the gift gives the group or person receiving the gift details of the gift; and

(ii) the group or person receiving the gift has no reasonable grounds to believe that the details given are not the relevant details for the gift.

(2) If a person or group receives a gift that, under subsection (1) or (1A), it is unlawful for the person or group to receive, an amount equal to the value of the gift—

(a) is payable by the person or group to the local government to which the election relates; and

(b) may be recovered by the local government as a debt owing to the local government by action in a court of competent jurisdiction against the person or group.

(3) For subsections (1) and (1A), a person who is a candidate in an election remains a candidate for the prescribed period after the conclusion of the election.

(4) For this section, 2 or more gifts made by the 1 person to or for the benefit of the one candidate or group of candidates, are to be treated as 1 gift.

(5) In this section—

person acting on behalf of a candidate for an election includes the candidate's campaign committee for the election.

person acting on behalf of a group of candidates for an election includes the group's campaign committee for the election.

person making a gift includes an unincorporated association on whose behalf a gift is made.

428A Valuation of fundraising activity gifts

For the application of section 427, 427A or 428 to a gift in the form of a payment for attendance at or participation in a fundraising activity, the value of the gift is taken to be the gross amount of the payment, regardless of the value of anything received in consideration for the payment.

428B Loans to candidates or groups of candidates

(1) Each candidate for an election must, within 15 weeks after the conclusion of the election, give the chief executive officer of the local government to which the election relates a return, in the approved form, covering all loans received by the candidate from a person other than a financial institution during the disclosure period for the election.

(2) The agent for a group of candidates for an election must, within 15 weeks after the conclusion of the election, give the chief executive officer of the local government to which the election relates a return, in the approved form, covering all loans received by the group from a person other than a financial institution during the disclosure period for the election.

(3) A return under subsection (1) or (2) must state—

(a) the total value of the loans; and

(b) the number of persons who made loans.

(4) The return must also state the following for each loan with a value of the prescribed amount or more—

(a) the date on which the loan was made;

(b) for a loan from the members of an unincorporated association—

(i) the association's name; and

(ii) unless the association is a registered industrial organisation—the names and residential or business addresses of the members of the executive committee (however described) of the association;

(c) for a loan purportedly made out of a trust fund or out of the funds of a foundation—

(i) the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation; and

(iii) if the loan is made out of a trust account of a lawyer or accountant under the instructions of a

person who is in substance the lender—the name and residential or business address of the person;

(d) if neither of paragraphs (b) and (c) apply to the loan—the name and residential or business address of the person who made the loan;

(e) the terms and conditions of the loan.

428C Certain loans not to be received

(1) It is unlawful for a candidate for an election, a group of candidates for an election, or a person acting on behalf of a candidate or group of candidates for an election, to receive a loan of the prescribed amount or more from a person other than a financial institution during the disclosure period for the election unless the candidate, group or person keeps a record of the following—

(a) the terms and conditions of the loan;

(b) if the loan was received from a registered industrial organisation other than a financial institution—

(i) the name of the organisation; and

(ii) the names and addresses of the members of the executive committee (however described) of the organisation;

(c) if the loan was received from an unincorporated association—

(i) the name of the association; and

(ii) unless the association is a registered industrial organisation—the names and residential or business addresses of the members of the executive committee (however described) of the association;

(d) if the loan was paid out of a trust fund or out of the funds of a foundation—

(i) the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and

(ii) the title or other description of the trust fund, or the name of the foundation; and

(iii) if the loan is made out of a trust account of a lawyer or accountant under the instructions of a person who is in substance the lender—the name and residential or business address of the lender;

(e) if none of paragraphs (b), (c) and (d) applies—the name and residential or business address of the person.

(2) If a candidate, group or person receives a loan that, because of subsection (1), it is unlawful for the candidate, group or person to receive, an amount equal to the amount or value of the loan—

(a) is payable by the candidate, group or person to the local government to which the election relates; and

(b) may be recovered by the local government from the candidate, group or person as a debt.

(3) In this section—

person acting on behalf of a candidate or group of candidates for an election includes the candidate's or group's campaign committee for the election.

429 Chief executive officer to give reminder notice to candidates

(1) This section applies if a candidate for election has not given the return the candidate is required, under section 427(2), to give for the election.

(1A) To remove any doubt, it is declared that this section does not apply because of subsection (1) if, under section 427(3), the candidate is not required to give the return.

(1B) This section also applies if the agent for a group of candidates for an election has not given the return the agent is required, under section 427A(2), to give for the election.

(1C) To remove any doubt, it is declared that this section does not apply because of subsection (1B) if, under section 427A(3), the agent is not required to give the return.

(2) Within 10 weeks after the conclusion of the election, the chief executive officer to whom the return must be given must give in writing the information mentioned in subsection (3) to the candidate or agent.

(3) The information is—

(a) a reminder that the candidate is required to give the return within 15 weeks after the conclusion of the election; and

(b) the following provisions, or a general outline of them, to the extent they may be relevant to the candidate—

- section 222
- section 314(2)
- section 427
- section 427A
- section 428B
- section 436
- section 438.

Subdivision 2 Disclosure by third parties for elections

430 Gifts for third party expenditure for political purposes

(1) This section applies if, during the disclosure period for this section[25] for an election (the ***relevant election***) relating to a local government (the ***relevant local government***)—

(a) a person (other than a political party, an associated entity or a candidate for the election) incurs or has incurred expenditure for a political purpose about an election or elections relating to the relevant local government; and

(b) the total amount of all the expenditure mentioned in paragraph (a) is the prescribed amount or more; and

25 The disclosure period for this section is defined in section 424.

(c) the person receives a gift that is a prescribed gift in relation to the relevant local government.

(2) The person must, within 15 weeks after the conclusion of the relevant election, give to the chief executive officer of the relevant local government a return, in the approved form, stating the relevant details for all gifts that—

(a) are prescribed gifts in relation to the relevant local government; and

(b) are received by the person during the disclosure period.

(3) For subsection (1), a person does not include persons appointed to form a committee to help the campaign in an election of a candidate who has been nominated for election by the registered officer of a political party if the campaign committee is recognised by the political party as being part of the political party.

(3A) Also, for subsection (1), a person does not include a person who is a member of a candidate's campaign committee or a group's campaign committee for an election of the candidate or members of a group of candidates.

(4) Expenditure for a political purpose relating to 2 or more local governments is taken to have been incurred for a political purpose about an election relating to each local government.

(5) In this section, 2 or more gifts made, during the disclosure period for this section for an election, by the 1 person to another person are to be treated as 1 gift.

(6) In this section—

expenditure, for a political purpose, means expenditure for 1 or more of the following—

(a) publication by any means (including radio or television) of election matter;

(b) public expression of views on an issue in an election;

(c) a gift to a political party;

(d) a gift to a candidate in an election;

(e) a gift to a person on the understanding that the person or someone else will apply, either directly or indirectly, the

whole or a part of the gift for a purpose mentioned in paragraph (a), (b), (c) or (d).

prescribed gift, in relation to a relevant local government, means a gift—

(a) intended by the giver to be used by the receiver, either wholly or in part, to enable the receiver to incur expenditure for a political purpose or to reimburse the receiver for incurring expenditure for a political purpose; and

(b) used, either wholly or partly, for a political purpose about 1 or more elections relating to the relevant local government; and

(c) the value of which is the prescribed amount or more.

430A Third party expenditure for political purposes

(1) This section applies if, during the disclosure period for this section for an election (the ***relevant election***) relating to a local government (the ***relevant local government***)—

(a) a person (other than a political party, an associated entity or a candidate for the relevant election) incurs or has incurred expenditure for a political purpose in relation to the relevant election; and

(b) the total amount of all the expenditure mentioned in paragraph (a) is the prescribed amount or more.

Note—

The disclosure period for this section is defined in section 425.

(2) The person must, within 15 weeks after the conclusion of the relevant election, give the chief executive officer of the relevant local government a return in the approved form stating the following details about the expenditure—

(a) the total value of the expenditure;

(b) when the expenditure was incurred;

(c) the particular purpose of the expenditure.

(3) For subsection (1), a person does not include persons appointed to form a committee to help the campaign in an

election of a candidate who has been nominated for election by the registered officer of a political party if the campaign committee is recognised by the political party as being part of the political party.

(4) Also, for subsection (1), a person does not include a person who is a member of a candidate's campaign committee or a group's campaign committee for an election of the candidate or members of a group of candidates for the election.

(5) Expenditure for a political purpose relating to 2 or more local governments is taken to have been incurred for a political purpose about an election relating to each local government.

(6) In this section—

expenditure, for a political purpose, means expenditure for 1 or more of the following—

(a) publication by any means (including radio or television) of election matter;

(b) public expression of views on an issue in an election;

(c) a gift to a political party;

(d) a gift to a candidate in an election;

(e) a gift to a person on the understanding that the person or someone else will apply, either directly or indirectly, the whole or a part of the gift for a purpose mentioned in paragraph (a), (b), (c) or (d).

431 No requirement to give return if no further gifts to disclose

(1) This section applies to a person if—

(a) the person gives a return relating to an election disclosing gifts under section 430 to a chief executive officer of a local government; and

(b) apart from this section, because of a later election, the person would be required to give another return under section 430 to the chief executive officer of the same local government; and

(c) the other return, if given, would disclose no other gifts.

(2) The person is not required to give the other return.

Subdivision 2A Disclosure by donors

431A Donations to candidates

(1) This section applies if, during the disclosure period for a candidate for an election for a local government, a person (the ***donor***), other than a political party, an associated entity, another candidate for the election or a group of candidates for the election, makes a gift in relation to the election to—

(a) the candidate; or

(b) a group of candidates for the election of which the candidate is a member.

(2) When the candidate or group of candidates receives the gift, the relevant person must inform the donor of the donor's requirement to lodge a return under this section.

(3) The donor must, within 15 weeks after the polling day for the election, give the chief executive officer of the local government a return, in the approved form, stating the required details of the gift.

Maximum penalty—20 penalty units.

(4) Subsection (3) applies to the donor even if at the time the donor made the gift the donor was outside Queensland.

(5) If a person makes a gift to any person with the intention of benefiting a particular candidate, the person is taken for subsection (1) to have made the gift directly to the candidate.

(6) The donor need not give a return under subsection (3) if the total amount or value of all gifts to which subsection (1) applies was less than the prescribed amount.

(7) For subsection (3), the required details of a gift are its amount or value, the date on which it was made and—

(a) if the gift was made to an unincorporated association—

(i) the association's name; and

(ii) unless the association is a registered industrial organisation—the names and residential or business addresses of the members of the executive committee (however described) of the association; or

(b) if the gift was made to a trust fund or paid into the funds of a foundation—

(i) the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation; or

(c) in any other case—the name and residential or business address of the person to whom the gift was given.

(8) In this section—

relevant person means—

(a) if it is the group of candidates that receives the gift—the group's agent; or

(b) otherwise—the candidate.

Subdivision 3 Amendment of returns

432 Amendment of returns

(1) A person who has given a return under this part to the chief executive officer of a local government may at any time apply to amend the return to correct an error or omission.

(2) An application under subsection (1) must—

(a) be signed by the applicant; and

(b) state particulars of the amendment; and

(c) be given to the chief executive officer of the local government.

(3) The chief executive officer must—

(a) permit the applicant to amend the return in accordance with the application; and

(b) record in the register particulars of the date and time of the amendment.

(4) The amendment of a return under this section does not affect the liability of a person to be convicted of an offence under section 436(2) committed before the amendment.

Subdivision 4 Operation of accounts

432A Requirement for candidate to operate dedicated account

(1) This section applies to a candidate for an election.

(2) The candidate must operate an account with a financial institution if the candidate receives an amount mentioned in subsection (3) or pays an amount mentioned in subsection (4).

(3) All amounts received by the candidate, or by the candidate's campaign committee, during the disclosure period for the candidate for the election for the conduct of the candidate's campaign, including all gifts received by the candidate for the election, and all amounts received as loans to the candidate, must be placed in the account.

(4) All amounts paid by the candidate, or by the candidate's campaign committee, during the disclosure period for the candidate for the election for the conduct of the candidate's campaign must be paid out of the account.

(5) The account must not be used other than for receiving and paying amounts under subsections (3) and (4).

(6) The candidate must take all reasonable steps to ensure the requirements of subsections (2) to (5) are complied with.

Maximum penalty—100 penalty units.

(7) Amounts mentioned in subsections (3) and (4) do not include amounts received or paid out by a group of candidates for the election of which the candidate is a member.

432B Requirement for group of candidates to operate dedicated account

(1) This section applies if a candidate for an election is a member of a group of candidates for the election.

(2) The group must operate an account with a financial institution if the group receives an amount mentioned in subsection (3) or pays an amount mentioned in subsection (4).

(3) All amounts received by the group, or by the group's campaign committee, during the disclosure period for the candidates for the election for the conduct of the group's campaign, including all gifts received by the group for the election, and all amounts received as loans to the group, must be placed in the account.

(4) All amounts paid by the group, or the group's campaign committee, during the disclosure period for the candidates for the election for the conduct of the group's campaign for the election must be paid out of the account.

(5) The account must not be used other than for receiving and paying amounts under subsections (3) and (4).

(6) Each candidate who is a member of the group must take all reasonable steps to ensure the requirements of subsections (2) to (5) are complied with.

Maximum penalty for subsection (6)—100 penalty units.

Division 4 Registers

433 Registers of electoral gifts

(1) The chief executive officer of a local government must keep, for the local government, a register of electoral gifts (the ***register***).

(2) The register must include the following—

(a) all returns given to the chief executive officer under this part or section 242;

(b) applications made to the chief executive officer under section 432;

(c) copies of information given by the chief executive officer under section 435(2);

(d) statutory declarations given to the chief executive officer under section 435(5);

(e) copies of notices given by the chief executive officer under section 438(3);

(f) particulars given to the chief executive officer after a request made under section 438(3);

(g) notices given to the chief executive officer under section 438(5).

434 Access to registers

(1) A local government's register is open to inspection.

(2) A person must not knowingly disclose information obtained from the register if it is not a true copy, or a fair summary, of particulars in the register.

Maximum penalty for subsection (2)—20 penalty units.

435 Queries on contents of register

(1) A person who suspects, or believes, on reasonable grounds that a return given to the chief executive officer of a local government under this part has an error or omission, may inform the chief executive officer.

(2) The chief executive officer must immediately take reasonable steps to inform the person who gave the return about the suspicion or belief.

(3) The person who gave the return must, within 30 days of being informed, establish whether the return should be amended to make it a true record of fact.

(4) If the person establishes that the return should be amended, the person must apply to the chief executive officer to amend the return to correct the error or omission.[26]

26 Section 432 (Amendment of returns) provides for applications to amend returns.

(5) If the person establishes the return does not need to be amended, the person must—

(a) complete a statutory declaration to the effect that the particulars in the return are a true record of fact; and

(b) give the statutory declaration to the chief executive officer.

Division 4A Recording of group's membership and group's agent

435A Definitions for div 4A

In this division—

group of candidates means a group of candidates mentioned in division 3.

nomination entity, for a candidate's nomination, means—

(a) for a candidate for an election for a local government other than the Brisbane City Council—the returning officer for the election; or

(b) for a candidate for an election for the Brisbane City Council—the town clerk of the Brisbane City Council.

nomination requirements means—

(a) the record of group membership requirement stated in this division; and

(b) the group agent nomination requirement stated in this division.

relevant period, for a candidate for an election, means the period—

(a) starting at noon on the last day for the receipt of the candidate's nomination for the election; and

(b) ending at 6p.m. on the day that is, under the *Electoral Act 1992* or this Act, the polling day for the election.

435B Offence to advertise or fundraise for group if nomination requirements not complied with

(1) A candidate for an election who is a member of a group of candidates for the election must not, during the relevant period for the candidate for the election, advertise or fundraise for the election unless the nomination requirements have been complied with.

Maximum penalty—100 penalty units.

(2) For subsection (1), the candidate advertises for the election if—

(a) a person, whether or not a member of the group, but acting for the purposes of the group, prints, publishes, distributes or broadcasts, or permits or authorises someone else to print, publish, distribute or broadcast, any advertisement, handbill, pamphlet or notice containing election matter; and

(b) the election matter promotes the election of 1 or more of the members of the group.

(3) For subsection (1), the candidate fundraises for the election if a person, whether or not a member of the group, but acting for the purposes of the group, conducts an activity directed at collecting money to be used for promoting the election of 1 or more members of the group.

Examples of fundraising activities—

conducting a social function at which persons are charged for admission, or conducting an auction or a raffle

(4) It is a defence in a prosecution under subsection (1) for the candidate to prove the candidate exercised reasonable diligence to ensure no person acted in a way that would cause the candidate to contravene the subsection.

435C Record of group membership requirement

(1) This section states the record of group membership requirement.

(2) The record of group membership requirement is a requirement that, after the candidate was nominated for the election, but before the commencement of the relevant period for the

candidate for the election, there was given to the nomination entity for the candidate's nomination a record of the membership of the group complying with subsection (3).

(3) The record of the membership of the group must—

(a) be in the approved form; and

(b) state the names of the candidates who are the members of the group; and

(c) be signed by each of the candidates who are the members of the group.

(4) As soon as practicable after the nomination entity receives the record of the membership of the group, the nomination entity must ensure a copy of the record is displayed—

(a) at the place of nomination; and

(b) if the place of nomination is not also the public office of the local government to which the election relates—at the local government's public office.

435D Group agent nomination requirement

(1) This section states the group agent nomination requirement.

(2) The group agent nomination requirement is a requirement that, when the record of group membership requirement was complied with, there was also given to the nomination entity for the candidate's nomination an instrument, complying with subsection (3), appointing an adult as an agent for the group.

(3) The instrument appointing the agent must—

(a) be in the approved form; and

(b) state the name and address of the person appointed as agent; and

(c) be signed by each of the candidates who are the members of the group; and

(d) be signed by the person appointed as agent, and include or be accompanied by—

(i) the person's signed agreement to being appointed as the group's agent; and

(ii) the person's signed declaration that the person is eligible to be appointed as the group's agent.

(4) The instrument appointing the agent may be included in the record of the membership of the group.

435E Register of group agents

(1) The nomination entity for a candidate's nomination must keep a register to be known as the register of group agents.

(2) The nomination entity must record in its register of group agents the name and address of each person who is appointed as the agent for a group of candidates that includes the candidate as a member.

(3) The appointment of an agent for a group of candidates—

(a) is not effective under this Act until the appointment has been recorded in the relevant register of group agents; and

(b) ceases to be effective only if the person's name is taken from the register.

(4) The name of a person may be taken from the register under subsection (3)(b) only if—

(a) the person gives the nomination entity a written notice, signed by the person, stating that he or she has resigned the appointment as agent; and

(b) the group of candidates gives the nomination entity a written notice, signed by all members of the group, stating that the person has ceased to be the group's agent.

(5) If the name of a person is taken from the register under subsection (4), the group of candidates may act in accordance with the group agent nomination requirement to appoint another agent.

(6) If no agent is currently recorded for a group of candidates in a relevant register of group agents, all obligations under this Act applying to an agent, including liability for any offence, apply to each member of the group of candidates as if each candidate was the appointed agent of the group.

Division 5 Miscellaneous

436 Offences about returns

(1) A person must give a return the person is required to give under division 3 within the time required by the division.

Maximum penalty—20 penalty units.

(2) A person must not give a return the person is required to give under division 3 containing particulars that are, to the knowledge of the person, false or misleading in a material particular.

Maximum penalty—

(a) if the person is required to give the return as a candidate—100 penalty units;

(b) if paragraph (a) does not apply—50 penalty units.

(2A) If a candidate is a member of a group of candidates mentioned in division 3, and the group's agent is required under section 427A(2) or 428B(2) to give a return, the candidate must not allow the agent to give the return if it contains particulars that are, to the knowledge of the candidate, false or misleading in a material particular.

Maximum penalty—100 penalty units.

(3) A person (the ***first person***) must not give to another person who is required to give a return under division 3 or section 242 information to which the return relates that is, to the knowledge of the first person, false or misleading in a material particular.

Maximum penalty—20 penalty units.

(4) A prosecution for an offence against a provision of this section may be started at any time within 4 years after the offence was committed.

(5) If a person is found guilty of an offence under subsection (1), a court may, as well as imposing a penalty under the subsection, order the person to give the relevant return within a time stated in the order.

(6) If a person is found guilty of an offence under subsection (2), a court may, as well as imposing a penalty under the subsection, order the person to pay, within a time stated in the order, to a local government an amount equal to the amount of the value of any gifts made to, or for the benefit of, the person and not disclosed in a return.

437 Records to be kept

(1) A person who makes or receives a relevant record for an election must keep the record for at least 5 years after the conclusion of the election unless the record, in the normal course of business or administration, is transferred to someone else.

Maximum penalty—20 penalty units.

(2) In this section—

relevant record, for an election, is a document or other thing that is or includes a record about a matter particulars of which—

(a) are, or could be, required to be stated in a return under division 3 about the election; or

(b) evidence that the giver of a gift had an intention mentioned in section 430(6), definition *prescribed gift*, paragraph (a).

438 Obtaining of information and completion of returns

(1) A person who is required to give a return under division 3 must—

(a) take all reasonable steps to obtain the particulars required to complete the return; and

(b) complete the return to the extent that it is possible with the particulars obtained.

Maximum penalty—20 penalty units.

(2) The return must state whether the return is complete as required by division 3 and, if not complete, state—

(a) the nature and type of particulars the person has not been able to obtain; and

(b) the reasons why the person has not been able to obtain the particulars; and

(c) if the person believes, on reasonable grounds, that another person whose name and address the person knows can give the particulars—that belief and the reasons for it and the name and address of the other person.

(3) If a return contains a statement mentioned in subsection (2)(c), the chief executive officer of the local government who receives the return must give a written notice to the person named in the statement asking the person to give the chief executive officer the particulars the person knows.

(4) Subsection (5) applies if, at any time, within 5 years after the conclusion of an election, a person, who has made a statement under subsection (2) in a return about the election that the return is not complete, obtains information or particulars relevant to the return that the person was not able to obtain before completing the return.

(5) The person must give to the chief executive officer of the local government to whom the return was given a written notice of the information or particulars obtained.

Maximum penalty for subsection (5)—20 penalty units.

439 Attempts to commit offences

(1) A person who attempts to commit an offence against this part commits an offence.

Maximum penalty—half the maximum penalty for committing the offence.

(2) The Criminal Code, section 4 applies to subsection (1).

440 Noncompliance with part does not affect election

(1) A failure of a person to comply with a provision of this part for an election does not invalidate the election.

(2) Without limiting subsection (1) but subject to section 222, if a candidate who is elected at an election fails to comply with a provision of this part for the election, the failure does not invalidate the election of the candidate.

Division 6 Evidence

441 Evidentiary provisions

(1) This section applies to a proceeding under this part.

(2) A certificate purporting to be signed by the chief executive officer of a local government and stating any of the following matters is evidence of the matter—

(a) a stated document is an application, declaration, notice or return given or kept under this part, or a copy of it;

(b) on a stated day, a stated person was given a stated notice, under this part.

Part 9 Miscellaneous election matters

Division 1 Preliminary

441A Application of pt 9 to Brisbane City Council

This part applies to the Brisbane City Council.

Division 2 Code of conduct for candidates

441B Code of conduct

(1) The chief executive of the department may develop, and make publicly available to local governments and otherwise as the chief executive considers appropriate, a code of conduct for candidates for elections for local governments.

(2) A candidate for an election for a local government may, by written notice given to the chief executive officer of the local government, agree in writing to comply with the code of conduct.

(3) The chief executive officer of the local government must keep a register of candidates for elections for the local government who have agreed to comply with the code of conduct.

(4) The chief executive officer must—

(a) make the register publicly available for inspection; and

(b) if asked by any person, advise the person whether or not a stated candidate is included in the register.

Division 3 Caretaker period arrangements

441C Definitions for div 3

In this division—

caretaker period, for an election, other than a by-election, for a local government, means—

(a) for an election for the Brisbane City Council, the period that, under the *Electoral Act 1992*, is the election period for the election; or

(b) for an election for a local government other than the Brisbane City Council, the election period for the election under this Act.

major policy decision, for a local government, means a decision—

(a) about the appointment of a chief executive officer of the local government; or

(b) about the remuneration of the chief executive officer of the local government; or

(c) to terminate the employment of the chief executive officer of the local government; or

(d) to enter into a contract the total value of which is more than the greater of the following—

(i) $150000;

(ii) 1% of the local government's net rate and utility charges as stated in the local government's audited financial statements included in the local government's most recently adopted annual report.

441D Prohibition on major policy decision in caretaker period

(1) A local government must not make a major policy decision in the caretaker period for an election for the local government.

(2) However, if the local government considers that, having regard to exceptional circumstances that apply, it is necessary to make the major policy decision in the public interest, the local government may apply to the Minister for approval to make the decision.

(3) The Minister may give the approval if the Minister is satisfied that, having regard to exceptional circumstances that apply, it is necessary for the local government to make the major policy decision in the public interest.

(4) The Minister's approval may be given on conditions the local government must comply with.

(5) This section applies despite chapter 6, part 3.

441E Invalidity of major policy decision in caretaker period without approval

(1) A major policy decision made by a local government in the caretaker period for an election for the local government is invalid to the extent the local government does not have the Minister's approval under this division to make the decision.

(2) A contract is void if it is the subject of a major policy decision that is invalid.

(3) A person who acts in good faith in relation to a major policy decision of a local government, or in relation to a contract that is the subject of a major policy decision, but who suffers loss or damage because of any invalidity of the decision under subsection (1) or because the contract is void under subsection (2), has a right to be compensated by the local government for the loss or damage.

(4) The person may bring a proceeding to recover the compensation in a court of competent jurisdiction.

441F Prohibition on election material in caretaker period

A local government must not, in the caretaker period for an election for the local government, publish or distribute election matter for the election.

Chapter 6 General operation of local governments

Part 1 Proceedings of local governments

Division 1 What meetings are held

442 Post-election meetings

A local government must hold a meeting within 14 days after the conclusion of the quadrennial elections and each fresh election of its councillors.

443 Agenda of post-election meetings

The matters a local government must consider at a meeting mentioned in section 442 include—

(a) the day and time for holding other meetings; and

(b) the appointment of its deputy mayor; and

(c) the appointment of its standing committees.

444 Other meetings

(1) Other meetings of a local government are to be held at the times and places it decides.

(2) However, it must meet—

(a) for a region, city or town—at least once in each month; or

(b) for a shire—at least once in each period of 3 months.

Division 2 Local government meetings

445 Place of meetings

(1) All meetings of a local government must be held at its public office.

(2) However, a local government may, by resolution, fix another place for a particular meeting.

446 Quorum at meetings

(1) A quorum of a local government is a majority of its councillors.

(2) However, if the number of councillors is an even number, one-half of the number is a quorum.

447 Procedure at meetings

(1) Business may be conducted at a meeting of a local government only if a quorum is present.

(2) At a meeting—

(a) voting must be open; and

(b) a question is decided by a majority of the votes of the councillors present; and

(c) each councillor present has a vote on each question to be decided and, if the votes are equal, the councillor presiding has a casting vote; and

(d) if a councillor present fails to vote, the councillor is taken to have voted in the negative.

448 Minutes must be kept

(1) A local government must keep minutes of its proceedings.

(2) The minutes must be taken and confirmed under section 461.

449 Adjournment of meetings

(1) The majority of councillors present at a meeting of a local government may adjourn the meeting to a later hour of the same day or to a later day.

(2) If a quorum is not present within 30 minutes after the time appointed for a meeting, the meeting may be adjourned to a later hour or another day within 14 days after the day of adjournment, by—

(a) a majority of the councillors present; or

(b) if only 1 councillor is present—the councillor; or

(c) if no councillors are present—the chief executive officer.

450 Notice of meetings

(1) Written notice of each meeting or adjourned meeting of a local government must be given to each councillor at least 2 days before the day of the meeting unless it is impracticable to give the notice.

(2) A notice must specify—

(a) the day and time of the meeting; and

(b) for a special meeting—the object of the meeting.

(3) The only business that may be conducted at a special meeting is the business specified in the notice of meeting.

(4) For an indigenous regional council, the 2 days mentioned in subsection (1) must be taken to be 4 days.

451 Repeal or amendment of resolutions

(1) A resolution of a local government may be repealed or amended only if written notice of intention to propose the repeal or amendment is given to each councillor at least 5 days before the meeting at which the proposal is to be made.

(2) At the meeting to decide the proposal, the proposal is taken to have been defeated unless it is agreed to by—

(a) if the number of councillors present at the meeting is more than the number present at the meeting at which the resolution was adopted—a majority of the councillors present; or

(b) in any other case—a majority of all councillors.

Division 3 Committees and their meetings

452 Appointment of committees

A local government may—

(a) appoint, from its councillors, standing committees or special committees; and

(b) appoint advisory committees; and

(c) fix the quorum of each committee; and

(d) appoint a chairperson of each committee.

453 Advisory committees

(1) An advisory committee—

(a) must not be appointed as a standing committee; and

(b) may include in its members persons who are not councillors.

(2) A member of an advisory committee who is not a councillor may vote on business before the committee.

454 Delegate members of committees

(1) A local government that appoints a committee may appoint 1 person as a delegate member of the committee.

(2) In the absence of a member of the committee, the delegate member may attend meetings of the committee and act as a member of the committee.

455 Quorum

A quorum of a committee is the number—

(a) fixed by the local government; or

(b) if a number is not fixed by the local government—fixed by the committee.

456 Chairperson of committee

(1) If the local government does not appoint a chairperson for a committee, the committee may appoint 1 of its members as chairperson.

(2) If the chairperson is not present at a meeting, the members present may appoint a chairperson for the meeting.

457 Committee meetings

(1) Meetings of a committee are to be held at the times and places it decides.

(2) At a meeting—

(a) voting must be open; and

(b) a question is decided by a majority of the votes of the members present; and

(c) each member present has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote; and

(d) if a member present fails to vote, the member is taken to have voted in the negative.

458 Reports

A committee must report to the local government as directed by the local government.

459 Minutes must be kept unless committee exempted

(1) A committee must keep minutes of its proceedings unless it is exempted under subsection (3).

(2) The minutes must be taken and confirmed under section 461.

(3) A local government may, by resolution, exempt a committee from the requirement to keep minutes of its proceedings if the committee's function is only to advise or recommend to the local government.

(4) If a committee is exempted under subsection (3), it must give to the local government a written report of its deliberations and its advice or recommendations.

Division 4 Meetings generally

460 Division applies to local governments and their committees

This division applies to a meeting of a local government or a committee.

461 Minutes

(1) A local government's chief executive officer must ensure that minutes of each meeting are taken under the supervision of the person presiding at the meeting.

(2) Minutes of each meeting must include—

(a) the names of councillors or committee members present at the meeting; and

(b) if a division is called on a question—the names of all persons voting on the question and how they voted.

(3) At each meeting, the minutes of the previous meeting must be—

(a) confirmed by the councillors or members present; and

(b) signed by the person presiding at the later meeting.

461A Recording of reasons for particular decisions

(1) This section applies if a decision made at a meeting—

(a) is inconsistent with a recommendation or advice given to the local government by a person—

(i) who is an employee of the local government or is otherwise engaged to provide services to the local government; and

(ii) whose duties include giving the recommendation or advice; and

(b) either or both of the following apply to the decision—

(i) the decision is about entering into a contract the total value of which is more than the greater of the following—

(A) $150000;

(B) 1% of the local government's net rate and utility charges as stated in the local government's audited financial statements included in the local government's most recently adopted annual report;

(ii) the decision is inconsistent with—

(A) the policy or approach ordinarily followed by the local government for the type of decision; or

(B) a policy previously adopted by the local government by resolution, whether or not as required by this Act, and still in force.

Examples of decisions to which subsection (1) might apply—

- the grant of a licence, permit or approval, however named, under an Act or local law
- the grant of a concession, rebate or waiver in relation to an amount owed to the local government
- disposing of land or a non-current asset

(2) The chief executive officer of the local government must ensure the minutes of the meeting include a statement of the reasons for not adopting the recommendation or advice.

462 Meetings in public unless otherwise resolved

A meeting is open to the public unless the local government or committee has resolved that the meeting be closed under section 463.

463 Closed meetings

(1) A local government or committee may resolve that a meeting be closed to the public if its councillors or members consider it necessary to close the meeting to discuss—

(a) the appointment, dismissal or discipline of employees; or

(b) industrial matters affecting employees; or

(c) the local government's budget; or

(d) rating concessions; or

(e) contracts proposed to be made by it; or

(f) starting or defending legal proceedings involving it; or

(g) any action to be taken by the local government under the *Integrated Planning Act 1997*, including deciding applications made to it under that Act; or

(h) other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.

(2) A resolution that a meeting be closed must specify the nature of the matters to be considered while the meeting is closed.

(3) A local government or committee must not make a resolution (other than a procedural resolution) in a closed meeting.

464 Public notice of meetings

(1) A local government must, at least once in each year, publish in a newspaper circulating generally in its area a notice of the days and times when its ordinary meetings, and the ordinary meetings of its standing committees, will be held.

(2) The local government must display in a conspicuous place in its public office a notice of the days and times when—

(a) its meetings will be held; or

(b) meetings of its committees will be held.

(3) The local government must immediately notify any change to the days and times mentioned in subsection (1) or (2) in the same way as the days and times were previously notified.

(4) A list of the items to be discussed at a meeting mentioned in subsection (2) must be open to inspection at the time the agenda for the meeting is made available to councillors.

(5) Subsection (4) does not affect the right to discuss or deal with, at any meeting, items arising after the agenda for the meeting is made available to councillors.

Division 5 Records

466 Safe custody of records

The chief executive officer of a local government is responsible for safe custody of—

(a) all records about the proceedings, accounts or transactions of the local government or its committees; and

(b) all documents owned or held by the local government.

467 Loss or destruction of records

(1) If a document owned or held by a local government is lost or destroyed, the Governor in Council may make regulations for the purpose of repairing the loss.

(2) A regulation may, for example, provide that a copy of the document is effective for all purposes, including being admissible in evidence, as if it were the original.

468 Inspection of records by the public

(1) A copy of the minutes of each meeting of a local government—

(a) must be available for inspection at its public office within 10 days after the end of the meeting; and

(b) when the minutes have been confirmed—must be available for purchase at the public office.

(2) The price of a copy of confirmed minutes must not be more than—

(a) the cost to the local government of having the copy printed and made available for purchase; and

(b) if the copy is supplied to a purchaser by post—the cost of postage.

469 Inspection of records by members

(1) This section applies to local government records, whether or not they are open to inspection under section 468.

(2) A councillor of the local government may inspect, and make a copy of or take an extract from, a record about its operations or the operations of any of its committees.

(3) A member of a committee may inspect, and make a copy of, a record about the committee's operations.

(4) This section is subject to sections 250V(5) and 1135.

470 Duty to make records available

A person who has charge of a document owned or held by a local government must not obstruct or hinder the inspection or copying of the document under section 468 or 469.

Maximum penalty—10 penalty units.

Division 6 Miscellaneous

471 Correspondence with local government

(1) All correspondence with a local government about matters affecting it is taken to be addressed to the chief executive officer.

(2) The chief executive officer is responsible for taking the appropriate action for the correspondence.

472 Delegation by local government

(1) A local government may, by resolution, delegate its powers under a local government Act.

(2) The delegation may be made to—

(a) the mayor; or

(b) a standing committee or joint standing committee; or

(c) the chairperson of a standing committee or joint standing committee; or

(d) the chief executive officer.

(3) However, a local government may not delegate a power if—

(a) the power is to take disciplinary action against an employee appointed by it; or

(b) an Act provides that the power must be exercised by resolution.

(4) All delegations made by a local government must be recorded in a register of delegations kept by its chief executive officer.

(5) All appointments by a local government of shareholder's delegates for its LGOCs under section 643 must be recorded in the register.

(6) The register must contain the particulars prescribed by regulation.

(7) The register is open to inspection.

(8) Subsections (1) to (4) do not apply to powers of a local government as a shareholder of an LGOC, under chapter 8, part 7.

(9) Subsections (4) to (7) apply to delegations by shareholder's delegates under section 729 as if the shareholder's delegates were the local government.

(10) An indigenous regional council can not under this section delegate powers to a community forum of the council.

473 Preservation of proceedings

Proceedings of a local government or any of its committees or actions of a person acting as a councillor or member of a committee, are not invalid merely because of—

(a) vacancies in the membership of the local government or committee; or

(b) a defect or irregularity in the election or appointment of any councillor or committee member; or

(c) the disqualification of a councillor or committee member from acting as a councillor or committee member.

473A Community boards

(1) A local government may establish 1 or more community boards for local communities within its local government area to advise the local government about matters relating particularly to the local communities.

(2) In establishing a community board, a local government must—

(a) to the extent practicable, identify the local communities; and

(b) appoint the members of the community board.

Example of possible suitable members—

recognised community leaders

(3) A regulation may provide for—

(a) other matters about the establishment of community boards; and

(b) requirements about the operation of community boards.

(4) Subject to a regulation providing for a requirement about the operation of community boards, a community board may conduct its business, including its meetings, in the way it considers appropriate.

Part 2 Polls

474 Authority to conduct poll

A local government may conduct a poll of the electors in its area or a part of its area.

475 Subject matter of polls

A poll may be conducted on any local government issue of concern to a local government area or part of a local government area.

476 Poll must be on Saturday

A poll must be conducted on a Saturday.

477 Electoral provisions that apply to a poll

(1) The provisions mentioned in subsection (2) apply (with any necessary changes and any changes prescribed by regulation) to a poll as if—

(a) the poll is conducted on the day of quadrennial elections—the poll were a quadrennial election; or

(b) the poll is conducted on any other day—the poll were a by-election.

(2) The relevant provisions are chapter 5, parts 2, 3 and 6 and section 282.

478 Cases for and against question in poll

(1) In every poll, a statement of the case for, and a statement of the case against, the question to be voted on in the poll is open to inspection.

(2) In every poll, the returning officer for the poll must ensure that the statements of the cases for and against the question to be voted on are given to each elector a reasonable time before the day of the poll.

(3) A regulation may make provision about how the statements of the cases for and against the question are to be prepared for the purposes of this section.

479 Publication of poll result

As soon as practicable after the result of a poll is decided, the returning officer for the poll must give public notice of the result, by advertisement in a newspaper circulating generally in the local government area or part of the local government area.

480 Restrictions on conducting another poll on the same question

(1) If a local government conducts a poll on a question in its area, it must not conduct another poll on the same, or substantially the same, question within 1 year of the poll.

(2) If a local government conducts a poll in part of its area, subsection (1) applies for that part.

(3) However, subsections (1) and (2) do not apply to a second poll held on the day of—

(a) the next quadrennial elections; or

(b) if the second poll is conducted only in part of the local government's area—a by-election for that part.

Part 3 Contracts and related activities

Division 1 Preliminary

481 Principles governing the making of contracts

(1) In entering into contracts for the carrying out of work, the supply of goods or services or the disposal of assets, a local government must have regard to the following principles—

(a) open and effective competition;

(b) value for money;

(c) encouragement of the development of competitive local business and industry;

(d) environmental protection;

(e) ethical behaviour and fair dealing.

(2) For contracts for the carrying out of work, or the supply of goods or services, the principles are the ***procurement principles***.

481A What are *procurement activities* of a local government

The ***procurement activities*** of a local government are its activities that are, or relate to, the making of contracts for the carrying out of work, or the supply of goods or services.

481B What are *designated disposal activities* of a local government

The ***designated disposal activities*** of a local government are its activities that are, or relate to, the disposal of its non-current assets, other than land, that have a value of more than the threshold amount.

483 Entering into a contract under delegation

(1) A local government's delegate may make, vary or discharge a contract for the local government in the same way as if the contract were made, varied or discharged by an individual.

(2) However, subsection (1) applies only if—

(a) the spending incurred for the local government because of the making, variation or discharge of the contract—

(i) has been provided for in an approved budget for the financial year when the making, variation or discharge happens; or

(ii) is incurred under section 522 but is within the limits stated in the resolution of the local government delegating the power under which the contract is made, varied or discharged; or

(b) the contract has been entered into because of genuine emergency or hardship.

(3) This section does not affect another law that requires—

(a) an approval, consent or permission to be obtained; or

(b) a procedure to be complied with for the making, varying or discharging of a contract.

Division 2 Strategic contracting model

Subdivision 1 Preliminary

483A Purpose of div 2

(1) The purpose of this division is to enable each local government to take a strategic approach to its procurement activities and designated disposal activities, after taking into account the procurement principles.

(2) In this section—

strategic approach means an approach that identifies potential opportunities while managing adverse risks.

Subdivision 2 Choice of strategic contracting model

483B Power to choose strategic contracting model

(1) A local government may, by resolution, decide this division applies to it.

(2) However, the resolution may be passed only if—

(a) the local government has considered the costs and benefits of complying with this division; and

(b) notice has been given of the proposed resolution at least 4 weeks before the meeting at which the resolution is proposed.

(3) The notice must be—

(a) published in a newspaper circulating generally in the local government's area; and

(b) state the proposed resolution and the day and time of the meeting.

(4) The local government may, by a later resolution, decide this division no longer to applies to it.

(5) Subsections (2) and (3) do not apply to the later resolution.

483C Effect of choice

(1) If, under section 483B, a local government passes a resolution that this division applies to it, the local government must comply with subdivisions 3 to 5 from—

(a) generally—the day the resolution is passed; or

(b) if the resolution states a later day of effect—the later day.

(2) The later day must not be more than 1 year after the resolution is passed.

(3) To remove any doubt, it is declared that the passing of the resolution does not, of itself, affect a contractual obligation or right of the local government.

(4) If immediately before the day this division commences to apply to the local government—

(a) it had, under division 3, invited tenders or sought quotations in relation to a particular procurement activity; and

(b) tenders or quotations had been given or made in response to the invitation or the seeking of quotations; and

(c) the local government had not accepted, or decided not to accept, any of the tenders or quotations;

division 3 continues to apply for the activity as if the resolution had not been passed.

(5) If the local government later decides this division no longer applies to it, the local government must continue to comply with this division for procurement activities and designated disposal activities that happened while this division applied to it.

Subdivision 3 Requirements relating to procurement activities

483D Annual procurement plans

(1) The local government must adopt, by resolution, a procurement plan for each of its financial years.

(2) The resolution must be passed before the adoption of the local government's budget for the financial year to which the procurement plan relates.

(3) The procurement plan must be consistent with, and support, the achievement of the strategic directions stated in the local government's corporate plan.

(4) The procurement plan must state—

(a) the types of procurement activities proposed for the financial year; and

(b) how the procurement principles are to be applied for the activities; and

(c) how the application of the principles will be measured; and

(d) a policy about proposed delegations for the activities; and

(e) a policy about the making of the local government's significant procurement activity plans;[27] and

(f) a market assessment for each of the activity types; and

(g) any of the activities (a ***significant procurement activity***) that the local government considers will be significant.

(5) In considering whether any of the activities are a significant procurement activity, the local government must have regard to the market assessment.

(6) The market assessment must consist of a profile of the relative expenditure and difficulty in securing supply of the activity type assessed.

483E Amendment of procurement plan

The local government may, by resolution, amend its procurement plan at any time before the end of the financial year to which it relates.

483F Inspection of procurement plan

The local government must—

(a) keep its procurement plan open to inspection; and

(b) make copies available for purchase at its public office at a price not more than the cost to it of producing the copy and, if a copy is supplied to a purchaser by post, the cost of the postage.

483G Significant procurement activity plans

(1) If the local government's procurement plan states any significant procurement activities, the local government must

27 See section 483G (Significant procurement activity plans).

make a plan (a ***significant procurement activity plan***) for each of the activities before it starts.

(2) A significant procurement activity plan must state—

(a) its objectives, and how they will be achieved; and

(b) any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and

(c) a risk analysis of the market from which the relevant goods or services are to be procured.

(3) The objectives must be consistent with the local government's procurement plan.

(4) The local government may amend a significant procurement activity plan at any time before the end of the financial year to which it relates.

483H Procurement manual

(1) The local government must prepare a manual of procedures for how it carries out its procurement activities.

(2) The manual must—

(a) apply the procurement principles; and

(b) be consistent with the local government's procurement plan.

Subdivision 4 Requirements relating to designated disposal activities

483I Annual asset disposal plan

(1) The local government must adopt, by resolution, an asset disposal plan for its designated disposal activities for each of its financial years.

(2) The asset disposal plan must—

(a) comply with section 483J; and

(b) be consistent with, and support, the achievement of the strategic directions stated in the local government's corporate plan.

(3) The resolution must be passed before the adoption of the local government's budget for the financial year to which the asset disposal plan relates.

483J Requirements for asset disposal plan

(1) An asset disposal plan must state each of the following—

(a) the types of designated disposal activities proposed for the financial year to which it relates;

(b) the principles and strategies for carrying out the activities;

(c) how the application of the principles will be measured;

(d) the outcomes proposed to be achieved from carrying out the activities;

(e) any of the activities (a ***significant designated disposal activity***) that the local government considers will be significant.

(2) In considering whether any of the activities are a significant designated disposal activity, the local government must have regard to the matters mentioned in subsection (1)(a) to (d).

483K Amendment of asset disposal plan

The local government may, by resolution, amend its asset disposal plan at any time before the end of the financial year to which it relates.

483L Inspection of asset disposal plan

The local government must—

(a) keep its asset disposal plan open to inspection; and

(b) make copies available for purchase at its public office at a price not more than the cost to it of producing the copy

and, if a copy is supplied to a purchaser by post, the cost of the postage.

483M Plans for significant designated disposal activities

(1) If the local government's asset disposal plan states any significant designated disposal activities, the local government must make a plan (a ***significant disposal activity plan***) for each of the activities before it starts.

(2) A significant disposal activity plan must state—

(a) the objectives of the activity that the plan is for; and

(b) how the objectives support the asset disposal plan; and

(c) how the objectives are to be achieved; and

(d) how achievement of the objectives will be measured; and

(e) any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and

(f) proposed contractual arrangements for the activity; and

(g) a risk analysis of the market in which the relevant assets are to be disposed of.

(3) The objectives must be consistent with the local government's asset disposal plan.

(4) The local government may amend any of its significant disposal activity plans at any time before the end of the financial year to which it relates.

483N Asset disposal manual

(1) The local government must prepare a manual of procedures for how it disposes of its non-current assets.

(2) The manual must—

(a) include a policy about how the local government deals with its non-current assets that have a value of less than the threshold amount; and

(b) be consistent with the local government's asset disposal plan.

Subdivision 5 Requirements for disposal of particular land

483O Procedural contracting model generally applies for disposal of land

Division 3, subdivision 3 applies to the local government, but only for its disposal of land or an interest in land.[28]

Division 3 Procedural contracting model

Subdivision 1 Preliminary

483P Application of div 3

This division applies to a local government unless it has decided, under division 2, subdivision 2, that division 2 applies to it.

Subdivision 2 Purchasing

484 When tenders are required

(1) The local government must invite tenders before making a contract for the carrying out of work, or the supply of goods or services, involving a cost of more than $150000 or, if a greater amount is prescribed by regulation, the greater amount.

(2) The invitation must—

(a) be by an advertisement in a newspaper circulating generally in the local government's area; and

28 For when the procedural contracting model does not apply, see section 492 (Exemptions).

(b) allow at least 21 days from the day of the advertisement for the submission of tenders.

(3) This section applies subject to sections 486 and 489.

485 When quotations are required

(1) The local government must invite written quotations before making a contract for the carrying out of work, or the supply of goods or services, involving a cost of between $15000 and $150000 or, if another range of amounts is prescribed by regulation, the range of amounts.

(2) The invitation must be given to at least 3 persons who the local government considers can meet its requirements at competitive prices.

(3) This section applies subject to section 486.

486 Exceptions to the requirement to seek tenders or quotations

(1) The local government may enter into a contract without complying with section 484 or 485 if—

(a) it resolves that it is satisfied that there is only 1 supplier reasonably available to it; or

(b) a genuine emergency exists; or

(c) the contract is made by auction and is for the purchase of goods; or

(d) the contract is for the purchase of second-hand goods; or

(e) the contract is made under an exemption to open competition in the Local Government Finance Standards; or

(f) the contract is made with, or under an arrangement with or made by—

(i) the State, a government entity, a local government owned corporation, the Brisbane City Council or another local government; or

(ii) another Australian government, an entity of another Australian government or a local government of another State or a Territory; or

(g) it has—

(i) decided, by resolution, to prepare, for the entering into of the contract, a plan that complies with subsection (2); and

(ii) prepared the plan.

(2) For subsection (1)(g), the plan must state—

(a) its objectives, and how they will be achieved; and

(b) any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and

(c) a risk analysis of the market from which the relevant goods or services are to be procured.

(3) A local government also may enter into a contract for the supply of services without complying with section 484 or 485 if—

(a) the contract is made with a person on the panel mentioned in section 487; or

(b) it resolves that it is satisfied that the services to be supplied are of such a specialised or confidential nature that it would be impractical or disadvantageous to the local government to invite tenders or quotations.

487 Panel of suitable providers

(1) The local government may compile a panel of the names of persons suitably qualified to provide a service.

(2) A panel must be compiled by—

(a) inviting expressions of interest from persons to be included on the panel in the way provided for inviting tenders under section 484; and

(b) selecting persons on the basis of the principles mentioned in section 481.

488 Changes to tenders

(1) This section applies if—

(a) the local government invites tenders for a contract; and

(b) the invitation to tender states that the local government might later invite all tenderers to change their tenders.

(2) Before making a decision on the tenders, the local government may invite all the persons who have submitted a tender to change their tender to take account of a change in the tender specifications.

489 Short listing after calling for expressions of interest

(1) The local government may invite expressions of interest under this section before inviting tenders if it resolves that it is satisfied that it would be in the public interest.

(2) The local government must record its reasons for making the resolution.

(3) Expressions of interest must be invited in the way provided for inviting tenders under section 484.

(4) The local government may prepare a short list from the persons who responded to the invitation and invite tenders from the persons on the short list.

(5) If the local government makes a contract after inviting tenders under subsection (4), section 484 does not apply to the contract.

490 Acceptance of tender or quotation

(1) If the local government decides to accept a tender or quotation, it must accept the tender or quotation most advantageous to it.

(2) In deciding the tender or quotation most advantageous to it, the local government must have regard to the procurement principles.

(3) However, a local government may decide not to accept any tender or quotation available to it.

Subdivision 3 Disposal of land or particular non-current assets

491 When tenders or auctions are required

(1) This section applies to—

(a) land (including an interest in land); or

(b) non-current assets other than land with an apparent value of equal to or above the amount set by the local government.

(2) The set amount must not be more than the threshold amount for the value of non-current assets of the local government.[29]

(3) The local government may dispose of the land or non-current assets only—

(a) by auction; or

(b) after inviting tenders in the way mentioned in section 484(2).

(4) If it invites tenders, sections 488 and 490(1) and (3) apply.

(5) This section is subject to section 492.

492 Exemptions

(1) A local government may dispose of land (including an interest in land), or other non-current assets mentioned in section 491(1)(b), without complying with section 491 if—

(a) the disposal is to—

(i) the State; or

(ii) a government entity; or

(iii) a local government owned corporation; or

(iv) another local government; or

(v) a community organisation; or

29 See the Local Government Finance Standards, sections 42 (Register of non-current assets) and 43 (Setting amount for treating non-current asset as an expense).

(vi) another Australian government, an entity of another Australian government or a local government of another State or a Territory; or

(b) for land—the land would not be rateable land after the disposal; or

(c) for any non-current asset other than land—the local government has—

(i) decided by resolution, to prepare, for the disposal, a plan that complies with subsection (2); and

(ii) prepared the plan; or

(d) for a disposal of a non-current asset other than land by way of a trade-in for the supply of goods or services to the local government—

(i) the supply is, or is to be, made under subdivision 2; and

(ii) the disposal is, or is to be, part of the contract for the supply; or

(e) the Minister exempts the local government from complying with the section; or

(f) the land or other non-current assets were previously offered for sale under section 491 and were not sold; or

(g) the disposal is declared by regulation to be a disposal to which this division does not apply.

(2) For subsection (1)(c), the plan must state—

(a) the objectives of the disposal; and

(b) how the objectives are to be achieved; and

(c) how achievement of the objectives will be measured; and

(d) any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and

(e) proposed contractual arrangements for the disposal; and

(f) a risk analysis of the market in which the disposal is to take place.

(3) An exemption under subsection (1)(e) may be given subject to conditions.

(4) If subsection (1)(f) applies, the land or other non-current assets must not be sold for less than the highest bid or tender received.

(5) In this section—

community organisation means an entity that is a non-profit entity or otherwise exists for a public purpose.

Subdivision 4 Required manuals

492A Required procurement and asset disposal manuals

(1) The local government must prepare the following manuals of procedures—

(a) a manual for how it carries out its procurement activities (the ***procurement manual***);

(b) a manual for how it disposes of its non-current assets (the ***asset disposal manual***).

(2) The procurement manual must—

(a) apply the procurement principles; and

(b) be consistent with, and support, the achievement of the strategic direction stated in the local government's corporate plan; and

(c) for any procurement activities that the local government considers will be significant, require a significant procurement activity plan that complies with the requirements under section 486(2).

(3) The asset disposal manual must—

(a) be consistent with, and support, the achievement of the strategic direction stated in the local government's corporate plan; and

(b) include a policy about how the local government deals with its non-current assets that have a value of less than the threshold amount; and

(c) for any disposal of non-current assets that the local government considers will be significant, require a significant disposal activity plan that complies with the requirements under section 492(2).

Part 4 Enterprises

Division 1 Preliminary

493 Application to Brisbane City Council

This part applies to Brisbane City Council.

493A Non-application of part to indigenous regional councils

This part does not apply to an indigenous regional council.

494 Matters relevant to good rule and government

(1) A matter that, in a local government's opinion, is directed to benefiting, and can reasonably be expected to benefit, its area, or a part of its area, is taken to be conducive to the good rule and government of its territorial unit.

(2) The matters that may be of benefit to a local government area include, for example—

(a) promoting or contributing to economic development of a part of the area; and

(b) promoting or attracting commerce, industry or tourism in or to a part of the area; and

(c) promoting or providing opportunities for employment in a part of the area; and

(d) promoting or helping the supply of services to a part of the area; and

(e) helping the finances of the area's local government; and

(f) helping the exercise of the jurisdiction of local government in the area.

495 Application of part

(1) This part does not apply to an enterprise (an ***exempt enterprise***) declared by regulation to be an exempt enterprise.

(2) However, if the exempt enterprise is undertaken as a joint venture with someone else, this part applies to the enterprise unless—

(a) the local government is authorised to conduct the enterprise under another Act; or

(b) the joint venture is with any of the following—

(i) the State;

(ii) a government entity;

(iii) another local government;

(iv) another Australian government, an entity of another Australian government or a local government of another State or a Territory.

Division 2 Enterprise powers

496 Engagement in or help to enterprises

(1) A local government may engage in or help an enterprise if the enterprise concerns a matter that, in its opinion, is directed to benefiting, and can reasonably be expected to benefit, its area or a part of its area.

(2) A local government may exercise a power under subsection (1) (the ***enterprise power***) either alone or with another entity.

(3) A local government may do all things necessary or convenient to be done to exercise an enterprise power.

497 Specific enterprise powers

(1) For the purpose of exercising an enterprise power, a local government may—

(a) form or take part in forming—

(i) a company limited by shares that are not listed on a stock exchange (a ***permissible company***); or

(ii) a partnership; or

(iii) an association of persons; or

(b) be a member of a permissible company, acquire and dispose of shares, debentures and securities of a permissible company and take part in the management of a permissible company; or

(c) be a member of a partnership or other association of persons and take part in the management of the business of a partnership or association of persons; or

(d) commercially exploit its property rights (whether tangible or intangible).

(2) In subsection (1)—

association of persons does not include a company.

Division 3 Safeguards

498 Requirements for exercise of enterprise powers

(1) A local government may exercise an enterprise power only by resolution.

(2) Before exercising an enterprise power, a local government must consult with, and have proper regard to the advice of, persons who, in its opinion, possess relevant competence about—

(a) the end to which the exercise of the power is, or would be, directed; and

(b) the ways of achieving the end; and

(c) the lawfulness of the exercise of the power.

499 Restrictions on exercise of enterprise powers

In exercising, or before exercising, an enterprise power, a local government must not—

(a) engage in or help enterprises in a financial year to an extent that requires the local government to commit in the year an amount that is more than the amount calculated under section 500; or

(b) borrow or provide a guarantee for a borrowing; or

(c) form, take part in forming, be a member of, or take part in the management of, a company other than a permissible company; or

(d) be a member of a partnership other than as a limited partner; or

(e) enter into an agreement or arrangement that does not restrict the liability of the local government, as between the parties, to the amount committed by the local government under the agreement or arrangement.

500 Establishing enterprise powers limits

(1) The amount of commitment to enterprises in a financial year to which a local government is limited includes the value of all property committed by the local government to any enterprise.

(2) A regulation may prescribe for the purposes of this part—

(a) the components of a local government's own source revenue; and

(b) the percentage of its own source revenue by reference to which the maximum amount of commitment to enterprises in a financial year to which a local government is limited by section 499(a) is to be established.

(3) If, in a financial year, a local government does not commit to enterprises an amount provided for in its budget for the purpose, the uncommitted amount may be carried forward to be committed to enterprises in a later financial year.

(4) However, if a maximum number of years for which local governments may carry forward uncommitted amounts under subsection (3) is prescribed by regulation, a local government must not exercise the power under the subsection for a financial year beyond the maximum number until the local government has lawfully applied the total amount carried forward by it.

(5) An amount carried forward under subsection (3), an accumulation of amounts carried forward under the subsection, or assets to the value of the amount or accumulation, may be committed (in whole or part) to enterprises by the local government in a financial year in addition to the amount of commitment permitted to the local government in the year under section 499(a).

(6) An amount carried forward under subsection (3) must be held in a reserve established by the local government in its operating fund until it is lawfully applied by it.

501 Register of enterprises

(1) A local government that exercises an enterprise power must keep a register that includes a record of—

(a) each enterprise engaged in, or helped by, the local government; and

(b) the identity of any entity with which the local government has engaged in, or helped, an enterprise as a joint venture; and

(c) particulars of the purpose to be achieved by the engagement or help; and

(d) the value of property committed by the local government to each enterprise engaged in, or helped by, the local government; and

(e) for each enterprise—the identity of the persons of relevant competence with whom the local government has consulted in exercising an enterprise power.

(2) Subsection (1)(d) is complied with if the value of property committed to an enterprise is shown as the market value of the property when it is committed.

(3) The register is open to inspection.

(4) A local government must give to the chief executive of the department and the auditor-general written notice of—

(a) the establishment of a register as soon as practicable after it is established; and

(b) each entry in the register as soon as practicable after it is made.

Part 5 General complaints process

501A Application to Brisbane City Council

This part applies to the Brisbane City Council.

501B Definitions for pt 5

In this part—

affected person means a person who is apparently directly affected by—

(a) an administrative action of a local government; or

(b) an alleged minor breach by a councillor of the local government's code of conduct.

complaint—

(a) means a complaint under a local government's general complaints process; but

(b) does not include a complaint that could be made under the complaints process provided for under chapter 11.

501C Meaning of *administrative action*

An ***administrative action*** of a local government is an action about a matter of administration, and includes each of the following—

(a) a decision and an act;

(b) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision;

(c) the formulation of a proposal or intention;

(d) the making of a recommendation.

501D Local government to establish general complaints process

(1) Each local government must, not later than the day mentioned in subsection (2), establish a process (a ***general complaints process***) for resolving complaints by affected persons about—

(a) administrative action of the local government; or

(b) an alleged minor breach of the local government's code of conduct by a councillor.

(2) For subsection (1), the day is the earlier of the following—

(a) the day the local government adopts its first code of conduct as required under section 250C;

(b) 1 March 2006.

(3) The process must be adopted by resolution of the local government.

(4) The local government must give notice of the adoption of the process by publishing, not later than 1 week after the resolution adopting the process is passed, a prescribed notice in a newspaper circulated generally in the local government's area.

(5) In this section—

prescribed notice means a notice stating the day on which the general complaints process was adopted by the local government.

501E Requirements for general complaints process

(1) The general complaints process must include at least the following elements—

(a) the process for selecting and appointing a complaints officer to investigate complaints;

(b) preliminary procedures before an affected person can make a complaint;

(c) the way an affected person may make a complaint;

(d) sending complaints to, and their investigation by, the complaints officer;

(e) giving an affected person who makes a complaint an opportunity to give the complaints officer further information about the complaint;

(f) a requirement that the complaints officer give the local government and affected person notice of a decision made by the officer under section 501F and the reasons for the decision;

(g) a requirement that, if the complaint is not resolved to the affected person's satisfaction through the general complaints process, the complaints officer give the local government and affected person—

(i) a written report on the results of the officer's investigation of the complaint; and

(ii) any recommendation in relation to the complaint the officer considers appropriate;

(h) the time within which the complaints officer must give the report and any recommendation mentioned in paragraph (g) to the local government;

(i) if a report and any recommendation mentioned in paragraph (g) is given to the local government—a requirement that the local government give the affected person notice of the outcome of the local government's consideration of the report and recommendation;

(j) recording the number of complaints made and resolved through the general complaints process.

(2) Also, the process mentioned in subsection (1)(a) must require that the person appointed to be a complaints officer to investigate a complaint must not be involved with the administrative action or alleged minor breach of the code of conduct that is the subject of the complaint.

501F Refusal to investigate complaint

(1) The complaints officer may refuse to investigate a complaint or, having started to investigate a complaint, refuse to continue the investigation if the officer reasonably considers that—

(a) the complaint is trivial; or

(b) the complaint concerns frivolous matter or was made vexatiously; or

(c) the person who made the complaint (the ***complainant***) does not have a sufficient direct interest in the administrative action or alleged minor breach of the code of conduct complained of; or

(d) both of the following apply—

(i) the complainant has a right of appeal, reference or review, or another remedy, that the person has not exhausted;

(ii) it would be reasonable in the circumstances to require the complainant to exhaust the right or remedy before the officer investigates, or continues to investigate, the complaint; or

(e) in the circumstances, investigating the administrative action or alleged minor breach of the code of conduct complained of is unnecessary or unjustifiable.

(2) A right or remedy mentioned in subsection (1)(d) does not include a right to make an application to the Supreme Court under the *Judicial Review Act 1991*.

Part 6 Miscellaneous

501G Prohibition on loans to individuals

A local government must not, whether directly or indirectly—

(a) make a loan to any individual; or

(b) give a guarantee or provide security in connection with a loan made to any individual.

Chapter 7 Financial operation and accountability of local governments

Part 1 Local Government Finance Standards

502 Issue of standards

(1) The Minister may make standards (the ***Local Government Finance Standards***) about—

(a) the policies and principles to be complied with in financial management, including internal audit, by—

(i) local governments; or

(ii) the trustees of a superannuation scheme (a ***relevant superannuation scheme***) established by a local government (whether alone or with other local governments); and

(b) the content of financial statements and annual reports by—

(i) local governments; or

(ii) the trustees of a relevant superannuation scheme; and

(c) each local government giving the Minister information on an annual basis about the payment of notional GST that may affect the distribution, under section 200, of financial assistance to the local government; and

(d) the application of the procurement principles;[30] and

(e) any matter that is required or permitted to be prescribed by standard; and

(f) requirements for full cost pricing and their application to significant business activities of local governments under chapter 8, part 5; and

(g) commercialisation and its application to local governments' commercial business units under chapter 8, part 6; and

(h) corporatisation and its application to corporatised corporations of local governments under chapter 8, part 7; and

(i) a code of competitive conduct for application of competitive neutrality principles to local governments' business activities, roads business activities and building certification business activities under chapter 9; and

(j) facilitating the implementation of chapter 10 including—

(i) charging arrangements for, and bases of operation of, relevant business activities providing water and sewerage services; and

(ii) providing how the following are to be applied—

(A) consumption as the basis for utility charges for water services;

(B) full cost recovery for water and sewerage services;

(C) identification and disclosure of cross-subsidies between classes of consumers and community service obligations in the provision of water and sewerage services;

(D) disclosure of the classes of consumers who are provided with water or sewerage services at an amount below full cost and the amount.

30 See section 481 (Principles governing the making of contracts).

(2) Before making a standard, the Minister must consult with the auditor-general about the standard.

(3) The standards may include practice statements if the Minister considers a uniform standard of practice or procedure is necessary or desirable.

(4) In preparing standards, the Minister must have regard to relevant standards made by appropriate professional bodies.

(5) A standard made under subsection (1) is subordinate legislation.

503 Standards must be complied with

Every local government, and the trustees of every relevant superannuation scheme and significant business entity (including a corporatised corporation), must comply with the Local Government Finance Standards.

Part 2 Corporate and operational plans

504 Preparation and adoption of corporate plan

(1) A local government must, from time to time, prepare and, by resolution, adopt a corporate plan.

(2) The local government must ensure each corporate plan is prepared and adopted in enough time, before the start of the first financial year covered by the plan, to allow preparation and adoption of a budget for the financial year consistent with the plan.

505 Period of corporate plan

(1) A corporate plan of a local government continues in force for the period specified in the plan or until the earlier adoption by the local government of a new corporate plan.

(2) The specified period for a corporate plan must be at least 4 years.

506 Amendment of corporate plan

A local government may, by resolution, amend its corporate plan at any time.

507 Requirements of corporate plans

A corporate plan or amendment of a corporate plan—

(a) must comply with the Local Government Finance Standards; and

(b) must be open to inspection for 30 days at least before the local government adopts the plan or amendment.

508 Preparation and adoption of operational plan

(1) A local government must, for each financial year, prepare and, by resolution, adopt an operational plan.

(2) The local government must ensure each operational plan is prepared and adopted in enough time, before the start of the financial year for which it is prepared, to allow preparation and adoption of a budget for the financial year consistent with the plan.

(3) When the plan is adopted by a local government, it becomes its operational plan for the financial year for which it is prepared.

509 Amendment of operational plan

A local government may, by resolution, amend an operational plan at any time before the end of the financial year for which it is prepared.

510 Requirements of operational plan

A local government's operational plan or an amendment of its operational plan must comply with the Local Government Finance Standards and its corporate plan.

511 Compliance with corporate and operational plans

A local government's exercise of the jurisdiction of local government must be consistent with its corporate plan and operational plan.

512 Evaluation of activities

(1) A local government must make assessments of its progress towards implementing its corporate and operational plans.

(2) The chief executive officer must present a written report on the assessments to a meeting of the local government at regular intervals, of not more than 3 months, decided by it.

513 Copies of plans to be available for inspection and purchase

(1) A local government must have its corporate and operational plans printed and a reasonable number of copies of the plans made.

(2) The local government must—

(a) keep the plans open for inspection; and

(b) make copies available for purchase at its public office at a price not more than the cost to the local government of producing the copy and, if a copy is supplied to a purchaser by post, the cost of postage.

Part 2A Revenue policy

513A Preparation and adoption of revenue policy

(1) A local government must, for each financial year, prepare and, by resolution, adopt a revenue policy.

(2) The local government must ensure each revenue policy is prepared and adopted in enough time, before the start of the financial year for which it is prepared, to allow preparation

and adoption of a budget for the financial year consistent with the policy.

(3) When the policy is adopted by the local government, it becomes the local government's revenue policy for the financial year for which it is prepared.

513B Requirements and content of revenue policy

(1) A local government's revenue policy, or an amendment of its revenue policy, must comply with the Local Government Finance Standards.

(2) The revenue policy must, if, under section 1035A, the local government intends to remit rates or defer payment of rates for the financial year, state the purpose of the remittance or deferral.

(3) A local government may, by resolution, amend its revenue policy for a financial year at any time before the financial year ends.

513C Copies of revenue policy to be available for inspection and purchase

A local government must—

(a) ensure its revenue policy is open to inspection; and

(b) make copies available for purchase at its public office at a price not more than the cost to the local government of producing the copy and, if a copy is supplied to a purchaser by post, the cost of postage.

Part 3 Funds and accounting procedures

514 Funds

A local government must establish and keep—

(a) an operating fund; and

(b) a trust fund.

515 Reserves

(1) A local government may establish specific reserves within its operating fund.

(2) It must keep separate accounting records for each reserve.

(3) Amounts held in a reserve that are no longer required may be applied for any purpose.

516 Trust fund

(1) A local government must credit to its trust fund—

(a) an amount paid to the local government—

(i) by way of deposit; or

(ii) in trust for a person; and

(b) an amount required by an Act to be paid to the trust fund.

(2) An amount credited to the trust fund must be applied—

(a) in payment to or for the person entitled to the amount according to law; or

(b) as required by the Act under which the amount was paid to the trust fund.

(3) An amount credited to the trust fund may, with the Minister's earlier agreement, be transferred to the operating fund if the purpose for which the amount was credited has ceased to exist.

(4) A local government must keep a separate account for its trust fund.

517 Compliance with sound accounting principles and procedures

(1) Payment to, and withdrawal from, funds kept by a local government must be consistent with sound accounting principles and procedures.

(2) A local government must establish and comply with—

(a) systems for managing its finances; and

(b) procedures for recording and reporting its financial operations and position.

(3) The systems and procedures must comply with the Local Government Finance Standards.

Part 4 Budget

518 Adoption of budget and revenue statement

(1) A local government must adopt, by resolution, for each financial year—

(a) a budget for its operating fund; and

(b) a revenue statement.

(2) The budget and revenue statement must be adopted—

(a) after 31 May before the financial year; and

(b) before—

(i) 1 September in the financial year; or

(ii) a later date fixed by the Minister.

519 Requirements of budgets

(1) The adoption of a budget, or an amendment, that does not comply with this section is void.

(2) Each budget of a local government—

(a) must be developed consistently with its corporate plan, operational plan and revenue policy; and

(b) must be clearly linked with the matters specified in the plans; and

(c) must comply with the Local Government Finance Standards; and

(d) must be accompanied by its revenue statement.

(3) A local government may, by resolution, amend its budget for a financial year at any time before the year ends.

(4) A local government may incur, for a purpose of genuine emergency or hardship, spending that is not authorised by its budget.

520 Content of operating fund budgets

(1) A local government's budget developed for its operating fund must specify the following matters for the financial year—

(a) its estimated costs in total, and for each of its significant activities;

(b) the sources of funds necessary for spending provided for in the budget.

(2) The budget also must specify the matters mentioned in subsection (1), in general terms, for the next 2 financial years.

(3) The budget must be the basis on which rates are to be made and levied by the local government for the financial year.

(4) For subsection (1)(a), the following are included as significant activities of the local government—

(a) the local government's significant business activities carried on, under chapter 8, part 5, on a full cost pricing basis;

(b) the activities of the local government's commercial business units under chapter 8, part 6;

(c) the local government's significant business activities to which chapter 10 applies.

520A Requirements and content of revenue statement

(1) A local government's revenue statement, or an amendment of the statement, must comply with the Local Government Finance Standards.

(2) A revenue statement must state each of the following matters—

(a) if the local government makes and levies a differential general rate for the financial year—

(i) the categories into which rateable land in its area is to be categorised; and

(ii) the criteria by which land is to be categorised;

(b) if the local government makes and levies a special rate or charge, for the financial year, for a service, facility or activity supplied by another local government under arrangements entered into under section 59—a summary of the terms of the arrangements;

(c) if the local government fixes a regulatory fee for the financial year—the criteria used to decide the amount of all regulatory fees fixed for the year.

(3) A local government may, by resolution, amend its revenue statement for a financial year at any time before the year ends.

521 Financial information to be presented to budget meeting

(1) The chief executive officer of a local government must present to its budget meeting for a financial year a document about the financial operations and financial position of the local government for the previous financial year.

(2) If the budget meeting for a financial year is held in June, a document presented to the meeting under subsection (1)—

(a) must relate to the financial operations of the local government for the financial year in which the meeting is held to the latest day to which the document can reasonably be compiled; and

(b) must contain an estimate of the financial operations of the local government from that day to the end of the financial year in which the meeting is held.

(3) The document must comply with the Local Government Finance Standards.

522 Spending of local government pending adoption of budget

A local government may, in a financial year, incur spending before adoption of its budget for the year, but the spending must be provided for in the appropriate budget for the year.

523 Councillors' liability for disbursements

(1) This section applies if—

(a) a local government makes a disbursement in a financial year from an operating fund; and

(b) the disbursement is not provided for in the budget adopted for the fund for the year.

(2) The councillors who knowingly agreed to the disbursement are jointly and severally liable to repay to the local government—

(a) the amount of the disbursement; and

(b) interest on the amount, calculated from the day of the disbursement to the day of repayment, at the rate at which interest accrues on overdue rates.

(3) However, subsection (2) does not apply if the disbursement was made for a purpose of genuine emergency or hardship.

(4) An amount for which councillors are jointly and severally liable under subsection (2) may be recovered, as a debt payable to the local government, by—

(a) the local government; or

(b) a person appointed by the Minister for the purpose; or

(c) an elector or ratepayer.

(5) An amount recovered by a person mentioned in subsection (4)(b) or (c) must be immediately paid to the local government.

524 Budgets and revenue statements to be available for inspection and purchase

(1) A local government must have its budget printed and a reasonable number of copies of the budget made.

(2) The local government must—

(a) keep the budget and its revenue statement open for inspection; and

(b) make copies available for purchase at its public office at a price not more than the cost to the local government of producing the copy and, if a copy is supplied to a purchaser by post, the cost of postage.

Part 5 Borrowing and investment

525 Local governments are statutory bodies

(1) Under the *Statutory Bodies Financial Arrangements Act 1982*, a local government is a statutory body.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the powers under this Act of a local government are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

526 Councillors' liability for unauthorised borrowings

(1) If a local government borrows money—

(a) without authority conferred under the *Statutory Bodies Financial Arrangements Act 1982*; or

(b) for a purpose that is not a proper exercise of its jurisdiction; or

(c) in contravention of this Act;

the councillors who knowingly agreed to the borrowing are jointly and severally liable to pay to the local government the amount borrowed and all interest, and other penalties incurred by the local government, for the borrowing.

(2) An amount for which councillors are jointly and severally liable under subsection (1) may be recovered, as a debt to the local government by—

(a) the local government; or

(b) a person appointed by the Minister for the purpose; or

(c) an elector or ratepayer.

(3) An amount recovered by a person mentioned in subsection (2)(b) or (c) must be immediately paid to the local government.

(4) This section must be given effect despite—

(a) the issue of a security for the borrowing by a local government; and

(b) the *Statutory Bodies Financial Arrangements Act 1982*.

Part 6 Accounts

527 Accounting records to be kept

(1) A local government must keep accounting records that present fairly its financial operations for a financial year and give a comparison with its budget for the year.

(2) The accounting records must be kept in a way that complies with the Local Government Finance Standards.

528 Statements of account to be presented to local government

(1) The chief executive officer of a local government must present statements of its accounts to the local government.

(2) The statements must be presented—

(a) if the local government holds its ordinary meetings monthly or less frequently—to each meeting; or

(b) if the local government holds its ordinary meetings more frequently—to a meeting in each month.

(3) Statements presented to a meeting must be for the period of the financial year up to a day as near as practicable to the end of the previous month.

(4) A statement must be consistent with the Local Government Finance Standards.

529 Statements of accounts open to inspection

The statements presented under section 528 are open to inspection.

Part 7 Audit

530 General reporting provisions

(1) The auditor-general may prepare a report on any audit performed by the auditor-general for the purposes of this Act.

(2) A copy of the report must be given to—

(a) the Minister; and

(b) the mayor and chief executive officer of the relevant local government.

(3) If the report is on an audit of the accounts of a scheme for superannuation benefits under section 238, a copy of the report also must be given to—

(a) the trustees of the scheme; and

(b) the mayor of the local government.

(4) The mayor must table a copy of any report at the next ordinary meeting of the local government.

Part 8 Annual report

531 Annual report to be prepared and adopted

(1) A local government must prepare an annual report for each financial year.

(2) The report must be presented to the local government for adoption, and must be adopted by it before 30 November in the year after the end of the financial year to which the report relates.

(3) However, the Minister may allow a longer period for a local government to comply with subsection (2).

532 Content of report about financial position of local government

An annual report must contain—

(a) the financial statements for the year as audited by the auditor-general; and

(b) the auditor-general's report on the financial statements.

533 Content of report about implementing corporate and operational plans

A local government's annual report also must contain an assessment of its performance in implementing its corporate and operational plans.

534 Content of report about other issues of public interest

(1) In addition, a local government's annual report must contain—

(a) details of action taken in relation to, and expenditure on, a service, facility or activity—

(i) for which the local government made and levied a special rate or charge for the financial year; and

(ii) supplied by another local government under arrangements entered into under section 59; and

(b) a list of all action taken under section 488(2) during the year; and

(c) a list of all resolutions made during the year under section 489(1); and

(d) a list of the registers kept by it and open to inspection; and

(e) a summary of all rebates and concessions allowed by the local government in relation to rates; and

(ea) a copy of the local government's expenses reimbursement policy; and

(f) a copy of any resolution made during the year under section 236A, 236B or 237; and

(g) particulars of—

(i) the total remuneration paid by it to each of its councillors under the remuneration schedule during the year; and

(ii) the expenses incurred by, and the facilities provided to, each of its councillors under the local government's expenses reimbursement policy during the year; and

(iii) the total superannuation contributions paid by it for each of its councillors during the year; and

(h) details of the number of meetings attended by each councillor during the year; and

(i) a statement including the information prescribed under a regulation about its activities during the year to implement its plan for equal opportunity in employment; and

(j) particulars of other issues relevant to making an informed assessment of its operations and performance in the financial year; and

(k) particulars of issues required by the Local Government Finance Standards; and

(l) names of shareholder's delegates of the local government for its LGOCs for the year under section 643; and

(m) particulars required to be included under section 847; and

(n) each of the following details for a financial year starting on 1 July 2005 or later—

(i) the total number of breaches of the local government's code of conduct committed by councillors as decided during the year by the local government;

(ii) the name of each councillor decided during the year by the local government to have breached the code, a description of how the councillor breached the code, and details of any penalty imposed by the local government on the councillor;

Examples of how breaches of the code of conduct might be described—

- misconduct at a local government meeting
- misuse of confidential information
- directing an employee in contravention of section 230(2) of the Act

(iii) the number of complaints about alleged code of conduct breaches by councillors, other than frivolous or vexatious complaints, that were referred to the conduct review panel during the year by the local government or the chief executive officer under chapter 4, part 3A;

(iv) the number of recommendations made to the local government by the conduct review panel during the year that were adopted, or not adopted, by the local government;

(v) the number of complaints resolved under the local government's general complaints process during the year and the number of those complaints that related to an alleged breach by a councillor of the local government's code of conduct;

(vi) the number of complaints made to the ombudsman, and notified to the local government, during the year about decisions made by the local government in relation to enforcement of its code of conduct.

(2) In this section—

frivolous or vexatious complaint means a complaint about a code of conduct breach by a councillor considered by the conduct review panel to—

(a) concern frivolous matter; or

(b) have been made vexatiously.

535 Copies of report to be available for inspection and purchase

(1) A local government must have the annual report adopted by it printed and a reasonable number of copies of the report made.

(2) The local government must—

(a) keep the report open to inspection; and

(b) make copies available for purchase at its public office at a price not more than the cost to the local government of producing the copy and, if a copy is supplied to a purchaser by post, the cost of postage.

Part 9 Duties about property stolen or unaccounted for

536 Report of missing property

(1) If a local government becomes aware that property of, or received by, it may have been stolen, the local government must immediately give written notice to—

(a) the police officer in charge of the police station at, or nearest to, the place where the property is suspected to have been stolen; and

(b) the auditor-general.

(2) If a local government becomes aware that property of, or received by it, is missing, but the property is not suspected to

have been stolen, the local government must immediately give written notice to the auditor-general.

(3) Subsection (2) applies only to property that has a total value of at least—

(a) $1000; or

(b) if a greater amount is prescribed by regulation—the greater amount.

537 Local Government to take part in prosecution

(1) A local government must not—

(a) obstruct, attempt to obstruct or fail to take part in a prosecution for an offence committed in relation to property mentioned in section 536; or

(b) deliberately withhold evidence relevant to the prosecution.

(2) The local government must not promise—

(a) to do anything prohibited under subsection (1); or

(b) to secure discontinuance of the prosecution.

Part 10 Joint local governments

538 Contribution by component local governments

Each component local government of a joint local government must pay to the operating fund of the joint local government the proportion prescribed by regulation of the amount required in each financial year for the operations of the joint local government.

539 Notice for contribution to joint local government

(1) To inform a component local government of the amount required to be paid by it in a financial year, a joint local government may issue a contribution notice.

(2) The contribution notice must—

(a) be signed by the president or deputy president; and

(b) specify the amount of contribution payable by the component local government; and

(c) require the component local government to pay the specified amount on or before a specified day (not earlier than 30 days after the notice is given to the component local government).

540 Results of failure to pay contribution

(1) If a component local government liable to pay an amount specified by a contribution notice fails to pay the amount to the joint local government by the specified day or within a longer period allowed by the joint local government—

(a) the unpaid amount bears interest at the rate decided by the joint local government; and

(b) the joint local government may recover the unpaid amount (and interest).

(2) The rate of interest must not be more than—

(a) the rate prescribed by regulation; or

(b) if no rate is prescribed—15% a year.

541 Adoption of a budget by joint local government for part of a year

(1) This section applies to a joint local government if a regulation specifies that its first budget must be for a specified part of a financial year.

(2) Section 518 applies to the joint local government's first budget as if a reference to 'financial year' were a reference to the specified part of the financial year.

542 Disbursement from operating fund of joint local government for purposes other than exclusive jurisdiction

(1) A joint local government may make a disbursement from its operating fund for any purpose that—

(a) is not within the exclusive jurisdiction of the joint local government; but

(b) is within the jurisdiction of local government.

(2) However, the disbursement may be made only if—

(a) the joint local government has, by resolution, decided that the amount of the disbursement is not required for exercising its exclusive jurisdiction; and

(b) the component local governments approve the purpose for which the disbursement is to be made.

(3) The approval may be given for the purpose for disbursements in more than 1 financial year.

(4) A disbursement under this section may be made—

(a) to a component local government or another entity; or

(b) directly by the joint local government.

Chapter 8 National competition reform of significant business activities

Part 1 Object and application

543 Object

The object of this chapter is to provide ways to facilitate the implementation of the National Competition Policy Inter-Governmental Agreements to the extent that the

agreements are intended to be applied to significant business activities of local governments.

544 Application to Brisbane City Council

This chapter applies to the Brisbane City Council.

Part 2 Definitions

545 Definitions for ch 8

In this chapter—

business activity, of a local government, means an activity of the local government trading in goods and services to clients, including, for example, providing cleansing services, water and sewerage services, off-street parking and cultural, sporting and recreational facilities, but does not include the construction or maintenance of roads or State-controlled roads or library services.

Commonwealth tax means tax imposed under a Commonwealth Act.

Competition Principles Agreement means the Competition Principles Agreement made on 11 April 1995 between the Commonwealth, the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia, the State of South Australia, the State of Tasmania, the Australian Capital Territory and the Northern Territory, as in force for the time being.

Conduct Code Agreement means the Conduct Code Agreement made on 11 April 1995 between the Commonwealth, the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia, the State of South Australia, the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia, as in force for the time being.

government tax means tax imposed under a Commonwealth Act, or a State Act, including this Act.

Implementation Agreement means the Agreement to Implement National Competition Policy and Related Reforms made on 11 April 1995 between the Commonwealth, the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia, the State of South Australia, the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia, as in force for the time being.

National Competition Policy Inter-Governmental Agreements means the Conduct Code Agreement, the Competition Principles Agreement and the Implementation Agreement.

new type 1 business activity means a business activity of a local government identified by it as a new type 1 business activity under section 547.

new type 1 or 2 business activity means a new type 1 business activity or a new type 2 business activity.

new type 2 business activity means a business activity of a local government identified by it as a new type 2 business activity under section 547.

public benefit assessment means an assessment of a significant business activity of a local government under this chapter.

public benefit assessment report means the report, including recommendations, on a public benefit assessment.

significant business activity, of a local government, means—

(a) a type 1 or 2 business activity; or

(b) a new type 1 or 2 business activity;

and includes a part of the activity.

significant business entity means an entity established by resolution of a local government under part 7, and includes a significant business entity after it becomes a corporatised corporation.

State tax means tax imposed under an Act, including this Act.

tax includes any charge, duty, fee, levy and rate.

threshold amount, for identifying a new type 1 or 2 business activity, see section 546.

type 1 business activity means the provision of the following—

(a) for Brisbane City Council—

- public transport services
- cleansing services
- water and sewerage services;

(b) for Gold Coast City Council—

- cleansing services
- water and sewerage services;

(c) for Ipswich City Council—

- water and sewerage services;

(d) for Logan City Council—

- water and sewerage services;

(e) for Townsville City Council—

- water and sewerage services.

type 1 or 2 business activity means a type 1 business activity or a type 2 business activity.

type 2 business activity means the provision of the following—

(a) for Caboolture Shire Council—

- water and sewerage services;

(b) for Cairns City Council—

- cleansing services
- water and sewerage services;

(c) for Caloundra City Council—

- water and sewerage services;

(d) for Hervey Bay City Council—

- water and sewerage services;

(e) for Ipswich City Council—

- cleansing services;

(f) for Logan City Council—

- cleansing services;

(g) for Mackay City Council—

- water and sewerage services;

(h) for Maroochy Shire Council—

- cleansing services
- water and sewerage services;

(i) for Noosa Shire Council—

- water and sewerage services;

(j) for Pine Rivers Shire Council—

- water and sewerage services;

(k) for Redland Shire Council—

- water and sewerage services;

(l) for Rockhampton City Council—

- water and sewerage services;

(m) for Thuringowa City Council—

- water and sewerage services;

(n) for Toowoomba City Council—

- water and sewerage services;

(o) for Townsville City Council—

- cleansing services.

Part 3 Identification of new type 1 and 2 business activities

546 Minister to decide threshold amounts for identifying new type 1 or 2 business activities

(1) Before the end of each financial year, the Minister must decide for the financial year amounts (the ***threshold amounts***) for identifying a business activity that should be a new type 1 or 2 business activity.

(2) The Minister may decide threshold amounts only after consultation with the Local Government Association.

(3) For identifying an activity that should be a new type 1 business activity, a threshold amount is an amount of expenditure the Minister considers is the equivalent (at 30 June in the financial year in which the amount is decided after adjustment for actual or estimated cost of living movements and changes to applicable accounting systems) of current expenditure of—

(a) for water and sewerage combined activities—$25 million at 30 June 1993; or

(b) for other activities—$15 million at 30 June 1993.

(4) For identifying an activity that should be a new type 2 business activity, a threshold amount is an amount of expenditure the Minister considers is the equivalent (at 30 June in the financial year in which the amount is decided after adjustment for actual or estimated cost of living movements and changes to applicable accounting systems) of current expenditure of—

(a) for water and sewerage combined activities—$7.5 million at 30 June 1993; or

(b) for other activities—$5 million at 30 June 1993.

(5) The Minister must in the financial year in which threshold amounts are decided publish the threshold amounts by gazette notice.

547 Annual review of business activities

(1) As soon as practicable after its budget meeting for a financial year (the ***relevant year***), a local government must, for the financial year, identify its business activities that—

(a) are new type 1 or 2 business activities; and

(b) have not previously been identified as being significant business activities.

(2) For subsection (1), a business activity is a new type 1 or 2 business activity of a local government, if, based on financial information presented to the local government's budget meeting for the relevant year, the activity had expenditure for the preceding financial year greater than the threshold amount decided for the activity in that preceding financial year.

(3) A notice under section 546(5) may state matters in financial information presented to the budget meeting for a financial year, the local government must, or must not, consider in deciding if an activity should be a new type 1 or 2 business activity for the following financial year.

548 Notice to Minister of new type 1 or 2 business activities

As soon as practicable after deciding a business activity is a new type 1 or 2 business activity, a local government must give written notice to the Minister.

Part 4 Public benefit assessment of significant business activities

Division 1 Subject matter of public benefit assessments

549 Matters to be addressed by public benefit assessment for type 1 or new type 1 business activity

(1) A public benefit assessment for a type 1 or new type 1 business activity must consider how the activity should be carried on by—

(a) reviewing the appropriateness of each of the following reforms for the activity—

(i) corporatisation of the activity;

(ii) commercialisation of the activity;

(iii) full cost pricing for the activity; and

(b) concluding whether or not and, if so, to what extent, the benefits that would be realised from implementation of the reforms mentioned in paragraph (a) would outweigh the costs.

(2) An assessment may, and it is declared always could, consider—

(a) different reforms for separate parts of the activity; and

(b) sequential reforms for the whole or part of the activity.

Example for subsection (2)—

An assessment may consider whether the whole or part of an activity should be reformed and, in recommending reform of part of the activity, the public benefit assessment report could recommend that for the part—

(a) full cost pricing be implemented by 1 July 1999; and

(b) commercialisation be implemented by 1 July 2000; and

(c) the activity be corporatised by 1 July 2002.

550 Matters to be addressed by public benefit assessment for type 2 or new type 2 business activity

(1) A public benefit assessment for a type 2 or new type 2 business activity must consider how the activity should be carried on by—

(a) reviewing the appropriateness of each of the following reforms for the activity—

(i) commercialisation of the activity;

(ii) full cost pricing for the activity;

(iii) if the local government decides, by resolution, it is appropriate for consideration—corporatisation of the activity; and

(b) concluding whether or not and, if so, to what extent, the benefits that would be realised from implementation of the reforms mentioned in paragraph (a) would outweigh the costs.

(2) An assessment may, and it is declared always could, consider—

(a) different reforms for separate parts of the activity; and

(b) sequential reforms for the whole or part of the activity.

Example for subsection (2)—

An assessment may consider whether the whole or part of an activity should be reformed and, in recommending reform of part of the activity, the public benefit assessment report could recommend that for the part—

(a) full cost pricing be implemented by 1 July 1999; and

(b) commercialisation be implemented by 1 July 2000; and

(c) the activity be corporatised by 1 July 2002.

551 What is corporatisation

(1) For a public benefit assessment, corporatisation of a significant business activity of a local government involves—

(a) the establishment of a legal entity for the activity separate from, but owned by, the local government and supported by a full corporate governance structure, including a board of directors; and

(b) the entity providing goods and services on a commercial basis; and

(c) the entity receiving subsidies to provide goods and services, as community service obligations, that it would not otherwise be in the commercial interests of the entity to provide.

(2) Implications of corporatisation include—

(a) the question of—

(i) payment of government taxes or retention by the local government of amounts equivalent to taxes or rates; and

(ii) retention by the local government of amounts equivalent to debt guarantee fees for State guarantees; and

(b) compliance with Commonwealth, State and local government requirements that apply only if the activity is carried on by a private sector business, such as those relating to the protection of the environment and planning and approval processes.

(3) If, before corporatisation of a significant business activity by a local government, the local government is not liable to pay a State tax that would be payable if the activity were corporatised, an amount equivalent to the tax is to be payable by the entity to the local government in place of payment of the tax to the State.

(4) Part 7 applies to the implementation of corporatisation for a significant business activity of a local government.

552 What is commercialisation

(1) For a public benefit assessment, commercialisation of a significant business activity of a local government involves—

(a) the activity being carried on by a business unit of the local government that is not a legal entity separate from the local government; and

(b) the unit providing goods and services on a commercial basis; and

(c) the unit receiving subsidies to provide goods and services, as community service obligations, that it would not otherwise be in the commercial interests of the unit to provide.

(2) Implications of commercialisation include—

(a) the question of retention by the local government of—

(i) amounts equivalent to government taxes that are not otherwise payable to the Commonwealth, State or local government; and

(ii) amounts equivalent to debt guarantee fees for State guarantees; and

(b) compliance with Commonwealth, State and local government requirements that apply only if the activity is carried on by a private sector business, such as those relating to the protection of the environment and planning and approval processes.

(3) Part 6 applies to the commercialisation of a significant business activity of a local government.

553 What is full cost pricing

(1) For a public benefit assessment, full cost pricing for a significant business activity means prices are charged for goods and services taking into account the full cost of providing the goods or services including estimates of the amounts mentioned in section 552(2)(a).

(2) Part 5 applies to the application of full cost pricing for a significant business activity of a local government.

Division 2 Content of public benefit assessment report

554 Matters to be addressed in public benefit assessment reports

(1) A public benefit assessment report must include—

(a) a statement on whether or not and, if so, to what extent, the benefits that would be realised from implementation of any of the reforms considered under section 549 or 550 would outweigh the costs; and

(b) details of those costs and benefits; and

(c) a recommendation on whether any of the reforms should be implemented for the significant business activity; and

(d) if reform is recommended—

(i) a statement of which reform should be implemented; and

(ii) a timetable for its implementation.

(2) A report may, and it is declared always could, recommend—

(a) different reforms for separate parts of the activity; and

(b) sequential reforms for the whole or part of the activity.

Example for subsection (2)—

An assessment may consider whether the whole or part of an activity should be reformed and, in recommending reform of part of the activity, the public benefit assessment report could recommend that for the part—

(a) full cost pricing be implemented by 1 July 1999; and

(b) commercialisation be implemented by 1 July 2000; and

(c) the activity be corporatised by 1 July 2002.

Division 3 Local government to undertake assessments

555 Public benefit assessments to be undertaken

(1) A local government must ensure that a public benefit assessment is undertaken and a public benefit assessment report prepared for each of its significant business activities.

(2) A local government may, by resolution, decide a public benefit assessment is to be carried out and a public benefit assessment report be prepared for any of its activities that are not significant business activities.

(3) If a local government acts under subsection (2)—

(a) this chapter, other than sections 556, 558(1) and 564(3), applies, with all necessary changes, to the activity as if it were a new type 2 business activity; and

(b) for chapter 11, the activity is taken to be significant business activity, under this chapter, carried on by a local government business entity.

556 Fresh public benefit assessment if reforms not implemented within 3 years

(1) This section applies if—

(a) a public benefit assessment report on a significant business activity of a local government recommends reforms under this part; and

(b) the local government resolves not to implement any reforms.

(2) The local government must ensure a fresh public benefit assessment is carried out and a fresh public benefit assessment report prepared for the activity within 3 years after the end of the financial year in which the report was first presented to the local government.

557 Local government to resolve on assessment and report process

(1) The local government must, by resolution, decide—

(a) how the public benefit assessment is to be conducted; and

(b) the matters the public benefit assessment report must deal with; and

(c) when the report is to be presented to the local government.

Example for paragraph (a)—

The local government may decide the public benefit assessment is to be undertaken by the local government or by external consultants or in cooperation with other local governments

undertaking public benefit assessments of similar significant business activities.

(2) The resolution must provide for a consultation process and state how the process is to be used in the assessment.

Example for subsection (2)—

A local government may resolve that the consultation process must include—

(a) giving notice of the assessment and inviting submissions about the assessment; and

(b) a period for submissions to be received; and

(c) direct consultation with interested parties; and

(d) consideration of the submissions received about the assessment; and

(e) publication of a draft public benefit assessment report for public comment before the report is finalised.

(3) The resolution is subject to section 554 and a regulation under section 559.

558 Timing for assessments and reports

(1) The public benefit assessment report must be completed—

(a) for a type 1 or 2 business activity—

(i) before 30 June 1997; or

(ii) a day (not later than 30 September 1997) approved by the Minister; or

(b) for a new type 1 business activity—

(i) before the end of the financial year for which the activity is first identified by the local government as a new type 1 business activity; or

(ii) a day (not later than 3 months after the end of the financial year) approved by the Minister; or

(c) for a new type 2 business activity—

(i) before the end of the financial year for which the activity is first identified by the local government as a new type 2 business activity; or

(ii) a day (not later than 3 months after the end of the financial year) approved by the Minister.

(2) The report must be presented to a meeting of the local government as soon as practicable after the report is completed.

559 Regulation about public benefit assessment and public benefit assessment reports

A regulation may prescribe requirements for public benefit assessments and public benefit assessment reports.

Division 4 Action to be taken on public benefit assessment reports

560 Object of division

The object of this division is to require local governments to consider public benefit assessment reports and to decide whether or not to implement reforms of their significant business activities and, if reforms are to be implemented, timetables for implementation of the reforms.

561 Local government to give public notice of public benefit assessment report

(1) A local government must give public notice of the public benefit assessment report for each of its significant business activities.

(2) The notice must be given by—

(a) publishing the notice, as soon as practicable after the report has been presented to a meeting of the local government under section 558(2), once in a newspaper circulating generally in the local government's area; and

(b) putting a copy of the notice on display in a conspicuous place in the local government's public office on the day on which the notice is published under paragraph (a); and

(c) keeping the copy of the notice on display until the local government resolves under section 563 whether any of

the reforms considered under section 549 or 550 should be implemented for the significant business activity.

(3) The notice must state the following—

(a) the name of the local government;

(b) the report has been presented to the local government;

(c) a summary of the report's recommendations;

(d) the day, under section 563, on or before which the local government is required to decide whether to implement any of the reforms mentioned in the report;

(e) the report is open to inspection.

562 Public access to public benefit assessment reports

From the day the public benefit assessment report for a significant business activity is presented to a meeting of a local government until the local government decides under section 563 whether to implement any of the reforms—

(a) a copy of the report must be open to inspection; and

(b) copies of the report must be available for purchase at the local government's public office at the price stated in the notice about the report.

563 Local government to resolve whether to implement reforms

(1) As soon as practicable, and not later than 3 months after a public benefit assessment report for a significant business activity has been first presented to a meeting of a local government, the local government must resolve whether any of the reforms considered under section 549 or 550 should be implemented for the whole or part of the activity.

(2) A resolution not to implement a reform recommended in the report must include a statement of the reasons for not implementing the reform.

564 Timetable for implementation of reforms

(1) This section applies if a local government resolves under section 563 to implement a reform of a significant business activity.

(2) The local government must also, by the resolution, decide a timetable for implementation of the reform under subsection (3).

(3) The reform of the activity must be implemented on or before—

(a) for a type 1 or 2 business activity—1 July 1998; or

(b) for a new type 1 or 2 business activity—the start of the second financial year after the financial year for which the activity was identified as being a new type 1 or 2 business activity.

(4) For a particular significant business activity, the Minister may extend the time for its implementation subject to the terms the Minister considers appropriate.

(5) If the Minister extends the time for implementation, the local government may, by resolution, amend the timetable for implementation in accordance with the extension.

(6) Subsection (7) applies if, under section 563, a local government resolves to implement a series of reforms for the whole or part of a significant business activity.

(7) Subsection (3) applies only to the first of the series of reforms for the significant business activity but the resolution of the local government must include a timetable for implementation of the remaining reforms.

565 Notice to Minister of resolution

As soon as practicable after making a resolution to implement, or not to implement, a reform considered under section 549 or 550, a local government must give to the Minister—

(a) a copy of the public benefit assessment report; and

(b) a copy of the resolution.

566 Reforms not implemented, may later be implemented

(1) Although a local government resolves not to implement a reform recommended in a public benefit assessment report for a significant business activity, the local government may, at a later time, resolve to implement the reform.

(2) Sections 564 (other than subsection (3)) and 565 apply, with all necessary changes, to a local government acting under this section.

Part 5 Full cost pricing for significant business activities

567 Application of pt 5

This part applies to a significant business activity of a local government if the local government has resolved under section 563 or 566 to implement full cost pricing for the activity.

568 Meaning of *full cost pricing*

(1) ***Full cost pricing***, for a significant business activity of a local government, is charging for goods or services taking into account the full cost of providing the goods or services, including estimates of amounts equivalent to—

(a) government taxes that are not otherwise payable to the Commonwealth, State or local government; and

(b) cost of funds advantage the local government obtains over commercial rates of interest because of State guarantees used for providing the goods or services.

(2) Full cost pricing includes—

(a) where possible and appropriate, the removal of advantages and disadvantages that would not apply to the significant business activity if it were carried on by a private sector business; and

(b) if removal of the advantages or disadvantages does not happen, taking them into account in charging for goods or services.

(3) Full cost pricing also includes compliance with Commonwealth, State and local government requirements that apply only if the activity were carried on by a private sector business, including, for example, requirements relating to the protection of the environment and planning and approval processes.

569 Guarantees by State

If the State guarantees repayment of a debt of a local government for a significant business activity for which full cost pricing is implemented, the local government must, in carrying on the activity, take account of amounts equivalent to the cost of funds advantage the local government obtains over commercial rates of interest because of the guarantee.

570 Local government to implement full cost pricing for significant business activities

The local government must implement full cost pricing for each of its significant business activities in accordance with the timetable for its implementation.[31]

31 Section 564 (Timetable for implementation of reforms) requires a local government to decide a timetable for implementation of reforms.

Part 6 Commercialisation of significant business activities

Division 1 Preliminary

571 Application of pt 6

This part applies to a significant business activity of a local government if the local government has resolved under section 563 or 566 to implement commercialisation of the activity.

Division 2 Background and objectives of part

572 Objectives of commercialisation

The objectives of commercialisation of significant business activities of a local government are to improve overall economic performance and the local government's ability to carry out its responsibilities for the good rule and government of its area by—

(a) establishing efficient and effective commercial business units; and

(b) establishing a framework for operation and accountability of the units.

573 How objectives of commercialisation are to be achieved—key principles and their elements

The objectives of commercialisation of significant business activities are to be achieved through application of the key principles of commercialisation and their elements.

574 Key objectives of commercial business units under commercialisation

(1) Under commercialisation, the key objectives of a local government's commercial business unit are to be

commercially successful in carrying on its activities and efficient and effective in the provision of goods and delivery of its services, including things done as community service obligations.

(2) The commercial success, efficiency and effectiveness of a commercial business unit are to be measured against its financial and non-financial performance targets.

Division 3 Interpretation

575 Meaning of *commercialisation*

(1) ***Commercialisation*** of a significant business activity of a local government involves—

(a) the activity being carried on by a commercial business unit of the local government that is not a legal entity separate from the local government; and

(b) the unit providing goods or services on a commercial and full cost pricing basis; and

(c) subsidies to do anything, as community service obligations, that would not otherwise be in the commercial interests of the unit to do.

(2) ***Commercialisation*** includes—

(a) retention by the local government of—

(i) amounts equivalent to government taxes that are not otherwise payable to the Commonwealth, State or local government; and

(ii) cost of funds advantage the local government obtains over commercial rates of interest because of State guarantees used for providing the goods or services; and

(b) compliance with Commonwealth, State and local government requirements that apply only if the activity were carried on by a private sector business, including, for example, requirements relating to the protection of the environment and planning and approval processes.

576 Meaning of *key principles of commercialisation*

(1) The ***key principles of commercialisation*** are—

(a) principle 1—clarity of objectives; and

(b) principle 2—management autonomy and authority; and

(c) principle 3—accountability for performance; and

(d) principle 4—competitive neutrality.

(2) The elements of principle 1 are that—

(a) the commercial business unit will have clear, non-conflicting objectives; and

(b) specific financial and non-financial performance targets will be set for the commercial activities of the commercial business unit; and

(c) any activities of a local government policy formulation or regulatory nature will, wherever possible, be kept separate from its commercial business unit; and

(d) any community service obligations of the commercial business unit will be—

(i) clearly identified in the unit's annual performance plan; and

(ii) separately costed; and

(e) the commercial business unit will be appropriately funded for its community service obligations and any funding will be made apparent; and

(f) the commercial business unit will be set performance targets for its community service obligations.

(3) The elements of principle 2 are that—

(a) the commercial business unit will be required to use its best endeavours to ensure it meets its performance targets; and

(b) the commercial business unit will be given the autonomy in its day to day operations subject to overarching control mechanisms under the commercialisation framework; and

(c) local government directions for the commercial business unit to achieve non-commercial objectives will be exercised in an open way; and

(d) in its day to day operations the commercial business unit will be at arms length to its local government.

(4) The elements of principle 3 are that—

(a) performance of the commercial business unit will be monitored by the local government against performance targets specified in its annual performance plan; and

(b) commercial business units will generally be subject to the basic management framework of the local government and will comply with the requirements of laws applying to local governments.

(5) The elements of principle 4 are that—

(a) the efficiency of overall resource use is promoted by ensuring markets are not unnecessarily distorted; and

(b) wherever possible and appropriate, advantages and disadvantages accruing to a commercial business unit because it is part of the local government should be removed.

577 Definitions for pt 6

In this part—

commercialisation see section 575.

community service obligations, of a commercial business unit of a local government, means the obligations to do anything the local government is satisfied—

(a) are not in the unit's commercial interests to perform; and

(b) arise because of a direction by the local government; and

(c) do not arise because of the application of the following key principles of commercialisation and their elements—

(i) principle 3—accountability for performance;

(ii) principle 4—competitive neutrality.

full cost pricing, for a significant business activity of a local government, is charging for goods or services taking into account the full cost of providing the goods or services, including amounts equivalent to—

(a) government taxes that are not otherwise payable to the Commonwealth, State or local government; and

(b) debt guarantee fees for State guarantees.

key principles of commercialisation see section 576.

Division 4 Establishment of commercial business unit

578 Local government to establish commercial business unit

A local government must establish a unit of the local government (a ***commercial business unit***) for the carrying on of 1 or more of the local government's significant business activities under the resolution to implement commercialisation of the activity.[32]

Division 5 Operations of commercial business unit

579 Additional requirements for corporate plan

A local government's corporate plan under chapter 7, part 2, must include, for each of its commercial business units, an outline of—

(a) its objectives; and

(b) the nature and scope of the activities proposed to be carried out by the unit.

32 Section 563 (Local government to resolve whether to implement reforms) requires a resolution.

580 Performance plan for commercial business units

(1) There must be an annual performance plan for each commercial business unit.

(2) A local government's operational plan under chapter 7, part 2, must include the annual performance plan for each of its commercial business units.

(3) A performance plan may be amended at any time before the end of the financial year for which it is prepared.

Division 6 Annual statement on operations of commercial business unit

581 Annual statement on operations of commercial business unit

(1) A local government must ensure an annual statement on the operations of each commercial business unit for the preceding financial year is given to the local government.

(2) The statement must contain—

(a) information to enable an informed assessment to be made of the unit's operations, including a comparison of the unit's performance with its annual performance plan; and

(b) particulars of any amendments made to its annual performance plan in the financial year; and

(c) particulars of any directions (including directions about community service obligations to be carried out by the unit) to the unit for the financial year; and

(d) particulars of the impact that any changes to its annual performance plan may have had on the unit's financial position, operating surpluses and deficits and prospects.

(3) The statement must be included in the local government's annual report.

582 Commonwealth and State tax equivalents

(1) The Treasurer may issue a manual (the ***tax equivalents manual***) about deciding the amounts (***tax equivalents***) that must be taken into account by a commercial business unit in applying full cost pricing to its operations as the value of benefits derived by the unit if there is no liability to pay a government tax that would be payable by the unit if it were not a part of a local government.

(2) Without limiting subsection (1), the tax equivalents manual may provide for—

(a) rulings by the tax assessor appointed under subsection (3) on issues about tax equivalents, including the application of rulings under a Commonwealth Act about Commonwealth tax; and

(b) lodging of returns and giving of information; and

(c) assessing returns; and

(d) functions and powers of the tax assessor; and

(e) objections and appeals against assessments and rulings.

(3) The Treasurer may appoint a person to be the tax assessor under the tax equivalents manual.

(4) A commercial business unit must, as required under the tax equivalents manual, account for tax equivalents.

(5) The Treasurer must table a copy of the tax equivalents manual, and each amendment of the manual, in the Legislative Assembly within 14 sitting days after the manual is issued or the amendment made.

583 Guarantees by State

If the State guarantees repayment of a debt of a local government for a significant business activity carried on by a commercial business unit of the local government, the local government must, in the unit's operations, take account of amounts equivalent to the cost of funds advantage the unit obtains over commercial rates of interest because of the guarantee.

Part 7 Local government owned corporations

Division 1 Preliminary

Subdivision 1 Application of part

584 Application of pt 7

This part applies to a significant business activity of a local government if the local government resolves to implement corporatisation in relation to the activity.[33]

Subdivision 2 Outline of part and its background and objectives

585 What this part provides

This part provides for the processes necessary to allow for—

(a) local governments to propose the acquisition of a part of a local government, or parts of local governments, carrying on a significant business activity by corporatised corporations; and

(b) the nomination of parts of local governments carrying on significant business activities as candidate LGOCs or candidate subsidiaries; and

(c) the preparation and approval of corporatisation charters for candidate LGOCs; and

(d) the establishment of significant business entities as separate legal entities; and

33 See sections 563 (Local government to resolve whether to implement reforms), 566 (Reforms not implemented, may later be implemented) and 616 (Significant business entities).

(e) significant business entities to become corporatised corporations and to acquire the business of candidates; and

(f) the operation of corporatised corporations.

586 Objectives of corporatisation

The objectives of corporatisation are to improve overall economic performance, and the ability of local governments to carry out their responsibilities for the good rule and government of their areas, by—

(a) establishing efficient and effective corporatised corporations; and

(b) establishing a framework for accountability of corporatised corporations.

587 How objectives of corporatisation are to be achieved—key principles and their elements

The objectives of corporatisation are to be achieved through application of the key principles of corporatisation and their elements.

588 Key objectives of corporatised corporation under corporatisation

(1) Under corporatisation, the key objectives of a corporatised corporation are to be commercially successful in the carrying on of its activities and efficient and effective in the provision of goods and delivery of its services, including services provided as community service obligations.

(2) The commercial success, efficiency and effectiveness of a corporatised corporation are to be measured against its financial and non-financial performance targets.

Subdivision 3 Interpretation

589 Meaning of *corporatisation*

Corporatisation is a reform process for certain significant business activities of local governments that—

(a) changes the conditions and the structure under which the business activities are carried on so they are acquired and carried on by separate legal entities (corporatised corporations) and, as far as practicable, on a commercial basis and in a competitive environment; and

(b) provides for local government ownership (whether directly or through ownership of an LGOC) of the corporatised corporations operating the business activities; and

(c) allows local governments to provide strategic direction to the corporatised corporations by setting financial and non-financial performance targets and community service obligations.

590 Meaning of *key principles of corporatisation*

(1) The ***key principles of corporatisation*** are—

(a) principle 1—clarity of objectives; and

(b) principle 2—management autonomy and authority; and

(c) principle 3—strict accountability for performance; and

(d) principle 4—competitive neutrality.

(2) The elements of principle 1 are that—

(a) each corporatised corporation will have clear, non-conflicting objectives; and

(b) each corporatised corporation will be set specific financial and non-financial performance targets for its commercial activities; and

(c) any activities of a local governmental policy formulation or regulatory nature will, wherever possible, be kept separate from its corporatised corporation; and

(d) any community service obligations of the corporatised corporation will be—

(i) clearly identified in the corporation's statement of corporate intent; and

(ii) separately costed; and

(e) the corporatised corporation will be appropriately compensated for its community service obligations and any funding will be made apparent; and

(f) the corporatised corporation will be set performance targets for its community service obligations.

(3) The elements of principle 2 are that—

(a) each corporatised corporation will have a board of directors appointed on merit; and

(b) the board will be required to use its best endeavours to ensure that the corporation meets its performance targets; and

(c) the board will be given the autonomy and authority to make commercial decisions within areas of responsibility defined by the corporatisation framework; and

(d) the local government's former power to make decisions on the operation of a significant business activity will be replaced with procedures for strategic monitoring of corporatised corporations; and

(e) the role of the shareholder in relation to the corporatised corporation will be clearly defined; and

(f) local government reserve powers will be required to be exercised in an open way.

(4) The elements of principle 3 are that—

(a) the board of the corporatised corporation will be accountable to the shareholder for the corporation's performance; and

(b) the corporation's statement of corporate intent will form the basis for accountability; and

(c) performance will be monitored by the shareholder against performance targets stated in the statement of corporate intent; and

(d) shareholder monitoring of the corporation is intended to compensate for the absence of the wide range of monitoring to which listed corporations are subject by, for example, the sharemarket and Commonwealth regulatory agencies.

(5) The elements of principle 4 are that—

(a) the efficiency of overall resource use is promoted by ensuring markets are not unnecessarily distorted; and

(b) to ensure, wherever possible, the removal of advantages and disadvantages accruing to the corporatised corporation as a result of local government ownership; and

(c) if a corporation has monopoly or near monopoly power—

(i) if a local government decides it is appropriate to increase competition, there may be reform of the business activity; and

(ii) special monitoring may be necessary to prevent abuse of this power.

591 Meaning of *statement of corporate intent*

(1) The ***statement of corporate intent*** of a corporatised corporation is a document created for the corporation under division 3, subdivision 9.

(2) It is intended that the statement of corporate intent should represent an agreement between the board of the corporation and its shareholder but the statement is not a contract for carrying out of work or for supply of goods or services.

592 Definitions for pt 7

In this part—

board, of a corporatised corporation, means the corporation's board of directors.

borrow includes—

(a) raise money or credit; and

(b) obtain financial accommodation; and

(c) borrow in a foreign currency.

candidate means a candidate LGOC or a candidate subsidiary.

candidate LGOC means a part of a local government carrying on a significant business activity nominated by the local government under section 601 for its business to become the business of an LGOC.

candidate subsidiary means a part of a local government carrying on a significant business activity nominated by the local government under section 601 for its business to become the business of a subsidiary of an LGOC.

charter transitional part see section 609.

community service obligations see section 677.

corporatisation see section 589.

corporatisation charter means—

(a) for a candidate LGOC—

(i) the draft corporatisation charter approved by the candidate LGOC's local government as its corporatisation charter; or

(ii) if the local government approves an amendment of the corporatisation charter—the corporatisation charter as amended; or

(b) for an LGOC—the corporatisation charter for the LGOC when it was a candidate LGOC as amended from time to time and, on expiry of the charter transitional part, the remainder of the charter.

corporatised corporation means an LGOC or a subsidiary of an LGOC.

financial accommodation, for a corporatised corporation, includes a financial benefit and assistance to obtain a financial benefit, arising from or because of—

(a) a loan; or

(b) issuing, endorsing or other dealing in promissory notes; or

(c) drawing, accepting, endorsing or other dealing in bills of exchange; or

(d) issuing, purchasing or other dealing in securities; or

(e) granting or taking a lease of any property for financing purposes; or

(f) another arrangement prescribed under a regulation.

instrument means an instrument of any kind (whether express or implied and whether made or given orally or in writing), and includes—

(a) a contract, deed, agreement, arrangement, understanding or undertaking; and

(b) a mandate, instruction, notice, authority or order; and

(c) a lease, licence, transfer, conveyance or other assurance; and

(d) a guarantee, bond, power of attorney, bill of lading, negotiable instrument or order for the payment of money; and

(e) a mortgage, charge, lien or security.

key principles of corporatisation see section 590.

lease includes—

(a) licence, charter or hiring arrangement of property; and

(b) an arrangement under which a right to use, operate or provide goods or services in relation to property is granted by a person to another person.

LGOC (or ***local government owned corporation***) means a significant business entity declared to be a local government's LGOC by resolution of the local government that has taken effect.

main undertakings, for a corporatised corporation, means the undertakings stated in the corporation's most recent statement of corporate intent as the corporation's main undertakings.

officer, of a corporatised corporation, means—

(a) a director of the corporation; or

(b) the corporation's chief executive officer; or

(c) for sections other than sections 698, 702 and 703—another person who is concerned, or takes part, in the corporation's management; or

(d) for sections 698, 702 and 703—an employee of the corporation.

security includes inscribed stock, debenture, bond, debenture stock, note and any other document creating, evidencing or acknowledging indebtedness (whether or not constituting a charge on property).

share, for a significant business entity (including a corporatised corporation) or another corporation, means a share in the entity's or corporation's share capital.

shareholder means—

(a) for an LGOC—

(i) if a local government holds all the shares in the LGOC—the local government; or

(ii) if 2 or more local governments hold shares in the LGOC—all local governments holding the shares in the LGOC; or

(b) for a subsidiary of an LGOC—its LGOC.

shareholder's delegate see section 643.

statement of corporate intent see section 591.

subsidiary, for an LGOC, means a significant business entity declared under this part to be a subsidiary of the LGOC by resolution of a local government that has taken effect.

terms, of appointment or employment, include terms relating to—

(a) remuneration and allowances; and

(b) duration of appointment or employment; and

(c) termination of appointment or employment.

593 References to doing of act by corporatised corporation

In this part, a reference to the doing of an act by a corporatised corporation includes a reference to—

(a) the making or giving of an instrument by the corporation; and

(b) the transfer of property by or to the corporation; and

(c) the incurring of a liability by the corporation.

594 References to local governments etc.

(1) In this part, a reference to a candidate's local government is a reference to the local government that, under section 601, nominated the candidate to become the business of an LGOC or a subsidiary.

(2) In this part, a reference to an LGOC's local government is a reference to the LGOC's shareholder.

(3) In this part, a reference to a subsidiary's local government is a reference to the local government whose LGOC is the subsidiary's shareholder.

(4) In this part, a reference to a significant business entity's local government is a reference to the local government that resolved to establish the entity.

(5) If 2 or more local governments make a resolution about an LGOC, a significant business entity, a candidate or a subsidiary (in each case, the ***entity***)—

(a) a reference, in subsections (1) to (4), to the entity's local government is a reference to all of the local governments acting jointly; and

(b) a reference to the local government area of the entity's local government is a reference to the local government areas of all the local governments.

Subdivision 4 Corporatised corporation not a local government

595 Corporatised corporation not a local government

A corporatised corporation does not form part of a local government.

Subdivision 5 Operation of part and application of laws

596 Extraterritorial operation

It is the intention of Parliament that this part should apply, as far as possible, to—

(a) land and things outside Queensland (whether in or outside Australia); and

(b) acts, transactions and things done, entered into or happening outside Queensland (whether in or outside Australia); and

(c) land, things, acts and transactions (wherever situated, done, entered into or happening) that would, apart from this part, be governed or otherwise affected by the law of another jurisdiction (including a foreign country).

597 Application of existing laws

(1) This part applies to a corporatised corporation and a local government despite anything in an Act, including this Act, that was enacted before the commencement of this part.

(2) If there is an inconsistency between this part and an Act enacted before the commencement of this part, this part prevails to the extent of the inconsistency.

Division 2 Mechanisms for creating LGOCs and subsidiaries

Subdivision 1 Proposal for corporatisation

600 Local government proposes corporatisation

(1) A local government may, by resolution, propose that a part of the local government carrying on a significant business activity will be acquired by a corporatised corporation.

(2) The local government may also propose, by resolution, that a corporatised corporation will be an LGOC or a subsidiary of an LGOC.

(3) To remove any doubt, it is declared that a local government may propose a corporatised corporation will acquire—

(a) parts of the local government carrying on more than 1 significant business activity; or

(b) parts of 2 or more local governments.

(4) A resolution under subsection (3)(b) is not effective until each local government makes the resolution.

Example of resolutions for this section—

A local government may, by resolution, propose a part of the local government carrying on its significant business activity will be acquired and operated by a corporatised corporation as a subsidiary of another corporatised corporation that will be an LGOC. While the subsidiary will carry on the business, it is answerable to its LGOC which in turn is responsible to the local government for the subsidiary carrying on the business.

601 Nomination of candidate LGOC or LGOC's subsidiary

(1) A local government may, by resolution, nominate a part of a local government carrying on a significant business activity to be a candidate LGOC or candidate subsidiary.

(2) A nomination of a candidate subsidiary must also nominate the LGOC or candidate LGOC of which it is to be a subsidiary.

(3) If parts of 2 or more local governments are nominated, the nomination is not effective until each of the local governments makes a nomination.

Subdivision 2 Preparation of corporatisation charter—preliminary

602 Meaning of *corporatisation charter*

The ***corporatisation charter*** for a candidate LGOC sets out the steps by which, and the basis on which—

(a) a candidate LGOC's business is to become the business of an LGOC; and

(b) the key principles of corporatisation, and their elements, are to be implemented.

603 Candidate LGOC's business may become business of LGOC following corporatisation charter

(1) A candidate LGOC's business may become the business of an LGOC following the preparation and approval of a corporatisation charter and the implementation of its charter transitional part.

(2) However, a candidate LGOC's business may become the business of an LGOC if a corporatisation charter has been prepared and approved although its charter transitional part has not been fully implemented.

Subdivision 3 Preparation of corporatisation charter—establishment committee

604 Establishment committee to be appointed

(1) The local government of a candidate LGOC must appoint a committee (the ***establishment committee***) to—

(a) prepare a draft corporatisation charter for the candidate; and

(b) report to the local government on whether the candidate's corporatisation charter is being implemented in a timely, efficient and effective way.

(2) If chapter 6, part 1, division 3 applies to a local government, the establishment committee must be appointed under the division.

(3) The establishment committee goes out of existence when the LGOC is established.

605 Composition of establishment committee

Councillors and employees of a local government may be members of an establishment committee appointed by the local government but together must not, at any time, be more than—

(a) before 1 July 1999—two-thirds of the members; or

(b) from 1 July 1999—one-half of the members.

606 Procedure for appointment of establishment committee

(1) The local government of a candidate LGOC must adopt processes for selection of appropriate persons for appointment as members of the establishment committee for the candidate.

(2) In appointing a person as a member, the local government must have regard to the person's ability to make a contribution to the committee's performance of its role.

(3) The processes are to be based on the principle that the committee should have the appropriate range of skills to ensure the corporatisation is a success.

Example of the application of this section—

The local government may—

(a) identify the key attributes required; and

(b) call for nominations through public advertising and canvassing of suitable individuals; and

(c) evaluate nominations using independent expertise; and

(d) provide for interviews of short-listed individuals by a nominated group assisted by independent experts; and

(e) appoint the most suitable individuals as members.

607 Draft corporatisation charter to be given to local government

(1) When the establishment committee for a candidate LGOC has prepared the candidate LGOC's draft corporatisation charter, the committee must give a copy of the draft charter to the local government.

(2) The local government may return the draft charter to the committee and ask it to—

(a) consider or further consider any matter and deal with the matter in the draft charter; and

(b) revise the draft charter in the light of its consideration or further consideration.

(3) The establishment committee must comply with the request.

Subdivision 4 Preparation of corporatisation charter—requirements for charter

608 Matters to be included in draft corporatisation charter

(1) The draft corporatisation charter must contain the following matters—

(a) an outline of how the key principles of corporatisation and their elements are to be applied by the LGOC and a timetable for their application;

(b) specification of appropriate systems of accounting for the LGOC and a timetable for their adoption;

(c) a timetable for the adoption of commercial management and performance systems by the LGOC;

(d) the scope of the LGOC's business activities, including any undertakings outside the LGOC's local government area;

(e) a timetable and method for valuing the assets to be transferred to the LGOC and determining the LGOC's capital structure;

(f) any other matter stated by the local government.

(2) The local government may determine that the draft corporatisation charter should also contain a timetable for—

(a) identifying any existing activities of a policy formulation or regulatory nature of the candidate; and

(b) identifying options for the activities to remain within the local government; and

(c) identifying any community service obligations of the LGOC; and

(d) costing any community service obligations of the LGOC.

(3) If there is a candidate subsidiary for the candidate LGOC, a reference in this section to an LGOC includes a reference to the subsidiary.

609 Other matters relevant to draft corporatisation charter preparation

(1) The local government may determine—

(a) steps to be taken in preparing the draft corporatisation charter; and

(b) any other matter about the preparation of the draft corporatisation charter.

(2) The local government must also determine that the charter identify its parts that are concerned with the process to achieve corporatisation for the candidate LGOC (the ***charter transitional part***).

Subdivision 5 Corporatisation charter—approvals

610 Approval of draft corporatisation charter

The local government may, by resolution, approve the establishment committee's draft corporatisation charter, or that charter as amended by the local government, as the candidate LGOC's corporatisation charter.

611 Approval of amendments of corporatisation charter

The local government may, by resolution, at any time (whether before or after corporatisation is achieved) approve an amendment of a corporatisation charter.

612 Corporatisation charter open to inspection

(1) A copy of a corporatisation charter must be open to inspection.

(2) A copy of the charter may be purchased at the local government's public office.

(3) The price of a copy of the charter must be no more than the cost to the local government of having the copy available for purchase, and, if the copy is posted to the purchaser, the postage cost.

613 Deletion of commercially sensitive matters from corporatisation charter

(1) A local government may, by resolution, approve a matter in the corporatisation charter may be omitted from the copies of it to be made public if—

(a) the matter is of a commercially sensitive nature to the corporatised corporation; and

(b) a full statement of the matter is given to each councillor.

(2) For section 250(2)(a), a full statement of the matter given to councillors under subsection (1)(b) is information that is confidential to the local government.

Subdivision 6 Corporatisation charter—expiry of charter transitional part

614 Expiry of charter transitional part

The charter transitional part of the corporatisation charter for a candidate LGOC expires on the approval by the shareholder of the first statement of corporate intent for the LGOC.

Subdivision 7 Corporatisation facilitative mechanisms—significant business entities

615 Purpose of subdivision

This subdivision provides mechanisms to facilitate the corporatisation process by enabling, among other things, the establishment of a significant business entity.

616 Significant business entities

(1) In accordance with a resolution under section 600, a local government, or 2 or more local governments, may resolve that a significant business entity be established.

(2) The resolution must state, among other things—

(a) the name of the entity and its functions and powers; and

(b) the part of the local government, or parts of local governments, the business of which is to be acquired by the significant business entity after it becomes a corporatised corporation.

(3) The significant business entity is established on the publication in the gazette of notice of the making of the resolution or a later day stated in the resolution and the notice.

(4) On establishment, the significant business entity—

(a) is a body corporate; and

(b) has the name stated in the resolution; and

(c) has a seal; and

(d) may sue and be sued in its corporate name; and

(e) has such functions and powers as may be specified in the resolution.

(5) A resolution under subsection (1) is not effective until each local government makes the resolution under this section.

617 Transfer of assets, liabilities etc. to significant business entity

(1) For a significant business entity, a local government may, by resolution, make provision about—

(a) whether, and, if so, the extent to which, the entity is the successor in law of a particular person; and

(b) the assets and liabilities that are, or are not, assets and liabilities of the entity or of someone else; and

(c) the consideration for a transfer of assets to the entity, which may include a debt to be owed by the entity to the local government; and

(d) the instruments that are, or are not, to apply to the entity, including whether or not the instruments are taken to be instruments—

(i) to which the entity is a party; or

(ii) that were given to, by or in favour of the entity; or

(iii) in which a reference is made to the entity; or

(iv) under which money is or may become payable, or other property is to be, or may become liable to be, transferred, conveyed or assigned to or by the entity; and

(e) the proceedings to which the entity becomes a party in substitution for someone else; and

(f) the existing employees of the local government and their rights.

(2) Without limiting subsection (1)—

(a) a resolution under subsection (1)(c) may make provision about—

(i) how the consideration is to be decided; and

(ii) the changing of the consideration, whether before or after the entity concerned becomes a corporatised corporation; and

(iii) the terms of the debt; and

(b) a resolution under subsection (1)(d) may make provision about whether, and, if so, the extent to which, instruments apply to the entity in substitution for someone else; and

(c) a resolution under subsection (1)(f) may provide for the office (including that of chief executive officer or a senior executive) the employee is to hold in the entity when it becomes a corporatised corporation.

(3) A resolution under this section takes effect on publication in the gazette of notice of the making of the resolution or a later day stated in the resolution and the notice.

(4) A resolution under subsection (1)(f) has effect despite the following provisions—

(a) section 623;

(b) division 6, section 751.

(5) A resolution under this section must be stated to commence on the entity becoming a corporatised corporation or at a later time.

Subdivision 8 Significant business entities—directors and employees

618 Composition of boards including councillors and local government employees

(1) A councillor or local government employee may be a director of the local government's significant business entity that is, or is to become, an LGOC if the councillor or employee is qualified for appointment.

(2) However, directors mentioned in subsection (1) must not, at any time, be more than from 1 July 1999—one-half of all directors.

(5) An appointment of a councillor or local government employee as director is made on the terms the local government decides.

(6) In taking part in meetings of the board of a significant business entity that is, or is to become, an LGOC, a director

who is a councillor or local government employee must act in the best interests of the significant business entity.

(7) For a councillor to whom section 229 applies, if the councillor acts in accordance with subsection (6), the councillor is taken, for section 229(2), to act in compliance with the section.

(8) For a local government employee to whom section 1138 applies, if the employee acts in accordance with subsection (6) the employee is taken, for section 1138, to act in a way that shows proper concern for the public interest.

(9) Before 1 July 2003, the Minister must complete a review of the appropriateness of councillors and employees of local governments being directors of LGOCs, including LGOCs mentioned in subsection (10).

(10) From 1 July 2003, this section only applies to a significant business entity that is, or is to become, an LGOC, if its activities (being former significant business activities of its local government) are carried on by its subsidiaries.

Example for subsection (10)—

From 1 July 2003, this section will apply to an LGOC which does not itself trade in goods and services but is the shareholder of subsidiaries that do trade in goods and services.

619 Remuneration and allowances to directors of significant business entities who are councillors or employees of a local government

(1) Unless the local government decides otherwise, a councillor or employee of the local government who is also a director of the local government's significant business entity is entitled as a director to remuneration and allowances payable to a director of the significant business entity.

(2) If the local government decides its councillors or employees are not entitled to directors' remuneration and allowances, those remunerations and allowances must be paid by the significant business entity to the local government.

(3) From 1 July 2003, this section only applies to an LGOC mentioned in section 618(10).

620 Restrictions on councillors and employees being directors

(1) A person must not be both a councillor or employee of a local government and a director of the local government's significant business entity.

(2) Subsection (1) does not apply to a significant business entity that is, or is to become, an LGOC—

(a) if it is a significant business entity mentioned in section 618(10); or

(b) for another significant business entity—until 1 July 2003.

(3) A person who is both a councillor or employee of a local government and a director of a significant business entity (that is, or is to become, an LGOC) immediately before subsection (1) applies to it, ceases to be a director on the subsection applying to the entity.

(4) From 1 July 2003—

(a) at least one-half of the directors of a significant business entity that is or is to become an LGOC must not be employees of the entity; and

(b) at least one-half of the directors of a subsidiary must not be employees of the subsidiary or its LGOC; and

(c) at least one-half of the directors of a significant business entity mentioned in section 618(10) must not be councillors or employees of the local government or employees of the entity.

621 Prohibition on councillors being employees

A person must not be both a councillor of a local government and an employee of a significant business entity.

Subdivision 9 Interim board

622 Interim board of directors for significant business entity

(1) A local government may, by resolution, decide—

(a) on a stated day, its significant business entity that is not a corporatised corporation is to have an interim board of directors; and

(b) the role of the board.

(2) On the significant business entity becoming a corporatised corporation, the directors on the interim board go out of office.

623 Application of certain provisions about directors and executives to significant business entities

(1) This section applies to a significant business entity that is not a corporatised corporation.

(2) Sections 651 to 653 apply in relation to the significant business entity, with all necessary changes, as if it were a corporatised corporation.

(3) Division 5 applies in relation to the significant business entity, with all necessary changes, as if it were a corporatised corporation and its interim board of directors were its board of directors.

(4) Division 6 applies in relation to a significant business entity that is to become an LGOC, with all necessary changes, as if it were a corporatised corporation and its interim board of directors were its board of directors.

(5) Division 6 applies in relation to a significant business entity that is to become a subsidiary, with all necessary changes and the change in subsection (6), as if it were a corporatised corporation and its interim board of directors were its board of directors.

(6) For a significant business entity that is to become a subsidiary, section 751 is changed as follows—

751 Appointment of chief executive officer for significant business entity that is to become a subsidiary

(1) A chief executive officer for a significant business entity that is to become a subsidiary is to be appointed by the entity's interim board of directors.

(2) However, before the interim board of directors makes the appointment, it must consult with the interim board of directors of its parent corporation.

(3) In this section—

parent corporation of a significant business entity that is to become a subsidiary means the significant business entity that is to become the LGOC of which the candidate subsidiary is a subsidiary.

Subdivision 10 Corporatisation facilitative mechanisms—general

624 Assistance to significant business entities

A significant business entity, that is not a corporatised corporation, may arrange with the chief executive officer of the local government for the services of employees of the local government to be made available to it.

625 Share capital and issue of shares

(1) The local government may, by resolution, provide that, on a stated day before a significant business entity becomes a corporatised corporation, the significant business entity is taken to have a share capital of a stated amount.

(2) The resolution takes effect on publication in the gazette of notice of the making of the resolution or on a later day stated in the resolution and the notice.

(3) Before becoming a corporatised corporation, the entity must apply the part of its capital that the local government directs in paying up, in full, shares in itself.

(4) As soon as practicable after complying with subsection (3), the entity must issue the shares paid up under the subsection.

(5) If an entity does not have an interim board of directors, the local government may apply the part of the capital and issue the shares on the entity's behalf.

(6) Division 3, subdivision 3 applies to the entity as if it were a corporatised corporation.

(7) The local government may, by written notice to the entity, give directions about the issue, holding and transfer of shares paid up under subsection (3).

(8) The entity must ensure the directions are complied with.

626 Variation of share capital

(1) This section applies to a significant business entity that is not a corporatised corporation.

(2) A local government may, by resolution, vary the share capital of the significant business entity.

(3) Without limiting subsection (2), a resolution may provide for—

(a) the issue of further shares in the significant business entity; or

(b) the cancellation of issued shares in the significant business entity; or

(c) the consolidation or division of issued shares in the significant business entity.

(4) A resolution under this section takes effect on publication in the gazette of notice of the making of the resolution or on a later day stated in the resolution and the notice.

627 Division does not affect existing legal relationships

(1) This division has effect despite anything in any instrument.

(2) Nothing done under this division in relation to a significant business entity—

(a) places the entity or the local government in breach of contract or confidence or otherwise makes the entity or the local government liable for a civil wrong; or

(b) makes the entity or the local government in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment or transfer of any right or liability or the disclosure of any information; or

(c) is taken to fulfil a condition—

(i) allowing a person to terminate an instrument or obligation or modify the operation or effect of an instrument or obligation; or

(ii) requiring any money to be paid before its stated maturity; or

(d) releases a surety or other obligee (in whole or part) from an obligation.

(3) If, apart from this subsection, the advice or consent of a person would be necessary under an instrument in order to give effect to this part, the advice is taken to have been obtained or the consent is taken to have been given.

628 Local government may deal with other matters

(1) A local government may, by resolution, make provision about any matter for which it is necessary or convenient to make provision to facilitate the corporatisation of a significant business entity.

(2) Also, a resolution under subsection (1) may change the name of a significant business entity.

(3) A resolution under subsection (2) does not affect the legal personality of the entity whose name is changed.

(4) Unless a contrary intention appears, a reference in an Act or document to the entity by its former name is taken to be a reference to the entity by its new name.

(5) A resolution under this section takes effect on publication in the gazette of notice of the making of the resolution or on a later day stated in the resolution and the notice.

Subdivision 11 Acting chief executive officer of significant business entity on corporatisation

629 Appointment of acting chief executive officer for significant business entity on corporatisation

(1) Before a significant business entity becomes a corporatised corporation, the entity's local government may, on the recommendation of the establishment committee, appoint an acting chief executive officer for the entity.

(2) An appointment under this section takes effect on the day the entity becomes a corporatised corporation.

(3) This section does not apply if there is an interim board for the entity.

Division 3 Local government owned corporations and subsidiaries

Subdivision 1 Declaration of LGOCs and subsidiaries

630 Declaration of entity as LGOC

(1) If a local government is satisfied the transitional part of the corporatisation charter of its candidate LGOC has been sufficiently implemented or the candidate's business would, apart from a resolution under section 617, be otherwise ready to become the business of an LGOC, the local government may resolve that a significant business entity that is not a corporatised corporation become an LGOC.

(2) The resolution must state the functions of the LGOC.

(3) A significant business entity can not become an LGOC unless it complies with, or on becoming an LGOC will comply with, section 631.

(4) The significant business entity becomes an LGOC in accordance with the resolution under subsection (1) with the functions stated in the resolution on publication in the gazette of notice of the making of the resolution or a later day stated in the resolution and the notice.

631 Requirements for LGOCs

(1) An LGOC is not a corporation registered under the Corporations Act.

(2) An LGOC must have a board of directors and have a share capital and issued shares.

632 Declaration of entity as subsidiary

(1) If a local government is satisfied the candidate subsidiary's business would, apart from a resolution under section 617, be ready to become the business of a subsidiary of an LGOC, the local government may resolve that a significant business entity that is not a corporatised corporation become a subsidiary of the LGOC.

(2) The resolution must state the functions of the subsidiary.

(3) A significant business entity can not become a subsidiary of an LGOC unless it complies with, or on becoming a subsidiary of an LGOC will comply with, section 633.

(4) The significant business entity becomes a subsidiary of an LGOC in accordance with the resolution under subsection (1) with the functions stated in the resolution on publication in the gazette of notice of the making of the resolution or a later day stated in the resolution and the notice.

633 Requirements for subsidiaries

(1) A subsidiary of an LGOC is not a corporation registered under the Corporations Act.

(2) A subsidiary of an LGOC must have a board of directors and have a share capital and issued shares.

634 Declaration does not affect legal personality etc.

The declaration of a significant business entity as a corporatised corporation does not, of itself, affect the legal personality of the entity or its functions and powers.

Subdivision 2 Application of Corporations Act

635 Corporations Act does not apply to corporatised corporations

The Corporations Act does not apply to a corporatised corporation.

Subdivision 3 Shares of corporatised corporations

637 Local governments to be shareholders of LGOCs

(1) The local government that resolved the establishment of an LGOC must be the LGOC's shareholder.

(2) If the LGOC is formed on the resolution of more than 1 local government, each of the local governments must be a shareholder of the LGOC.

638 LGOC to be shareholder of LGOC's subsidiary

For a subsidiary of an LGOC, the LGOC must be the shareholder of the subsidiary.

639 If 2 or more local governments are shareholders, shares and entitlements apportioned by agreement

(1) This section applies if 2 or more local governments are, or are to be, shareholders of an LGOC.

(2) Each local government is to hold the number or proportion of shares in the LGOC as the local governments agree.

(3) Subject to section 642, each local government is entitled to rights as a shareholder of the LGOC as agreed by resolution of the local governments.

640 Variation of shares and share capital of corporatised corporation

(1) The shareholder of a corporatised corporation may vary the share capital of the corporation.

(2) Without limiting subsection (1), the shareholder may provide for—

(a) the issue of further shares in the corporation; or

(b) the cancellation of issued shares in the corporation; or

(c) the consolidation or division of issued shares in the corporation.

(3) If the shareholder is a local government, the local government may only act under this section by resolution.

(4) If the shareholder is an LGOC, the LGOC may only act under this section by resolution of its board.

(5) A resolution under this section takes effect on publication in the gazette of notice of the making of the resolution or on a later day stated in the resolution and the notice.

641 Transfer, issue etc. of shares

(1) An LGOC's shareholder may transfer shares in the LGOC only to—

(a) another local government; or

(b) if the LGOC is to become a subsidiary of another LGOC—the other LGOC.

(2) An LGOC may transfer shares in its subsidiary only to—

(a) another LGOC; or

(b) if the subsidiary is to become an LGOC—to its local government.

642 Shareholders must act jointly

(1) This section applies if an LGOC has more than 1 shareholder.

(2) If this part authorises an LGOC's shareholder to do an act, the shareholders may only do the act jointly.

(3) If this part requires the shareholder to do an act, the shareholders must do the act jointly.

Subdivision 4 Shareholders and councillors

643 Appointment of councillors as shareholder's delegates

(1) A local government may, by resolution, on the terms the local government decides, appoint 2 of its councillors as delegates (***shareholder's delegates***) of the local government in its capacity as shareholder of its LGOC.

(4) When acting as delegates of a local government under this part, the shareholder's delegates must act jointly.

(5) Subject to direction by the local government by resolution, its shareholder's delegates may, on behalf of the local government, exercise the following powers of the local government in relation to the local government's corporatised corporations—

(a) appointment (including terms of appointment) and removal of directors of the board of an LGOC or of the first board of a subsidiary of an LGOC (including chairpersons and deputy chairpersons);

(b) monitoring the performance of the LGOC and its subsidiaries;

(c) making requests, or giving directions about and agreeing to a corporate plan and statement of corporate intent or changes to them;

(d) exempting an LGOC from including matters in its statement of corporate intent;

(e) giving directions to a board of an LGOC, other than if the power is stated to be by resolution of the local government.

(6) A shareholder's delegate, in exercising a power under this section, must act to promote the principles of this part as they apply to the LGOC.

(7) A power exercised by a shareholder's delegate of a local government is taken to have been exercised by the local government.

(8) A shareholder's delegate must give the local government the reports on the performance of the LGOC requested by the local government, including information on decisions made by the LGOC, but excluding relevant commercially sensitive material given to the delegates by the LGOC.

(9) A shareholder's delegate does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under this subdivision in relation to the LGOC or its subsidiaries.

(10) A liability that would, apart from subsection (9), attach to a shareholder's delegate attaches instead to the local government.

(11) If a shareholders' delegate lawfully makes a request or gives a direction to an LGOC under this section, the LGOC must comply with the request or direction as if the delegate were the local government.

Subdivision 5 Board of directors

644 Corporatised corporation to have board of directors

Each corporatised corporation must have a board of directors (the ***board***).

645 Role of board

The role of a corporatised corporation's board includes the following matters—

(a) responsibility for the corporation's commercial policy and management;

(b) ensuring, as far as possible, the corporation achieves, and acts in accordance with, its statement of corporate intent and, for an LGOC, its corporatisation charter and carries out its objectives in its statement of corporate intent;

(c) accounting to the corporation's shareholder for its performance as required by this part and other laws applying to the corporation;

(d) ensuring the corporation otherwise performs its functions in a proper, effective and efficient way.

646 Delegation by board

(1) A corporatised corporation's board may, by resolution, delegate its powers to—

(a) a director; or

(b) a committee of the board; or

(c) the corporation's chief executive officer; or

(d) an appropriately qualified employee of the corporation.

(2) In this section—

appropriately qualified includes having qualifications, experience or standing appropriate to exercise the power.

Example of standing—

an employee's classification level in the corporatised corporation

647 Additional provisions about board—div 5

Additional provisions about the board are in division 5.

648 First board of LGOC

(1) For the appointment of the first board of an LGOC, the local government of the candidate LGOC must act under sections 734(1) and 735(1) before the LGOC is established under section 630.

(2) The appointment takes effect when the LGOC is established.

649 First board of LGOC subsidiary

(1) For the appointment of the first board of a subsidiary of an LGOC—

(a) the LGOC; or

(b) if the LGOC is not yet established—the local government of the candidate subsidiary;

must act under sections 734(2) and 735(2) before the subsidiary is established under section 632.

(2) For the local government acting under the sections, a reference in the sections to the LGOC is taken to be a reference to the local government of the candidate subsidiary.

(3) An appointment under this section—

(a) takes effect when the subsidiary is established; and

(b) if made by the local government—must be for not more than 3 months.

Subdivision 6 Chief executive officer

650 Corporatised corporations to have chief executive officer

Each corporatised corporation is to have a chief executive officer.

651 Duties of chief executive officer

A corporatised corporation's chief executive officer is, under its board, to manage the corporation.

652 Things done by chief executive officer

Anything done in the name of, or for, a corporatised corporation by its chief executive officer is taken to have been done by the corporation.

653 Delegation by chief executive officer

(1) A corporatised corporation's chief executive officer may delegate the chief executive officer's powers (including a power delegated to the chief executive officer) to an appropriately qualified employee of the corporation.

(2) Subsection (1) has effect subject to any directions of the corporation's board.

(3) In this section—

appropriately qualified includes having qualifications, experience or standing appropriate to exercise the power.

Example of standing—

an employee's classification level in the corporatised corporation

654 Additional provisions about chief executive officer—div 6

Additional provisions about a corporatised corporation's chief executive officer are in division 6.

Subdivision 7 Corporate plan—general

655 LGOC must have corporate plan

Each LGOC must have a corporate plan.

656 Corporate plan to apply to subsidiaries

If an LGOC has a subsidiary, the LGOC's corporate plan must apply to the LGOC and its subsidiary.

Subdivision 8 Preparation, agreement on and changes to corporate plan

657 Draft corporate plan

(1) Before 1 May of each year, an LGOC's board must prepare, and submit to its shareholder for agreement, a draft corporate plan for at least 3 years starting on 1 July of the year.

(2) However, for the LGOC's first corporate plan, the LGOC must, within 1 month after becoming an LGOC, prepare, and submit to its shareholder for agreement, a draft corporate plan to apply from its corporatisation to, at the earliest, the third 30 June after it becomes a corporatised corporation.

(3) The board and the shareholder must try to reach agreement on the draft plan as soon as possible and, except if subsection (2) applies, not later than 1 month before the start of the period covered by the plan.

658 Duration of corporate plan

Subject to section 661, a corporate plan of an LGOC continues in force until a new corporate plan takes effect.

659 Special procedures in relation to draft corporate plan

(1) The shareholder may return the draft corporate plan to the board and ask it to—

(a) consider or further consider any matter and deal with the matter in the draft plan; and

(b) revise the draft plan in the light of its consideration or further consideration.

(2) The board must comply with the request as a matter of urgency.

(3) If a draft corporate plan has not been agreed to by the shareholder within 2 months from the day on which the LGOC becomes an LGOC, the shareholder may, by written notice, direct the board to—

(a) take stated steps in relation to the draft plan; or

(b) make stated changes to the draft plan.

(4) If a draft corporate plan, other than the first corporate plan, for a period from 1 July in a year has not been agreed to by the shareholder by 1 June of the year, the shareholder may, by written notice, direct the board to—

(a) take stated steps in relation to the draft plan; or

(b) make stated changes to the draft plan.

(5) The board must immediately comply with a direction under subsection (3) or (4).

(6) A copy of a direction must be open to inspection.

660 Corporate plan on agreement

Subject to section 658, when a draft corporate plan of an LGOC is agreed to by the shareholder, it becomes the LGOC's corporate plan for the period of the plan.

661 Corporate plan pending agreement

(1) If a draft corporate plan for an LGOC has not been agreed to by the shareholder within 1 month from the day on which it becomes an LGOC (***the time***), the last draft corporate plan

before the time is taken to be the LGOC's corporate plan until a draft corporate plan becomes the LGOC's corporate plan under section 660.

(2) If an LGOC's shareholder has not agreed to a draft corporate plan, other than the first corporate plan, on or before 1 July in a year (also ***the time***), the last draft corporate plan before the time is taken to be the LGOC's corporate plan until a draft corporate plan becomes the LGOC's corporate plan under section 660.

(3) In this section—

last draft corporate plan, before the time, means the draft corporate plan submitted, or last submitted, by the board to the shareholder (with any changes made by the board, whether before or after the time, at the direction of the shareholder).

662 Changes to corporate plan

(1) An LGOC's corporate plan may be changed by its board with the agreement of its shareholder.

(2) The shareholder may, by written notice, direct the board to change the corporate plan.

(3) Before giving the direction, the shareholder must consult with the board and take its views into account.

(4) A copy of the direction must be open to inspection.

663 Corporate plan open to inspection

(1) A copy of an LGOC's corporate plan must be open to inspection at the local government's public office.

(2) A copy of the corporate plan may be purchased at the local government's public office.

(3) The price of a copy of the corporate plan must be no more than the cost to the local government of having a copy available for purchase, and, if the copy is posted to the purchaser, the postage cost.

664 Deletion of commercially sensitive matters from corporate plan

(1) A matter in the corporate plan of an LGOC may be omitted from the copies of it to be made public if—

(a) the matter is of a commercially sensitive nature to the LGOC or its subsidiary; and

(b) a full statement of the matter is given—

(i) if there are shareholder's delegates[34]—to the delegates; or

(ii) if there are no shareholder's delegates—to each councillor of the LGOC's local government.

(2) For section 250(2)(a), a full statement of the matter given to shareholder's delegates or councillors under subsection (1)(b), is information that is confidential to the local government.

Subdivision 9 Statement of corporate intent—general

665 Corporatised corporations must have statements of corporate intent

(1) Each corporatised corporation must have a statement of corporate intent for each financial year.

(2) If the corporation becomes a corporatised corporation other than on 1 July in a year, its first statement of corporate intent must be for the period from its corporatisation to 30 June next following.

666 LGOC's statement of corporate intent must be consistent with corporate plan

An LGOC's statement of corporate intent must be consistent with its corporate plan.

34 Section 643 (Appointment of councillors as shareholder's delegates) provides for appointment of shareholder's delegates.

667 Subsidiary's statement of corporate intent to be consistent with LGOC's corporate plan and statement of corporate intent

A subsidiary's statement of corporate intent must be consistent with its LGOC's corporate plan and statement of corporate intent.

Subdivision 10 Matters to be included in statement of corporate intent

668 Matters to be included in statement of corporate intent

(1) A corporatised corporation's statement of corporate intent must state the corporation's financial and non-financial performance targets for its activities for the relevant financial year.

(2) A corporatised corporation's statement of corporate intent must include the following additional matters—

(a) an outline of the corporation's objectives and functions;

(b) an outline of the nature and scope of the activities proposed to be carried on by the corporation in the relevant financial year, including details of any changes, since the last statement of corporate intent, to the corporation's undertakings outside the area of its local government;

(c) an outline of the corporation's main undertakings and any intention to dispose of any of them in the relevant financial year;

(d) the corporation's capital structure and dividend policies;

(e) an outline of the major infrastructure investments proposed to be carried out by the corporation in the relevant financial year;

(f) an outline of the outstanding and proposed borrowings by the corporation;

(g) an outline of the policies adopted by the corporation to minimise and manage any risk of investments and

borrowings that may adversely affect its financial stability;

(h) an outline of the corporation's policies and procedures relating to the acquisition and disposal of major assets;

(i) the corporation's accounting policies applying to the preparation of its accounts;

(j) the type of information to be given to the shareholder, including information to be given in quarterly and annual reports;

(k) an outline of the employment and industrial relations policies of the corporation;

(l) for an LGOC—any proposal for the establishment of a subsidiary of the LGOC;

(m) the matters set out in the LGOC's charter transitional part that continue to be relevant to the operations of the corporatised corporation.

(3) The corporatised corporation's shareholder may exempt the corporation from including any matter, or any aspect of a matter, mentioned in subsection (2) in the statement of corporate intent if the shareholder considers the matter or aspect is not materially relevant to the corporatised corporation or its activities.

(4) The statement of corporate intent must also include the matters concerning its community service obligations required under section 678.

(5) Subsections (1), (2) and (4) do not limit the matters that may be included in a statement of corporate intent.

Example for subsection (5)—

The statement of corporate intent could include matters set out in the LGOC's corporatisation charter.

669 Deletion of commercially sensitive matters from statement of corporate intent

(1) A matter in the statement of corporate intent of a corporatised corporation may be omitted from the copies of it to be made public if—

(a) the matter is of a commercially sensitive nature to the corporatised corporation; and

(b) a full statement of the matter is given—

(i) if the corporatised corporation is an LGOC and there are shareholder's delegates[35]—to the delegates; or

(ii) if the corporatised corporation is an LGOC and there are no shareholder's delegates—to each councillor of the LGOC's local government; or

(iii) if the corporatised corporation is a subsidiary and there are shareholder's delegates of its LGOC—to the delegates; or

(iv) if the corporatised corporation is a subsidiary and there are no shareholder's delegates of its LGOC—to each councillor of the LGOC's local government.

(2) For section 250(2)(a), a full statement of the matter given to shareholder's delegates or councillors under subsection (1)(b), is information that is confidential to the local government.

Subdivision 11 Preparation, agreement on and modification of statement of corporate intent

670 Draft statement of corporate intent

(1) For each financial year, a corporatised corporation's board must prepare, and submit to its shareholder for agreement, a draft statement of corporate intent before 1 May preceding the financial year.

(2) However, for a corporatised corporation's first statement of corporate intent, the corporation must, within 1 month after becoming a corporatised corporation, prepare, and submit to

35 Section 643 (Appointment of councillors as shareholder's delegates) provides for appointment of shareholder's delegates.

its shareholder for agreement, a draft statement of corporate intent to apply from its becoming a corporatised corporation.

(3) The board and the shareholder must try to reach agreement on the draft statement as soon as possible and, except if subsection (2) applies, not later than the start of the financial year.

671 Consultation with industrial organisations etc.

In preparing a statement of corporate intent, a corporatised corporation's board may consult with interested industrial organisations and employees.

672 Special procedures in relation to draft statement of corporate intent

(1) The shareholder may return the draft statement of corporate intent to the board and ask it to—

(a) consider or further consider any matter and deal with the matter in the draft statement; and

(b) revise the draft statement in the light of its consideration or further consideration.

(2) The board must comply with the request as a matter of urgency.

(3) If a draft statement of corporate intent has not been agreed to by the shareholder within 2 months from the day on which the corporation becomes a corporatised corporation, the shareholder may, by written notice, direct the board to—

(a) take stated steps in relation to the draft statement; or

(b) make stated changes to the draft statement.

(4) If a draft statement of corporate intent of the corporation, other than its first statement of corporate intent, for a period from 1 July in a year has not been agreed to by its shareholder by 1 July of the year, the shareholder may, by written notice, direct the board to—

(a) take stated steps in relation to the draft statement; or

(b) make stated changes to the draft statement.

(5) The board must immediately comply with a direction under subsection (3) or (4).

(6) A copy of a direction must be open to inspection.

673 Statement of corporate intent on agreement

When a draft statement of corporate intent of a corporatised corporation is agreed to by its shareholder, it becomes the corporation's statement of corporate intent for the period of the statement.

674 Statement of corporate intent pending agreement

(1) If a draft statement of corporate intent has not been agreed to by its shareholder within 2 months from the day on which the corporation becomes a corporatised corporation (***the time***), the last draft statement of corporate intent is taken to be the corporation's statement of corporate intent until a draft statement of corporate intent becomes the corporation's statement of corporate intent under section 673.

(2) If the shareholder of a corporatised corporation has not agreed to a draft statement of corporate intent, other than the first statement of corporate intent, by 1 July in a year (also ***the time***), the last draft statement of corporate intent is taken to be the corporation's statement of corporate intent until a draft statement of corporate intent becomes the corporation's statement of corporate intent under section 673.

(3) In this section—

last draft statement of corporate intent, before the time, means the draft statement of corporate intent submitted, or last submitted, by the board to the shareholder (with any changes by the board, whether before or after the time, at the direction of the shareholder).

675 Changes to statement of corporate intent

(1) A corporatised corporation's statement of corporate intent may be changed by its board with the agreement of its shareholder.

(2) The shareholder may, by written notice, direct the board to change the statement of corporate intent.

(3) Before giving the direction, the shareholder must consult with the board and take its views into account.

(4) A copy of the direction must be open to inspection.

676 Statement of corporate intent open to inspection

(1) Subject to section 669, a copy of a corporatised corporation's statement of corporate intent must be open to inspection at the local government's public office.

(2) A copy of the statement of corporate intent may be purchased at the local government's public office.

(3) The price of a copy of the statement of corporate intent must be no more than the cost to the local government of having the copy available for purchase, and, if the copy is posted to the purchaser, the postage cost.

(4) The LGOC must give to the chief executive officer of the local government a copy of the current statement of corporate intent of each of its subsidiaries.

Subdivision 12 Community service obligations

677 Meaning of *community service obligations*

(1) The ***community service obligations*** of a corporatised corporation are obligations to do anything that the corporation's board establishes to the satisfaction of the shareholder—

(a) are not in the commercial interests of the corporation to do; and

(b) arise because of a direction by the corporation's local government to its LGOC; and

(c) do not arise because of the application of the following key principles of corporatisation and their elements—

(i) principle 3—strict accountability for performance;

(ii) principle 4—competitive neutrality.

(2) This section applies to the following directions and duties—

(a) directions given to the LGOC's board under section 659 or 662;

(b) a direction given to the corporatised corporation's board under section 672, 675, 679 or 714;

(c) any duty to carry out activities (including any economic development activities or activities of a regulatory or policy formulation nature) arising under an Act applying specifically to the corporatised corporation or corporatised corporations generally.

678 Community service obligations to be stated in statement of corporate intent

(1) The community service obligations that a corporatised corporation is to do are to be stated in its statement of corporate intent.

(2) The costings of, funding for, or other arrangements to make adjustments relating to, the corporation's community service obligations are also to be stated in its statement of corporate intent.

(3) A corporatised corporation's statement of corporate intent is conclusive, as between the corporation and its shareholder, of—

(a) the nature and extent of the community service obligations of the corporation; and

(b) the ways in which, and the extent to which, the corporation is to be compensated by the shareholder for the community service obligations.

Subdivision 13 General reserve powers of shareholder

679 Reserve power of shareholder to give directions to LGOC in public interest

(1) An LGOC's shareholder may, by resolution, give the LGOC's board a written direction in relation to the LGOC and its subsidiaries if the shareholder is satisfied, because of exceptional circumstances, it is necessary to give the direction in the public interest.

(2) The board must ensure the direction is complied with by the LGOC.

(3) If the direction concerns the LGOC's subsidiary, the LGOC board must, to the extent the direction concerns the subsidiary—

(a) notify the subsidiary of the direction; and

(b) ensure the direction is complied with by the subsidiary.

(4) The subsidiary's board must ensure that a direction of which it has been notified is complied with in relation to the subsidiary to the extent that the direction concerns the subsidiary.

(5) Before giving the direction, the shareholder must—

(a) consult with the LGOC; and

(b) ask the board to advise it whether, in its opinion, complying with the direction would not be in the commercial interests of the LGOC or any of its subsidiaries.

(6) A copy of the direction must be open to inspection.

Subdivision 14 Suspected insolvency from directions

680 Notice of suspected insolvency because of direction

(1) This section applies if—

(a) a corporatised corporation's board is given a direction by its shareholder; and

(b) the board suspects the corporation, or, for an LGOC, its subsidiary, will or may become insolvent; and

(c) in the board's opinion, the cause or a substantial cause of the suspected insolvency would be compliance with the direction.

(2) The board must immediately give written notice to the shareholder, the auditor-general and, if the corporation is a subsidiary, its local government of—

(a) the suspicion; and

(b) its reasons for the opinion.

(3) The notice must state that it is given under this section.

(4) The giving of the notice operates to suspend the direction until—

(a) the shareholder advises the board, in writing, that the shareholder is not satisfied—

(i) the board's suspicion mentioned in subsection (1)(b) is well-founded; or

(ii) the board's opinion mentioned in subsection (1)(c) is justified; or

(b) the direction is revoked.

(5) If the shareholder is satisfied the board's suspicion is well-founded, the shareholder must immediately—

(a) if also satisfied the board's opinion is justified—revoke the direction; and

(b) in any case—give the board the written directions the shareholder considers necessary or desirable, including any directions necessary or desirable to ensure—

(i) the corporation or, for an LGOC, its subsidiary does not incur further debts; or

(ii) the LGOC or its subsidiary will be able to pay all its debts as and when they become due.

(6) Without limiting subsection (5), a direction under this section may require an LGOC or any of its subsidiaries to stop or limit particular activities.

(7) If the shareholder is a local government, a direction under subsection (5) must be by resolution of the local government.

(8) The board of the corporatised corporation must ensure a direction under this section is complied with by the corporation.

(9) If the direction to an LGOC's board concerns the LGOC's subsidiary, the LGOC board must, to the extent the direction concerns the subsidiary—

(a) notify the subsidiary of the direction; and

(b) ensure the direction is complied with by the subsidiary.

(10) The subsidiary's board must ensure that a direction of which it has been notified is complied with in relation to the subsidiary to the extent that the direction concerns the subsidiary.

(11) A copy of the direction by a local government must be open to inspection.

(12) This section is in addition to, and does not limit, another provision of this part or another law.

(13) The shareholder must give the auditor-general a copy of every advice or direction given under this section to the board.

Subdivision 15 Limitation on local government directions

681 Corporatised corporation and board not otherwise subject to local government direction

Except as otherwise provided by this or another Act, a corporatised corporation and its board are not subject to direction by or on behalf of its local government under this part.

Subdivision 16 Reports and other accountability matters

682 Application of Financial Accountability Act 2009

(1) The provisions of the *Financial Accountability Act 2009* that apply to local governments (***the provisions***) apply to a corporatised corporation with any necessary changes.

(2) For the purposes of the provisions, a corporatised corporation is a controlled entity.

(3) The provisions apply to a corporatised corporation as if a reference in the Act to the appropriate Minister were a reference to the local government.

683 Quarterly reports

(1) A corporatised corporation's board must give to its shareholder a report on the corporation's operations including, for an LGOC, its subsidiaries for each of the first 3 quarters of a financial year.

(2) A quarterly report must be given to—

(a) for an LGOC if there are shareholder's delegates—the shareholder's delegates; and

(b) for corporatised corporations to which paragraph (a) does not apply—the shareholder.

(3) A quarterly report must be given—

(a) within 1 month after the end of the quarter; or

(b) if another period after the end of the quarter is agreed between the board and the shareholder—within the agreed period.

(4) A quarterly report must include the information required to be given in the report by the corporation's statement of corporate intent.

(5) For section 250(2)(a), a quarterly report of an LGOC is information that is confidential to the LGOC's local government.

684 Annual reports

(1) A corporatised corporation's board must give to its shareholder an annual report on the corporation's operations including, for an LGOC, its subsidiaries for each financial year.

(2) The annual report must be given to the shareholder—

(a) within 4 months after the end of the financial year; or

(b) if another period after the end of the financial year is agreed between the board and the shareholder—within the agreed period.

(3) The annual report[36] must—

(a) contain the information that is required to be included in the report by its shareholder to enable an informed assessment to be made of the corporation's operations, including for an LGOC, the operations of its subsidiaries, and including a comparison of the performance of the corporation with its statement of corporate intent; and

(b) state the corporation's dividend policy for the financial year to which the report relates; and

(c) include the statement of corporate intent for the relevant financial year; and

(d) include particulars of any changes made to the statement of corporate intent during the relevant financial year; and

36 Under section 686 (Omission of certain matters from annual report etc.) certain material may be deleted from the report.

(e) include particulars of any directions given to the board by the shareholder relating to the relevant financial year;[37] and

(f) include particulars of the impact on the financial position, profits and losses and prospects of the corporation, including, for an LGOC, its subsidiaries, of any changes to the statement of corporate intent and of any directions given to the board by the shareholder, relating to the relevant financial year.

(4) The annual report must also state whether or not, in the directors' opinion, there are, when the statement is made, reasonable grounds to believe the corporation will be able to pay its debts as and when they fall due.

(5) This section does not limit the matters required to be included in, or to accompany, a corporation's annual report under another Act or law.

685 Annual report open to inspection

(1) A copy of an LGOC's annual report must be open to inspection at the local government's public office.

(2) A copy of the report may be purchased at the local government's public office.

(3) The price of a copy of the report must be no more than the cost to the local government of having a copy available for

37 An LGOC's shareholder may give directions to the board of an LGOC under—

- section 659 (Special procedures in relation to draft corporate plan)
- section 662 (Changes to corporate plan)
- section 672 (Special procedures in relation to draft statement of corporate intent)
- section 675 (Changes to statement of corporate intent)
- section 679 (Reserve power of shareholder to give directions to LGOC in public interest)
- section 680 (Notice of suspected insolvency because of direction)
- section 699 (Notice of suspected insolvency otherwise than because of direction)
- section 711 (Payment of dividends)
- section 712 (Interim dividends)
- section 714 (Reserve power of shareholder to direct that asset not be disposed of).

purchase, and, if the copy is posted to the purchaser, the postage cost.

686 Omission of certain matters from annual report etc.

(1) A matter required to be included in the annual report of an LGOC for a financial year may be omitted from the copies of the annual report (and accompanying documents) to be made public if—

(a) the matter is of a commercially sensitive nature to the LGOC or its subsidiary; and

(b) a full statement of the matter is given—

(i) if there are shareholder's delegates[38]—to the delegates; or

(ii) if there are no shareholder's delegates—to each councillor of the LGOC's local government.

(2) For section 250(2)(a), a full statement of the matter given to shareholder's delegates or councillors under subsection (1)(b), is information that is confidential to the LGOC's local government.

(3) An annual report of an LGOC may include a summary of a matter required to be included in the annual report, rather than a full statement of the matter, if—

(a) the summary indicates it is a summary only; and

(b) a full statement of the matter is given to the local government when the annual report is given to the shareholder.

(4) Subsections (1) to (3) have effect despite section 684 or another Act or law.

(5) Subsection (1) has effect despite subsection (3).

687 LGOC board to keep shareholder informed

(1) An LGOC's board must—

38 Section 643 (Appointment of councillors as shareholder's delegates) provides for appointment of shareholder's delegates.

(a) keep its shareholder reasonably informed of the operations, financial performance and financial position of the LGOC and its subsidiaries, including the assets and liabilities, profits and losses and prospects of the LGOC and its subsidiaries; and

(b) give to the shareholder reports and information that the shareholder requires to enable the shareholder to—

(i) make informed assessments of matters mentioned in paragraph (a); or

(ii) comply with reporting requirements on the shareholder under an Act; and

(c) if matters arise that, in the board's opinion, may prevent or significantly affect achievement of the LGOC's objectives or targets in its statement of corporate intent—immediately inform the shareholder of the matters and its opinion in relation to them.

(2) However, a matter that is of a commercially sensitive nature to an LGOC or its subsidiary may be omitted from information given by the LGOC under subsection (1) if a full statement of the matter is given—

(a) if there are shareholder's delegates—to the delegates; or

(b) if there are no shareholder's delegates—to each councillor of the LGOC's local government.

(3) For section 250(2)(a), a full statement of the matter given to shareholder's delegates or councillors under subsection (2) is information that is confidential to the LGOC's local government.

(4) Subsection (1) does not limit the matters of which the board is required to keep the shareholder informed, or limit the reports or information the board is required, or may be required, to give to the shareholder, under another Act or law.

(5) If there are shareholder's delegates for the LGOC, the reports and information under subsection (1) must be given to the shareholder's delegates on behalf of the local government.

Subdivision 17 Duties and liabilities of directors and other officers

688 Disclosure of interests by directors

(1) If a corporatised corporation's director has a direct or indirect interest in a matter being considered, or about to be considered, by the board, the director must disclose the nature of the interest to a meeting of the board as soon as practicable after the relevant facts come to the director's knowledge.

Maximum penalty—100 penalty units.

(2) The disclosure must be recorded in the board's minutes.

689 Voting by interested director

(1) A corporatised corporation's director who has a material personal interest in a matter being considered by the board must not—

(a) vote on the matter; or

(b) vote on a proposed resolution (a ***related resolution***) under subsection (2) in relation to the matter (whether in relation to the director or another director); or

(c) be present while the matter, or a related resolution, is being considered by the board; or

(d) otherwise take part in any decision of the board in relation to the matter or a related resolution.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply to the matter if the board has, at any time, passed a resolution that—

(a) states the director, the interest and the matter; and

(b) states that the directors voting for the resolution are satisfied the interest should not disqualify the director from considering or voting on the matter.

(3) A quorum is present during a consideration of a matter by the board only if at least 2 directors are present who are entitled to

vote on any motion that may be moved in relation to the matter.

(4) The corporation's shareholder or the shareholder's delegate may, by signing consent to a proposed resolution, deal with a matter if the board can not deal with it because of subsection (3).

690 Duty and liability of certain officers of corporatised corporation

(1) An officer of a corporatised corporation must act honestly in the exercise of powers, and discharge of functions, as an officer of the corporatised corporation.

Maximum penalty—

(a) if the contravention is committed with intent to deceive or defraud the corporatised corporation, creditors of the corporation or creditors of another person or for another fraudulent purpose—500 penalty units or 5 years imprisonment; or

(b) in any other case—100 penalty units.

(2) In the exercise of powers and the discharge of functions, an officer of a corporatised corporation must exercise the degree of care and diligence that a reasonable person in a like position in a corporatised corporation would exercise in the corporation's circumstances.

Maximum penalty—100 penalty units.

(3) An officer of a corporatised corporation, or a person who has been an officer of a corporatised corporation, must not make improper use of information acquired as an officer of the corporatised corporation—

(a) to gain, directly or indirectly, an advantage for himself or herself or for another person; or

(b) to cause detriment to the corporation.

Maximum penalty—500 penalty units or 5 years imprisonment.

(4) An officer of a corporatised corporation must not make improper use of the officer's position as an officer of the corporatised corporation—

(a) to gain, directly or indirectly, an advantage for himself or herself or for another person; or

(b) to cause detriment to the corporation.

Maximum penalty—500 penalty units or 5 years imprisonment.

(5) If a person contravenes this section in relation to a corporatised corporation, the corporation may recover from the person as a debt due to the corporation—

(a) if anyone made a profit because of the contravention—an amount equal to the profit; and

(b) if the corporation suffered loss or damage because of the contravention—an amount equal to the loss or damage.

(6) An amount may be recovered from the person under subsection (5) whether or not the person has been convicted of an offence in relation to the contravention.

(7) Subsection (5) is in addition to, and does not limit, the *Criminal Proceeds Confiscation Act 2002*.

(8) In determining for the purposes of subsection (2) the degree of care and diligence that a reasonable person in a like position in a corporatised corporation would exercise in the circumstances of the corporatised corporation concerned, regard must be had to—

(a) the fact that the person is an officer of the corporatised corporation; and

(b) the application of this part to the corporation; and

(c) relevant matters required or permitted to be done under this part in relation to the corporation;

including, for example—

(d) any relevant community service obligations of the corporation; and

(e) any relevant directions or approvals given to the corporation by its shareholder.

(9) Subsection (8) does not limit the matters to which regard may be had for subsection (2).

(10) This section—

(a) is in addition to, and does not limit, any rule of law relating to the duty or liability of a person because of the person's office in relation to a corporation; and

(b) does not prevent civil proceedings being started for a breach of the duty or the liability.

691 Prohibition on loans to directors

(1) A corporatised corporation must not, whether directly or indirectly—

(a) make a loan to a director, a spouse of a director or a relative of either of them; or

(b) give a guarantee or provide security in connection with a loan made to a director, a spouse of a director or a relative of either of them.

(2) Subsection (1) does not apply to the entering into by the corporation of an instrument with a person mentioned in subsection (1) if the instrument is entered into on the same terms as similar instruments are entered into by the corporation with members of the public.

(3) A director of a corporatised corporation who is knowingly concerned in a contravention of subsection (1) by the corporation (whether or not in relation to the director) commits an offence.

Maximum penalty—100 penalty units.

(4) In this section—

relative means—

(a) a parent or remoter lineal ancestor; or

(b) a son, daughter or remoter issue; or

(c) a brother or sister.

692 When corporatised corporation not to indemnify officers

(1) A corporatised corporation must not—

(a) indemnify a person who is or has been an officer of the corporation against a liability incurred as an officer; or

(b) exempt a person who is or has been an officer of the corporation from a liability incurred as an officer.

(2) An instrument is void so far as it provides for the corporation to do something that subsection (1) prohibits.

(3) Subsection (1) does not prevent the corporation from indemnifying a person against a civil liability (other than a liability to the corporation or a subsidiary of the corporation) unless the liability arises out of conduct involving a lack of good faith.

(4) Subsection (1) does not prevent the corporation from indemnifying a person against a liability for costs and expenses incurred by the person—

(a) in defending a proceeding, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or

(b) in connection with an application in relation to a proceeding in which relief is granted to the person by a court.

(5) The corporation may give an indemnity mentioned in subsection (3) or (4) only with the prior approval of its shareholder.

(6) In this section—

indemnify includes indemnify indirectly through 1 or more interposed entities.

693 Corporatised corporation not to pay premiums for certain liabilities of officers

(1) A corporatised corporation must not pay, or agree to pay, a premium in relation to a contract insuring a person who is or has been an officer of the corporation against a liability—

(a) incurred by the person as an officer; and

(b) arising out of conduct involving—

(i) a wilful breach of duty in relation to the corporation; or

(ii) without limiting subparagraph (i), a contravention of section 690(3) or (4).

(2) Subsection (1) does not apply to a liability for costs and expenses incurred by a person in defending proceedings, whether civil or criminal, and whatever their outcome.

(3) An instrument is void so far as it insures a person against a liability in contravention of subsection (1).

(4) In this section—

pay includes pay indirectly through 1 or more interposed entities.

694 Director's duty to prevent insolvent trading

(1) If—

(a) immediately before a corporatised corporation incurs a debt—

(i) there are reasonable grounds to suspect that the corporation will not be able to pay all its debts as and when they become payable; or

(ii) there are reasonable grounds to suspect that, if the corporation incurs the debt, it will not be able to pay all its debts as and when they become payable; and

(b) the corporation is, or later becomes, unable to pay all its debts as and when they become payable;

a person who is a director of the corporation, or takes part in the corporation's management, at the time when the debt is incurred commits an offence.

Maximum penalty—100 penalty units or 1 year's imprisonment.

(2) In a proceeding against a person for an offence against this section, it is a defence if it is proved—

(a) that the debt was incurred without the person's express or implied authority or consent; or

(b) that, at the time when the debt was incurred, the person did not have reasonable cause to suspect—

(i) that the corporation would not be able to pay all its debts as and when they became payable; or

(ii) that, if the corporation incurred that debt, it would not be able to pay all its debts as and when they became payable; or

(c) that the person took all reasonable steps to prevent the corporation from incurring the debt; or

(d) for a director—that the person did not take part at the time in the corporation's management because of illness or for some other good cause.

695 Court may order compensation

(1) If a person is found guilty of an offence against section 694 in relation to the incurring of a debt by a corporatised corporation, the Supreme Court or District Court may declare that the person is to be personally responsible without any limitation of liability for the payment to the corporation of the amount required to satisfy the part of the corporation's debts that the court considers proper.

(2) This section does not affect any rights of a person to indemnity, subrogation or contribution.

(3) This section—

(a) is in addition to, and does not limit, any rule of law about the duty or liability of a person because of the person's office in relation to a corporation; and

(b) does not prevent proceedings being instituted for a breach of the duty or the liability.

696 Examination of persons concerned with corporatised corporations

(1) If it appears to the Attorney-General or a local government that there are reasonable grounds to believe—

(a) a person who has been concerned, or taken part, in a corporatised corporation's management, administration or affairs has been, or may have been, guilty of fraud, negligence, default, breach of trust or breach of duty or other misconduct in relation to the corporation; or

(b) a person may be capable of giving information in relation to a corporatised corporation's management, administration or affairs;

the Attorney-General or local government may apply to the Supreme Court or District Court for an order under this section in relation to the person.

(2) If the Attorney-General makes an application under subsection (1) about a corporatised corporation, the Attorney-General must, as soon as practicable, advise the corporation's local government.

(3) A local government may only make an application under subsection (1) in relation to its corporatised corporation and must, as soon as practicable after making an application, advise the Attorney-General.

(4) If the court is satisfied it is reasonable and appropriate for the person to be examined, the court may order that the person attend before the court at a time and place fixed by the court to be examined on oath on any matters relating to the corporation's management, administration or affairs.

(5) The examination of the person is to be held in public except so far as the court considers that, because of special circumstances, it is desirable to hold the examination in private.

(6) The court may give directions about—

(a) the matters to be inquired into at the examination; and

(b) the procedures to be followed at the examination (including, if the examination is to be held in private, the persons who may be present).

(7) The person must not fail, without reasonable excuse—

(a) to attend as required by the order; or

(b) to continue to attend as required by the court until the completion of the examination.

Maximum penalty—200 penalty units or 2 years imprisonment.

(8) The person must not fail to take an oath or make an affirmation at the examination.

Maximum penalty—200 penalty units or 2 years imprisonment.

(9) The person must not fail to answer a question that the person is directed by the court to answer.

Maximum penalty—200 penalty units or 2 years imprisonment.

(10) The person may be directed by the court (whether in the order or by subsequent direction) to produce any document in the person's possession, or under the person's control, relevant to the matters on which the person is to be, or is being, examined.

(11) The person must not, without reasonable excuse, contravene a direction under subsection (10).

Maximum penalty—200 penalty units or 2 years imprisonment.

(12) If the court directs the person to produce a document and the person has a lien on the document, the production of the document does not prejudice the lien.

(13) The person must not knowingly make a statement at the examination that is false or misleading in a material particular.

Maximum penalty—500 penalty units or 5 years imprisonment.

(14) The person is not excused from answering a question put to the person at the examination on the ground that the answer might tend to incriminate the person or make the person liable to a penalty.

(15) If—

(a) before answering a question put to the person at the examination, the person claims that the answer might

tend to incriminate the person or make the person liable to a penalty; and

(b) the answer might in fact tend to incriminate the person or make the person liable to a penalty;

the answer is not admissible in evidence against the person in—

(c) a criminal proceeding; or

(d) a proceeding for the imposition of a penalty;

other than a proceeding for an offence against this section or another proceeding in relation to the falsity of the answer.

(16) The court may order the questions put to the person and the answers given by the person at the examination to be recorded in writing and may require the person to sign the record.

(17) Subject to subsection (15), any written record of the examination signed by the person, or any transcript of the examination that is authenticated by the signature of the examiner, may be used in evidence in any legal proceeding against the person.

(18) The person may, at the person's own expense, employ a lawyer, and the lawyer may put to the person questions that the court considers just to enable the person to explain or qualify any answers given by the person.

(19) The court may adjourn the examination from time to time.

(20) The court may order the whole or any part of the costs incurred by the person be paid by—

(a) if the application was made by the Attorney-General—the State; or

(b) if the application was made by a local government—the local government.

697 Power to grant relief

(1) This section applies to a corporatised corporation's director, chief executive officer or employee.

(2) If, in a proceeding against a person to whom this section applies for negligence, default, breach of trust or breach of

duty as a person to whom this section applies, it appears to the court that—

(a) the person is or may be liable for the negligence, default or breach; but

(b) the person has acted honestly and, having regard to all the circumstances of the case (including circumstances connected with the person's appointment) the person ought fairly to be excused for the negligence, default or breach;

the court may relieve the person (in whole or part) from liability on terms the court considers appropriate.

(3) If a person to whom this section applies believes a claim will or might be made against the person for negligence, default, breach of trust or breach of duty as a person to whom this section applies, the person may apply to the Supreme Court or District Court for relief.

(4) The court has the same power to relieve the person as it would have if a proceeding had been brought against the person in the court for the negligence, default or breach.

(5) If—

(a) a proceeding mentioned in subsection (2) is being tried by a judge with a jury; and

(b) the judge, after hearing the evidence, is satisfied that the defendant ought under that subsection be relieved (in whole or part) from the liability sought to be enforced against the person;

the judge may withdraw the case (in whole or part) from the jury and direct that judgment be entered for the defendant on the terms (as to costs or otherwise) the judge considers appropriate.

698 False or misleading information or documents

(1) An officer of a corporatised corporation must not—

(a) make a statement concerning the affairs of the corporation to another officer or the corporation's

shareholder that the first officer knows is false or misleading in a material particular; or

(b) omit from a statement concerning the corporation's affairs made to another officer or the corporation's shareholder anything without which the statement is, to the first officer's knowledge, misleading in a material particular.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the information given was false or misleading to the person's knowledge.

(3) An officer of a corporatised corporation must not give to an officer, the corporation's shareholder, a director, officer or employee of the shareholder, the corporation's local government or a councillor of the corporation's local government a document containing information that the first officer knows is false, misleading or incomplete in a material particular without—

(a) indicating to the recipient that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and

(b) giving the correct information to the recipient if the first officer has, or can reasonably obtain, the correct information.

Maximum penalty for subsections (1) and (3)—

(a) if the contravention is committed with intent to deceive or defraud the corporatised corporation, creditors of the corporation or creditors of another person or for another fraudulent purpose—500 penalty units or 5 years imprisonment; or

(b) in any other case—100 penalty units.

699 Notice of suspected insolvency otherwise than because of direction

(1) This section applies if—

(a) a corporatised corporation's board suspects that the corporation or, for an LGOC, its subsidiary is, may be, will or may become insolvent; and

(b) in the board's opinion, compliance with a direction given by the shareholder is not or would not be the cause or a substantial cause of the suspected insolvency.

(2) The board must immediately give written notice to the corporation's shareholder and the auditor-general and, if the corporation is a subsidiary, to its local government of—

(a) the suspicion; and

(b) its reasons for the opinion.

(3) The notice must state that it is given under this section.

(4) If the shareholder is satisfied that the board's suspicion is well-founded, the shareholder must immediately give the board the written directions that the shareholder considers necessary or desirable, including any directions necessary or desirable to ensure—

(a) the corporation or subsidiary does not incur further debts; or

(b) the corporation or subsidiary will be able to pay all its debts as and when they become due.

(5) Without limiting subsection (4), a direction under this section may require the corporation or, for an LGOC, any of its subsidiaries, to cease or limit particular activities.

(6) If the shareholder is a local government, a direction under subsection (4) must be by resolution of the local government.

(7) The board must ensure a direction under this section is complied with by the corporation.

(8) If the direction to an LGOC's board concerns the LGOC's subsidiary, the LGOC's board must, to the extent the direction concerns the subsidiary—

(a) notify the subsidiary of the direction; and

(b) ensure the direction is complied with by the subsidiary.

(9) The subsidiary's board must ensure that a direction of which it has been notified is complied with in relation to the subsidiary to the extent that the direction concerns the subsidiary.

(10) A copy of the direction by a local government must be open to inspection.

(11) This section is in addition to, and does not limit, another provision of this part or another law.

(13) The shareholder must give the auditor-general a copy of every advice or direction given under this section to the board.

Subdivision 18 Legal capacity and powers

700 Objects of subdivision

The objects of this subdivision include—

(a) abolishing any application of the doctrine of ultra vires to corporatised corporations; and

(b) ensuring corporatised corporations give effect to any restrictions on their objects or powers, but without affecting the validity of their dealings with others.

701 General powers of corporatised corporations

(1) A corporatised corporation has, for or in connection with the performance of its functions, all the powers of a natural person, including, for example, the power to—

(a) enter into contracts; and

(b) acquire, hold, dispose of and deal with property; and

(c) appoint agents and attorneys; and

(d) charge, and fix terms, for goods, services and information supplied by it; and

(e) engage consultants; and

(f) do all other things necessary or convenient to be done for, or in connection with, the performance of its functions.

(2) Without limiting subsection (1), the corporatised corporation has the powers that are conferred on it by this or another Act.

(3) The corporatised corporation may exercise its powers inside and outside Queensland.

(4) Without limiting subsection (3), the corporatised corporation may exercise its powers in a foreign country.

(5) The fact that the doing of an act by the corporatised corporation would not be, or is not, in its best interests does not affect its power to do the act.

(6) In this section—

power includes legal capacity.

702 Restrictions on powers of corporatised corporations

(1) Section 701 has effect in relation to a corporatised corporation subject to any restrictions on the corporation's powers expressly imposed under this or another Act.

(2) Section 701 also has effect in relation to the corporatised corporation subject to any restrictions expressly imposed by—

(a) any relevant statement of corporate intent of the corporation; and

(b) any relevant directions or approvals given to the corporation by the corporation's shareholder.

(3) A corporatised corporation must not—

(a) exercise a power contrary to a restriction mentioned in subsection (1) or (2); or

(b) do an act otherwise than in pursuance of the corporation's objects or functions.

(4) The exercise of a power or the doing of an act is not invalid merely because—

(a) the power is exercised in contravention of subsection (3)(a); or

(b) the act is done in contravention of subsection (3)(b).

(5) An officer of the corporatised corporation who is involved in the contravention contravenes this subsection.

(6) An act of the officer is not invalid merely because, by doing the act, the officer contravenes subsection (5).

(7) The corporatised corporation or officer of the corporation is not guilty of an offence merely because of the relevant contravention.

(8) The fact that—

(a) by exercising the powers mentioned in subsection (3)(a), or doing the act as mentioned in subsection (3)(b), the corporatised corporation contravened, or would contravene, subsection (3); or

(b) by doing a particular act, an officer of the corporation contravened, or would contravene, subsection (5);

may be asserted or relied on only in proceedings between the corporation and officers of the corporation.

(9) In this section—

restriction includes prohibition.

703 Persons having dealings with corporatised corporations etc.

(1) A person having dealings with a corporatised corporation is entitled to make the assumptions mentioned in subsection (4) and, in a proceeding in relation to the dealings, any assertion by the corporation that the matters that the person is entitled to assume were not correct must be disregarded.

(2) A person (the ***first person***) having dealings with a person (the ***second person***) who has acquired, or purports to have acquired, title to property from a corporatised corporation (whether directly or indirectly) is entitled to make the assumptions mentioned in subsection (4).

(3) In a proceeding in relation to the dealings mentioned in subsection (2), any assertion by the corporation or the second person that the matters that the first person is entitled to assume were not correct must be disregarded.

(4) The assumptions that a person is, because of subsections (1) to (3), entitled to make are—

(a) that, at all relevant times, this part has been complied with; and

(b) that a person who is held out by the corporation to be an officer or agent of the corporation has been properly appointed and has authority to exercise the powers and perform the functions customarily exercised or performed by an officer or agent of the kind concerned; and

(c) that an officer or agent of the corporation who has authority to issue a document on behalf of the corporation has authority to warrant that the document is genuine and that an officer or agent of the corporation who has authority to issue a certified copy of a document on behalf of the corporation has authority to warrant that the copy is a true copy; and

(d) that a document has been properly sealed by the corporation if—

(i) it bears what appears to be an imprint of the corporation's seal; and

(ii) the sealing of the document appears to be authenticated by a person who, because of paragraph (b), may be assumed to be a director of the corporation or the corporation's chief executive officer; and

(e) that the corporation's directors, chief executive officer, employees and agents have properly performed their duties to the corporation.

(5) However, a person is not entitled to assume a matter mentioned in subsection (4) if—

(a) the person has actual knowledge the assumption would be incorrect; or

(b) because of the person's connection or relationship with the corporation, the person ought to know the assumption would be incorrect.

(6) If, because of subsection (5), a person is not entitled to make a particular assumption—

(a) if the assumption is in relation to dealings with the corporation—subsection (1) does not apply to any assertion by the corporation in relation to the assumption; or

(b) if the assumption is in relation to an acquisition or purported acquisition from the corporation of title to property—subsections (2) and (3) do not apply to any assertion by the corporation or another person in relation to the assumption.

704 LGOC may direct subsidiary

(1) An LGOC may give written directions to a subsidiary of the LGOC—

(a) to ensure the subsidiary complies with, and gives effect to the purposes of, this part; and

(b) about the payment of amounts to allow the LGOC to make payments under sections 711 and 712.

(2) An LGOC's local government may, by resolution, provide for an LGOC to give directions to a subsidiary about anything else.

705 Subsidiaries must comply with directions

A subsidiary must comply with a direction given to it under section 704.

706 Sections 704 and 705 not limiting

Sections 704 and 705 do not, by implication, limit the powers that an LGOC otherwise has to direct a subsidiary.

Subdivision 19 Finance—taxation

707 State taxes

(1) A corporatised corporation is not liable to pay State taxes in relation to any matter, instrument, transaction or thing greater than the State taxes that it would have been liable to pay in relation to the matter, instrument, transaction or thing if the corporation were a local government.

Examples for subsection (1)—

1 If the local government is liable to pay payroll tax in relation to the payroll for employees, an LGOC would also be liable to pay the tax.

2 If, as a local government, duty under the *Duties Act 2001* is not imposed on a transaction, the LGOC is not liable to pay that duty.

(2) State tax is not payable in relation to anything done (including, for example, a transaction entered into or an instrument made, executed, lodged or given) because of, or for a purpose connected with or arising out of, division 2 or subdivision 3 of this division.

(3) So far as the legislative power of the Parliament permits, the reference in subsection (2) to State tax includes a reference to tax imposed under an Act of another State.

708 Commonwealth and State tax equivalents

(1) The Treasurer may issue a manual (the ***tax equivalents manual***) about deciding the amounts (***tax equivalents***) to be paid by a corporatised corporation to its local government as the value of benefits derived by the corporation because it is not liable to pay Commonwealth or State tax that would be payable if it were neither a corporatised corporation nor a local government.

(2) Without limiting subsection (1), the tax equivalents manual may provide for—

(a) rulings by the tax assessor appointed under subsection (3) on issues about tax equivalents, including the application of rulings under a Commonwealth Act about Commonwealth tax; and

(b) the lodging of returns and giving of information by corporatised corporations; and

(c) assessing returns; and

(d) the functions and powers of the tax assessor; and

(e) objections and appeals against assessments and rulings.

(3) The Treasurer may appoint a person to be the tax assessor under the tax equivalents manual.

(4) A corporatised corporation must, as required under the tax equivalents manual, pay tax equivalents to its local government.

(5) The Treasurer must table a copy of the tax equivalents manual, and each amendment of the manual, in the Legislative Assembly within 14 sitting days after the manual is issued or the amendment made.

Subdivision 20 Finance—borrowings and guarantees

708A Application of Statutory Bodies Financial Arrangements Act 1982

(1) An LGOC is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the powers under this Act of an LGOC are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

709 Guarantees by local government

A local government is liable for the debts and other liabilities of its corporatised corporations only if, and to the extent that, the liability is expressly and lawfully undertaken on behalf of the local government.

710 Payment for cost of funds advantage of guarantees by local government

If the State or a local government guarantees repayment by a corporatised corporation of its debt, the corporation must pay to its local government amounts equivalent to the cost of funds advantage over commercial rates of interests.

Subdivision 21 Finance—dividends

711 Payment of dividends

(1) Within 1 month after the end of each financial year, a corporatised corporation's board must advise the corporation's shareholder of the recommendation that, in the light of the information then available to the board, it is likely to make under subsection (2).

(2) Within 4 months after the end of the financial year, the board must recommend to the shareholder that the corporation pay a stated dividend, or not pay a dividend, for the financial year.

(3) The board must consult with the shareholder before making the recommendation.

(4) Within 1 month after receiving the recommendation, the shareholder must either—

(a) approve the recommendation; or

(b) direct the payment of a stated dividend or a different stated dividend.

(5) If the shareholder is a local government, the approval or direction must be by resolution of the local government.

(6) The corporation's dividend for a financial year must not exceed its profits, after—

(a) provision has been made for any income tax or its equivalents; and

(b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.

(7) The dividend must be paid within 6 months after the end of the financial year or any further period that the shareholder allows.

(8) For a corporation that is corporatised other than on 1 July, its first financial year is the period from the day of its corporatisation to 30 June following, unless its local government resolves a longer period.

(9) A copy of the direction must be open to inspection.

712 Interim dividends

(1) A corporatised corporation's shareholder may, at any time after 1 January in a financial year, require the corporation's board to make a recommendation about the payment of interim amounts to the shareholder (including the times at which the amounts are to be paid) on account of the dividend that may become payable under section 711 for the financial year.

(2) Within 1 month after receiving notice of the requirement, the board must make a recommendation to the shareholder.

(3) The shareholder must, within 1 month after receiving the recommendation, either—

(a) approve the recommendation; or

(b) direct the payment, at stated times, of stated amounts, or different stated amounts, on account of the dividend that may become payable for the financial year.

(4) If the shareholder is a local government, the approval and direction must be by resolution of the local government.

(5) A direction under subsection (3)(b) must not direct the payment of an amount that is more than the corporatised corporation's estimated profit for the first 6 months of the financial year, after—

(a) provision has been made for any income tax or its equivalents; and

(b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.

(6) A copy of the direction must be open to inspection.

713 Dividend payment for financial year of becoming a corporatised corporation

For applying section 711 to a corporatised corporation for the financial year when it became a corporatised corporation, a dividend, or an amount in the nature of a dividend, payable by the corporation is payable for, at the discretion of the corporation's shareholder—

(a) the entire financial year; or

(b) the part of the financial year for which it was a corporatised corporation.

Example—

A candidate LGOC becomes the business of an LGOC on 1 January 2000. Depending on what the shareholder decides, the dividend the LGOC has to pay for the 1999–2000 financial year will relate either to the entire financial year (even though it is an LGOC for only one-half the year), or only to the period 1 January 2000 to 30 June 2000.

Subdivision 22 Acquisition and disposal of assets and subsidiaries

714 Reserve power of shareholder to direct that asset not be disposed of

(1) An LGOC's shareholder may, after consultation with the LGOC's board, give the board a written direction requiring the LGOC or a subsidiary of the LGOC not to dispose of a stated asset or class of assets.

(2) The direction must be by resolution of the local government.

(3) The board must ensure the direction is complied with by its subsidiaries.

(4) If the direction to an LGOC's board concerns the LGOC's subsidiary, the LGOC's board must, to the extent the direction concerns the subsidiary—

(a) notify the subsidiary of the direction; and

(b) ensure the direction is complied with by the subsidiary.

(5) The subsidiary's board must ensure that a direction of which it has been notified is complied with in relation to the subsidiary to the extent that the direction concerns the subsidiary.

(6) A copy of the direction must be open to inspection.

715 Disposal of main undertakings

(1) An LGOC or a subsidiary may dispose of any of its main undertakings only with the prior approval, by resolution, of the LGOC's local government.

(2) Subject to subsection (1), if an LGOC or its subsidiary disposes of any of its main undertakings, the LGOC must, as soon as practicable, give the local government written notice of the disposal.

716 Acquiring of other subsidiaries prohibited

(1) A corporatised corporation must not form, or participate in forming, a company that would become its subsidiary if the corporatised corporation were a corporation registered under the Corporations Act.

(2) A corporatised corporation may only acquire shares, or participate in any other transaction, that will result in a body corporate becoming or ceasing to be its subsidiary if the body corporate is established under this part.

Subdivision 23 Employees

717 Employees of corporatised corporations

The chief executive officer of a corporatised corporation may, on behalf of the corporation, engage the employees the chief executive officer considers necessary to perform the corporation's functions.

718 Terms of employment

(1) The terms of employment of the employees of a corporatised corporation are as determined by the corporation.

(2) Subsection (1) has effect subject to any relevant award or industrial agreement.

(3) Employees of a corporatised corporation are not employees of its local government.

719 Arrangements relating to staff

(1) A corporatised corporation may arrange with the chief executive of a department, or with an authority of the State, or the chief executive officer of a local government for the services of officers or employees of the department or authority or local government to be made available to it.

(2) A corporatised corporation may arrange with the appropriate authority of the Commonwealth or another State, or with an authority of the Commonwealth or another State, for the services of officers or employees of the public service of the Commonwealth or State, or of the authority, to be made available to it.

(3) A corporatised corporation may arrange for the services of an employee of the corporation to be made available to—

(a) the Commonwealth or another State; or

(b) an authority of the Commonwealth or another State; or

(c) a local government.

720 Superannuation schemes

(1) A corporatised corporation may—

(a) establish or amend superannuation schemes; or

(b) join in establishing or amending superannuation schemes; or

(c) take part in superannuation schemes.

(2) However, the corporation may not establish or take part in a superannuation scheme that does not meet the requirements of the Commonwealth Superannuation Act.

721 Superannuation for officers and employees of corporatised corporation who were previously officers of a local government

(1) In this section—

existing scheme, for a person to whom this section applies, means the LG Super scheme or a superannuation scheme established by Brisbane City Council for council employees under the *City of Brisbane Act 1924*.

person to whom this section applies means a person employed by a corporatised corporation who, immediately before becoming employed, was a member of an existing scheme.

(2) If a person to whom this section applies was employed by Brisbane City Council, subject to subsection (4)—

(a) the person is to continue to be a member of the existing scheme and, for that purpose, is taken to be a council employee; and

(b) the existing scheme continues to apply to the person and, for the purpose, the corporatised corporation is to contribute to the scheme as if it were the Brisbane City Council.

(3) If a person to whom this section applies was employed by another local government, subject to subsection (4)—

(a) the person is to continue to be a member of the existing scheme and, for that purpose, is taken to be an employee of a local government and an eligible member under section 1181(1); and

(b) the existing scheme continues to apply to the person, and, for the purpose, the corporatised corporation is taken to be a local government employing the person for chapter 17, part 3.

(4) If—

(a) the corporatised corporation establishes, joins in establishing or takes part in establishing a superannuation scheme (other than an existing scheme); and

(b) a person continued to be a member of an existing scheme under subsection (2) or (3);

the person may, under arrangements prescribed under a regulation, stop being a member and become a member of the scheme established or taken part in by the corporation.

722 Preservation of leave and other entitlements of certain former employees of local government

(1) This section applies to a person who—

(a) becomes employed by a corporatised corporation in a permanent or full-time capacity within 1 year after the corporation becomes a corporatised corporation; and

(b) was an employee of a local government employed in a permanent or full-time capacity immediately before becoming employed by the corporation.

(2) If, when first employed by the corporatised corporation, the person had leave entitlements that had been accrued as an employee of a local government, the person must be treated as having accrued the entitlements as an employee of the corporation.

(3) If, when first employed by the corporatised corporation, the person had not accrued leave entitlements as an employee of a local government, for accruing leave entitlements of the person as an employee of the corporation, the person's employment with the local government is taken to be employment by the corporation.

(4) A person is not under this section to claim or receive benefits twice for the same entitlement.

(5) If the person, as an employee of the corporatised corporation, is or becomes entitled to another entitlement based on the person's length of service with the corporation, the person's employment with the local government is taken to be employment by the corporation.

(6) A person's cessation of employment with a local government to become an employee of the corporatised corporation is not to be treated as a termination of the person's employment with

the local government under a redundancy or voluntary early retirement or other similar arrangement.

Subdivision 24 Other matters

723 Corporatised corporation's seal

(1) A corporatised corporation's seal is to be kept in the custody directed by the board and may be used only as authorised by the board.

(2) The attaching of the seal to a document must be witnessed by—

(a) 2 or more directors; or

(b) at least 1 director and the corporation's chief executive officer; or

(c) a director or the corporation's chief executive officer and 1 or more persons authorised by the board.

(3) Judicial notice must be taken of the imprint of the corporation's seal appearing on a document.

724 Change of functions and name of corporatised corporation

(1) A local government may, by resolution, change the functions or name of its corporatised corporation.

(2) A resolution under this section takes effect on publication in the gazette of notice of the making of the resolution or a later day stated in the resolution and the notice.

725 Authentication of documents

A document made by a corporatised corporation (other than a document that is required by law to be sealed) is sufficiently authenticated if it is signed by—

(a) the chairperson of the board; or

(b) the corporation's chief executive officer; or

(c) a person authorised to sign the document by—

(i) resolution of the board; or

(ii) direction of the corporation's chief executive officer.

726 Judicial notice of certain signatures

Judicial notice must be taken of—

(a) the official signature of a person who is or has been chairperson of the board of a corporatised corporation or a corporatised corporation's director or chief executive officer; and

(b) the fact that the person holds or has held the office concerned.

727 Crime and Misconduct Act

A corporatised corporation is a unit of public administration under the *Crime and Misconduct Act 2001*.

728 Application of Ombudsman Act 2001

(1) The *Ombudsman Act 2001* does not apply to—

(a) the making of a recommendation to the shareholder of a corporatised corporation; or

(b) a decision about a corporatised corporation's commercial policy; or

(c) a corporatised corporation in relation to its commercially competitive activities.

(2) An LGOC prescribed under a regulation for this subsection is not a public authority under the *Ombudsman Act 2001*.

(3) In this section—

commercially competitive activity means activity carried on, on a commercial basis, in competition with a person, other than—

(a) the Commonwealth or a State; or

(b) a State authority; or

(c) a local government.

Division 4 Miscellaneous

729 Monitoring and assessment of corporatised corporations

(1) The shareholder of an LGOC or its shareholder's delegate may delegate the shareholder's powers under section 687 to an appropriately qualified person.

(2) The shareholder of a corporatised corporation may ask the chief executive officer of the local government to investigate, and report on, any matter relating to the corporatised corporation.

(3) For the investigation, the chief executive officer may give the corporation written directions.

(4) Without limiting subsection (3), the chief executive officer may direct the corporation—

(a) to give to the chief executive officer any information about the corporation and its subsidiaries the chief executive officer considers necessary or desirable in connection with the investigation; and

(b) to permit persons authorised by the chief executive officer to have access to stated records and other documents about the corporation and its subsidiaries that the chief executive officer considers necessary or desirable in connection with the investigation; and

(c) to take steps that the chief executive officer considers necessary or desirable for the investigation.

(5) The corporation must ensure any direction given to it under this section—

(a) is complied with by itself; and

(b) is also complied with by its subsidiaries.

(6) The chief executive officer may delegate to an appropriately qualified employee of the local government or another appropriately qualified person the chief executive officer's

powers under this section (including powers delegated to the chief executive officer under subsection (1)).

730 Giving of documents to board

If this part authorises or requires a document to be given to a board of a corporatised corporation, it may be given to the chairperson of the board.

731 Judicial notice of certain resolutions

(1) This section applies to resolutions under this part that, to be effective, must be published in the gazette.

(2) To avoid any doubt, it is declared that on a resolution taking effect, it has the force of law.

(3) On publication in the gazette of a notice of the resolution, judicial notice must be taken of the resolution.

732 When resolutions amending certain resolutions take effect

If, under this part, a resolution of a local government (the ***first resolution***) does not take effect until publication in the gazette of a notice of the making of the resolution, another resolution of the local government amending the first resolution also has no effect until publication in the gazette of notice of the making of the resolution or a later day stated in the resolution and the notice.

733 Local governments and certain officers not directors etc.

(1) This section does not apply to a councillor or employee of a local government who is a director of an LGOC to the extent the councillor or employee acts in the capacity of director.

(2) The following are not to be treated as officers of an LGOC or any subsidiary of the LGOC—

(a) shareholders of the LGOC;

(b) the shareholder's delegates;

(c) for a subsidiary—its LGOC;

(d) councillors of the LGOC's local government in the performance of their duties as councillors for the local government;

(e) employees of the LGOC's local government in the performance of their duties as employees for the local government.

(3) A councillor or employee of a local government does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under this part in relation to an LGOC or a subsidiary of an LGOC.

(4) A liability that would, apart from subsection (3), attach to the councillor or employee attaches instead to the local government.

Division 5 Additional provisions relating to board of corporatised corporations

Subdivision 1 Composition of board

734 Composition of board

(1) An LGOC's board must consist of at least 5 directors appointed by its shareholder.

(2) An LGOC's subsidiary's board must consist of at least 5 directors appointed by its LGOC.

735 Chairperson and deputy chairperson

(1) The shareholder must appoint a director to be the chairperson of its LGOC's board and may appoint another director to be the board's deputy chairperson.

(2) The LGOC must appoint a director of its subsidiary to be the chairperson of the subsidiary's board and may appoint another director to be the board's deputy chairperson.

(3) If there is a deputy chairperson, the deputy chairperson is to act as chairperson—

(a) during a vacancy in the office of chairperson; and

(b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

Subdivision 2 Meetings and other business of board

736 Meaning of *required minimum number* of directors

In this part, ***required minimum number*** of directors is the number that is one-half the number of directors of which the board for the time being consists or, if that number is not a whole number, the next higher whole number.

737 Conduct of meetings and other business

Subject to this part, the board may conduct its business (including its meetings) in the way it considers appropriate.

738 Times and places of meetings

(1) Meetings of the board are to be held at the times and places that the board determines.

(2) However, the chairperson—

(a) may at any time call a meeting; and

(b) if asked by at least the required minimum number of directors—must call a meeting as requested.

739 Presiding at meetings

(1) The chairperson is to preside at all meetings at which the chairperson is present.

(2) If the chairperson is not present at a meeting, the deputy chairperson is to preside.

(3) If both the chairperson and deputy chairperson are not present at a meeting, the director chosen by the directors present at the meeting is to preside.

740 Quorum and voting at meetings

(1) At a meeting of the board—

(a) the required minimum number of directors constitutes a quorum; and

(b) a question is to be decided by a majority of the votes of the directors present and voting; and

(c) each director present has a vote on each question arising for decision and, if the votes are equal, the director presiding also has a casting vote.

(2) Subsection (1)(a) has effect subject to section 689(3).

741 Participations in meetings by telephone etc.

(1) The board may permit directors to participate in a particular meeting, or all meetings, by—

(a) telephone; or

(b) closed circuit television; or

(c) another form of communication that allows reasonably contemporaneous and continuous communication between the directors taking part in the meeting.

(2) A director who participates in a meeting of the board under a permission under subsection (1) is taken to be present at the meeting.

742 Resolutions without meetings

(1) If at least a majority of directors sign a document containing a statement that they are in favour of a resolution set out in the document, a resolution in those terms is taken to have been passed at a meeting of the board held on the day on which the document is signed or, if the directors do not sign it on the same day, the day on which the last of the directors constituting the majority signs the document.

(2) If a resolution is, under subsection (1), taken to have been passed at a meeting of the board, each director must immediately be advised of the matter and given a copy of the terms of the resolution.

(3) For subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by 1 or more directors, are taken to constitute a single document.

743 Minutes

The board must keep minutes of its proceedings.

Subdivision 3 Provisions relating to directors

744 Appointment of directors

(1) A director of a corporatised corporation is to be appointed by its shareholder for a term of not more than 5 years.

(2) A person is not eligible for appointment if the person is not able to manage a corporation, within the meaning of the Corporations Act, because of section 201B of that Act.

745 LGOC director not to be chief executive officer or other employee of LGOC's subsidiary

A person must not be both a director of an LGOC and the chief executive officer or another employee of a subsidiary of the LGOC.

746 Procedure for appointment of directors

(1) A shareholder of a corporatised corporation must adopt processes for selection of appropriate persons for appointment as directors of the corporation.

(2) In appointing a person as a director, the shareholder must have regard to the person's ability to make a contribution to the corporation's commercial performance and implementation of its statement of corporate intent.

(3) The processes are to be based on the principle that the board should have the appropriate range of skills to ensure the corporation is a successful business.

(4) The shareholder must—

(a) identify the key attributes required; and

(b) call for nominations through public advertising and canvassing of suitable individuals; and

(c) evaluate nominations using independent expertise; and

(d) provide for interviews of short-listed individuals by a nominated group assisted by independent experts; and

(e) appoint the most suitable individuals as directors.

(5) The process for selection and appointment of directors of the corporation may be carried out in conjunction with the process for appointment of members of the establishment committee for the corporation.[39]

(6) A shareholder may act under this section to prepare a panel of names of persons suitably qualified for appointment as directors of the corporation.

747 Terms of appointment not provided for under divs 1–4

(1) In relation to matters not provided for under divisions 1 to 4, a director holds office on the terms of appointment determined by the shareholder.

(2) Except as determined by the shareholder, a director is not entitled to receive any payment, any interest in property or other valuable consideration or benefit—

(a) by way of remuneration as a director; or

(b) in connection with retirement from office, or other termination of office, as a director.

39 See section 606 (Procedure for appointment of establishment committee).

748 Appointment of acting director

The shareholder may appoint a person to act as a director of a board during any period, or all periods, when a director is absent from duty or, for another reason, can not perform the functions of the office.

749 Resignation

(1) A director, or person appointed under section 735, may resign by signed notice given to the shareholder.

(2) The chairperson or deputy chairperson may resign as chairperson or deputy chairperson and remain a director.

750 Termination of appointment as director

(1) The shareholder may, at any time, terminate the appointment of all or any directors of the board for any reason or none.

(2) A person ceases to be a director of an LGOC if—

(a) when appointed a director, the person was a councillor or employee of the LGOC's local government; and

(b) the person ceases to be a councillor or employee.

(3) A person also ceases to be a director of a corporatised corporation if the person ceases to be eligible for appointment as a director.

Division 6 Additional provisions relating to chief executive officers

751 Appointment of chief executive officer

A chief executive officer of a corporatised corporation is to be appointed by the corporation's board.

752 Local government employees can not be chief executive officers of corporatised corporations

A person must not be both an employee of a local government and the chief executive officer of a corporatised corporation.

753 Director may be chief executive officer

(1) Nothing in this part prevents a person who is not a councillor or employee of the local government being both a director and the chief executive officer of a corporatised corporation.

(2) However, a director of a corporatised corporation who is its chief executive officer must abstain from voting at meetings of the corporation's board as a director on matters concerning the role, performance or employment conditions of the chief executive officer.

754 Appointment of acting chief executive officer

The board may appoint a person to act as chief executive officer—

(a) during a vacancy in the office; or

(b) during any period, or all periods, when the chief executive officer is absent from duty or, for another reason, can not perform the functions of the office.

755 Terms of appointment not provided for under divs 1–4

The chief executive officer of a corporatised corporation holds office on the terms not provided for under divisions 1 to 4 as are decided by the board of the corporation.

756 Resignation

The chief executive officer of a corporatised corporation may resign by signed notice given to the chairperson of the corporation's board.

757 Termination of appointment

(1) A corporatised corporation's board may, at any time, terminate the appointment of the chief executive officer of the corporation for any reason or none.

(2) The termination of the appointment of the chief executive officer under subsection (1) does not affect any rights to compensation to which the chief executive officer may be

entitled under the terms of the chief executive officer's appointment.

Chapter 9 Conduct of competitive business activities

Part 1 Object and application

758 Object of ch 9

The object of this chapter is to provide for—

(a) the application of competitive neutrality principles to certain roads business activities and building certification business activities of local governments; and

(b) the identification of business activities of local governments to which competitive neutrality principles may apply; and

(c) the application by local governments of competitive neutrality principles to those business activities.

759 Competitive neutrality principles

Competitive neutrality principles include—

(a) the efficiency of overall resource use is promoted by ensuring markets are not unnecessarily distorted; and

(b) wherever possible and appropriate, advantages and disadvantages that arise because a business activity, roads business activity or building certification business activity is part of a local government be removed.

760 Application to Brisbane City Council

This chapter applies to the Brisbane City Council.

Part 2 Definitions

761 Definitions for ch 9

In this chapter—

building certification business activity, of a local government, means—

(a) performing building certifying functions if the local government, in carrying on the activity, engages in competition with the private sector; and

(b) the activity is prescribed under a regulation.

building certifying function see the *Building Act 1975*, section 8.

business activity see section 762.

code of competitive conduct, for a local government, means a code in force for this chapter under—

(a) if the Local Government Finance Standards apply to the local government—the standards; or

(b) for Brisbane City Council—a regulation under the *City of Brisbane Act 1924*, section 127.

roads business activity, of a local government, means—

(a) the construction or maintenance of State-controlled roads for which the local government submits an offer to carry out work in response to a tender invitation other than through a sole supplier arrangement; or

(b) submission of a competitive tender for construction or road maintenance works—

(i) on roads of the local government which the local government has put out to competitive tender; or

(ii) called for by another local government;

but does not include an activity, or part of an activity, prescribed under a regulation.

762 Meaning of *business activity*

(1) A ***business activity***, of a local government, is—

(a) trading in goods and services to clients such as off-street parking and cultural, sporting and recreational facilities and quarries if, in carrying on the activity, the local government engages in competition with the private sector; or

(b) submission of a competitive tender in the local government's own tendering process in competition with others for the provision of goods and services to itself.

(2) However, the following activities of a local government are not business activities—

(a) a significant business activity under chapter 8 if the local government has resolved to implement reforms under the chapter for the activity; or

(b) a roads business activity; or

(c) a building certification business activity; or

(d) library services; or

(e) an activity, or part of an activity, prescribed under a regulation.

Part 3 Code of competitive conduct

763 Code must be applied to roads business activities

(1) A local government must apply the code of competitive conduct in carrying on its roads business activities.

(2) Subsection (1) applies—

(a) for an activity mentioned in the definition *roads business activity*, paragraph (a)—to offers submitted on or after 1 January 1998; and

(b) for an activity mentioned in the definition *roads business activity*, paragraph (b)—to tenders submitted on or after 1 July 1998.

763A Code must be applied to building certification business activities

(1) A local government that, in a financial year, carries on a building certification business activity must apply the code of competitive conduct to its carrying on the activity for the following financial year.

(2) A local government's annual report must state whether or not the local government carried on a building certification business activity during the financial year.

764 When code must be applied to other business activities

If, under part 4, a local government resolves the code of competitive conduct is to apply to a business activity of the local government, the local government must apply the code in carrying on the business activity.

Part 4 Annual review of business activities

765 Annual review of business activities

During each financial year (the ***relevant year***) starting with the 1997–1998 financial year, a local government must identify its activities that are business activities.

766 Local government to resolve whether to apply code of competitive conduct to business activities

(1) During each financial year starting with the 1997–1998 financial year, each local government must resolve whether the code of competitive conduct should or should not be

applied to each of its business activities for the following financial year.

(2) A local government may resolve under subsection (1) that the resolution is to take effect on a stated day earlier than the following financial year.

(3) A local government may, at any time, resolve the code should no longer apply to a business activity.

(4) A resolution under subsection (1) or (3) to not apply, or to no longer apply, the code to a business activity must include a statement of the reasons for not applying, or for no longer applying, the code to the business activity.

767 Application of code of competitive conduct to other activities

Nothing in this chapter prevents a local government from applying the code of competitive conduct to another activity carried on by the local government.

768 Information to be included in annual report

A local government's annual report must contain a list of its activities that were business activities during the financial year and a statement whether the code of competitive conduct was applied to each of the activities and, if not, the reason it was not applied.

Chapter 10 Reform of certain water and sewerage services

Part 1 Object and application

769 Object of ch 10

The object of this chapter is, in relation to relevant business activities that provide water and sewerage services, to achieve efficiency and sustainability in the use of water by—

(a) requiring an assessment by local governments of the cost-effectiveness of introducing two-part tariffs for water services; and

(b) requiring decisions by local governments whether two-part tariffs are to be applied for water services; and

(c) if two-part tariffs are to be applied for water services—requiring implementation of the tariffs in accordance with the decision; and

(d) requiring charges for water services to be based on consumption; and

(e) requiring full cost recovery for water and sewerage services; and

(f) requiring identification and disclosure of cross-subsidies and community service obligations in the provision of water and sewerage services; and

(g) requiring disclosure of a class of consumers who are provided with water and sewerage services at an amount below full cost and the amount.

770 Application to Brisbane City Council

This chapter applies to the Brisbane City Council.

Part 2 Interpretation

772 Definitions for ch 10

In this chapter—

access component, of a two-part tariff, means the component fixed for access to water services, independently of the quantity of water supplied.

consumer, of a service, means the person who is levied a utility charge for the service, whether an owner or the person at whose request the service is supplied.

consumption component, of a two-part tariff, means the component based on the quantity of water supplied.

corporatised corporation means a corporatised corporation under chapter 8.

cost effective, for a two-part tariff for a relevant business activity, means application of the tariff is likely to result in savings in costs to the business activity for supplying water, including capital costs.

new type 1 or 2 business activity means a new type 1 or 2 business activity under chapter 8.

relevant business activity means—

(a) a significant business activity providing water or sewerage services; or

(b) an activity of a corporatised corporation providing water or sewerage services that was a significant business activity.

two-part tariff means a basis for a utility charge for water services consisting of access and consumption components with the objective of achieving efficiency and sustainability in the use of water.

two-part tariff report see section 773.

type 1 or 2 business activity means a type 1 or 2 business activity under chapter 8.

772A Consumption as the basis for utility charges for water services

(1) For this chapter, consumption is the basis for utility charges for water services if a two-part tariff is applied.[40]

(2) Subsection (1) does not limit the ways in which consumption may be the basis for utility charges for water services.

Part 3 Assessment of cost effectiveness of two-part tariffs for water supply

773 Assessment of cost effectiveness of two-part tariffs to be carried out

(1) A local government must ensure an assessment of the cost effectiveness of the application of a two-part tariff for a relevant business activity providing water services is carried out and a report (a ***two-part tariff report***) prepared.

(2) A two-part tariff report must include—

(a) a finding whether it is cost effective for the application of a two-part tariff for the service to an extent stated in the report; and

(b) if the finding is that it is cost effective for application of a two-part tariff—

(i) a recommendation for application of a two-part tariff for the service to the extent stated in the report; and

(ii) if necessary, proposed strategies (including a timetable) that may be followed to apply a two-part tariff.

40 See section 783(b) (Local governments to implement charging and operational arrangements for relevant business activities).

Example to subsection (2)—

A two-part tariff report could—

(a) find that it is cost effective for a two-part tariff to be applied to part only of the local government's area and, in that part, only for stated consumers; and

(b) recommend a two-part tariff apply to the stated consumers in the part.

774 Local government to decide on assessment and report process

Subject to compliance with this chapter, the local government must decide—

(a) how the assessment is to be conducted; and

(b) the matters the report must deal with; and

(c) when the report is to be presented to the local government.

Example for paragraph (a)—

The local government may decide the assessment is to include a public consultation process and be carried out by the local government or by external consultants or in cooperation with other local governments carrying out similar assessments or in conjunction with public benefit assessments under chapter 8.

775 Timing for assessments and reports

(1) The two-part tariff report must be completed in enough time to allow the local government to comply with sections 780, 781 and 784.

(2) The report must be presented to a meeting of the local government as soon as practicable after the report is completed.

776 Fresh assessment within 3 years if recommendation on two-part tariffs not applied

(1) This section applies if—

(a) a two-part tariff report recommends the application of a two-part tariff to any extent for a relevant business activity; and

(b) the local government resolves that a two-part tariff not apply for the activity to the extent recommended.

(2) The local government must ensure a fresh assessment is carried out and a fresh two-part tariff report prepared for the activity within 3 years after the end of the financial year in which the report was presented to the local government.

(3) Section 773 applies to the assessment and report as if the activity, to the extent that a two-part tariff has, contrary to the report mentioned in subsection (1), not been applied, were the relevant business activity.

777 Regulation about assessments and reports

A regulation may prescribe requirements for assessments and reports under this part including different requirements for different classes of assessments and reports.

Part 4 Decision on two-part tariff reports

778 Object of pt 4

The object of this part is to require local governments to consider two-part tariff reports and decide the application or otherwise of two-part tariffs for relevant business activities that provide a water service.

779 Public access to two-part tariff reports

From presentation of the two-part tariff report for a relevant business activity to a meeting of a local government until the local government decides whether to apply a two-part tariff for the activity, the report must be open to inspection.

780 Local government to resolve whether to apply two-part tariff

(1) As soon as practicable, and within 3 months after presentation of a two-part tariff report for a relevant business activity to a meeting of a local government, the local government must resolve whether a two-part tariff should be applied, and the extent of the application, for the activity.

(2) A resolution to apply a two-part tariff must—

(a) state the extent of application; and

(b) if necessary, approve strategies (including a timetable) for its application under section 785.

(3) A resolution under subsection (1) inconsistent with the recommendation in the report must include a statement of the reasons for the inconsistency.

(4) Subsection (2)(b) does not prevent a local government changing its strategies for the application of a two-part tariff so long as a two-part tariff is applied under the resolution under subsection (2)(a).

781 Timing for resolution

The local government must make a resolution under section 780—

(a) for a relevant business activity that is or was a type 1 or 2 business activity—

(i) by 31 December 1998; or

(ii) a day (not later than 31 March 1999) approved by the Minister; or

(b) for a relevant business activity that is or was a new type 1 or 2 business activity—

(i) by 31 December after the financial year for which the activity is first identified by the local government as a new type 1 or 2 business activity; or

(ii) a day (not later than the following 31 March) approved by the Minister.

782 Notice to Minister of resolution

As soon as practicable after making a resolution that a two-part tariff apply or not apply for a relevant business activity, the local government must give to the Minister—

(a) a copy of the two-part tariff report for the activity; and

(b) a copy of the resolution.

Part 5 Implementation of certain charging arrangements and reporting procedures

783 Local governments to implement charging and operational arrangements for relevant business activities

A local government must ensure that, for a relevant business activity—

(a) if it has resolved that a two-part tariff is to be applied for the activity—a two-part tariff is applied; and

(b) consumption is the basis for utility charges for water services; and

(c) full cost recovery is applied for water and sewerage services; and

(d) cross-subsidies between classes of consumers and community service obligations in the provision of water and sewerage services are identified and disclosed; and

(e) the classes of consumers who are provided with water and sewerage services at an amount below full cost and the amount are disclosed.

783A Implementing resolution under s 780 to apply two-part tariff

A resolution under section 780 to apply a two-part tariff for a relevant business activity must be implemented by making

and levying a utility charge under chapter 14 or the *City of Brisbane Act 1924*, part 3.

784 Start of work to apply two-part tariffs

If a local government approves strategies for application of a two-part tariff for a relevant business activity, the local government must ensure work is started to apply a two-part tariff under a resolution made under section 780 on or before the day stated in section 781 before which the resolution must be made.

785 Timetable for implementing arrangements

(1) This section applies to a local government required to act under section 783.

(2) Implementation must be completed on or before—

(a) for a relevant business activity that is or was a type 1 or 2 business activity—1 July 2000; or

(b) for a relevant business activity that is or was a new type 1 or 2 business activity—1 July of the year that is 2 years after the end of the financial year for which the activity was identified as being a new type 1 or 2 business activity.

(3) For a particular relevant business activity, the Minister may extend the time for implementation subject to the terms the Minister considers appropriate.

786 Strategies for applying s 783(b)–(e)

A local government must approve and start implementing strategies for the application to its relevant business activities of the matters stated in section 783(b) to (e) by—

(a) for a relevant business activity that is or was a type 1 or 2 business activity—31 December 1998; or

(b) for a relevant business activity that is or was a new type 1 or 2 business activity—31 December after the financial year for which the activity is first identified by

the local government as a new type 1 or 2 business activity.

Chapter 11 Complaints about competitive neutrality

Part 1 Preliminary

787 Object of ch 11

The object of this chapter is to provide for—

(a) the establishment by local governments of appropriate processes for dealing with complaints about the carrying on by local government business entities of activities in a way that does not comply with the competitive neutrality principles applying to the activities; and

(b) decisions by local governments on recommendations by referees under the complaint processes; and

(c) references to the Queensland Competition Authority about the outcomes of certain complaints; and

(d) investigations and recommendations by the authority on references to it; and

(e) decisions by local governments on recommendations by the authority in relation to references; and

(f) accreditation by the authority of activities carried on by local government business entities applying competitive neutrality principles.

788 Application of ch 11

Subject to sections 791, 821 and 832 and part 2, division 6, this chapter applies in relation to an activity carried on by a local government business entity if it—

(a) is a corporatised corporation;[41] or

(b) implements—

(i) full cost pricing under chapter 8, part 5; or

(ii) commercialisation under chapter 8, part 6; or

(iii) the code of competitive conduct under chapter 9.

789 Application to Brisbane City Council

This chapter applies to the Brisbane City Council.

790 Definitions for ch 11

In this chapter—

affected person see section 792.

applicant means—

(a) for parts 2 and 3—an affected person who makes a complaint under a local government's complaint process; and

(b) for part 4—a local government business entity that makes application for accreditation under the part for an activity carried on by the entity.

competitive advantage means an advantage that, solely because of local government ownership, is—

(a) a financial advantage; or

(b) a regulatory advantage; or

(c) a procedural advantage; or

(d) another advantage.

Examples of financial advantage—

1 An advantage enjoyed by a local government business entity carrying on an activity because the entity is exempt from a local government charge applying to a person making a complaint.

41 Section 790 (Definitions for ch 11) defines *corporatised corporation*.

2 An advantage enjoyed by a local government business entity carrying on an activity because the entity is charged a different local government charge from the local government charge applying to a person making a complaint.

Example of regulatory advantage—

An advantage enjoyed by a local government business entity carrying on an activity because the entity is completely or partly exempt from an approval procedure applying to a person making a complaint.

Examples of procedural advantage—

1 An advantage enjoyed by a local government business entity carrying on an activity because the entity does not have to supply the same level of information under local government approval procedures as a person making a complaint.

2 An advantage enjoyed by a local government business entity carrying on an activity because the entity is given, or has access to, more information under local government approval procedures than a person making a complaint.

competitive neutrality principles means—

(a) for an activity of a local government business entity to which full cost pricing under chapter 8, part 5 applies—the principles and requirements (other than reporting requirements) of full cost pricing under the part; or

(b) for an activity of a commercial business unit under chapter 8, part 6—the following principles and requirements under part 6—

(i) the principles and requirements of full cost pricing (other than reporting requirements);

(ii) the requirements for treatment of community service obligations;

(iii) the requirements for removal, or taking account, of advantages and disadvantages accruing to a commercial business unit because it is a part of the local government; or

(c) for an activity of a corporatised corporation—the following principles and requirements of corporatisation under chapter 8, part 7—

(i) the requirements for treatment of community service obligations;

(ii) the requirements for the removal of advantages and disadvantages accruing to the corporatised corporation as a result of local government ownership; or

(d) for an activity of a local government business entity to which the code of competitive conduct under chapter 9 applies or is required to be applied—the requirements (other than reporting requirements) of the code.

complaint means a complaint under a complaint process.

complaint process, for an activity of a local government business entity, means the complaint process established by the local government for dealing with complaints about the failure of the entity to carry on the activity in compliance with competitive neutrality principles applying to the activity.

corporatised corporation means a corporatised corporation under chapter 8, part 7.

investigation notice means—

(a) for part 2—a notice given under section 800;

(b) for part 3—a notice given under section 800 as applied to the part by section 827;

(c) for part 4—a notice given under section 835.

local government business entity means—

(a) a local government to the extent it carries on an activity to which this chapter applies, including a commercial business unit of a local government; or

(b) a corporatised corporation.

Queensland Competition Authority means the Queensland Competition Authority under the *Queensland Competition Authority Act 1997*.

referee means a person appointed by a local government to investigate a complaint.

reference means a reference to the Queensland Competition Authority under part 3.

Part 2 Complaint process for local government business entities

Division 1 Preliminary

791 Application of pt 2

This part does not apply to an activity carried on by a local government business entity to the extent that, and for so long as, there is a current accreditation for the activity by the Queensland Competition Authority granted to the entity under part 4.

792 Affected persons

(1) In this part, an ***affected person*** is a person who—

(a) is, or may be, adversely affected by the competitive advantage alleged by the person to be enjoyed by the local government business entity in carrying on an activity; and

(b) in relation to the activity mentioned in paragraph (a)—satisfies a competition requirement.

(2) For subsection (1), a person satisfies a competition requirement in relation to an activity carried on by the entity if the person—

(a) competes with the local government business entity in relation to the activity; or

(b) seeks to compete with the local government business entity in relation to the activity but is being hindered from doing so by the competitive advantage alleged by the person to be enjoyed by the entity.

Division 2 Complaints about competitive neutrality

793 Local government to establish complaint process

(1) Each local government must establish a process for resolving complaints by affected persons about failures of its local government business entities to carry on activities in a way that complies with the competitive neutrality principles applying to the activities.

(2) The process must be adopted by resolution of the local government.[42]

794 Requirements for complaint process

(1) The complaint process must include the following elements—

(a) the process for selecting and appointing referees to investigate complaints;

(b) preliminary procedures before an affected person makes a complaint—

(i) for affected persons to raise concerns about alleged failures of local government business entities to comply with the competitive neutrality principles applying to the entities' activities; and

(ii) for clarifying and, if possible, resolving the concerns;

(c) the way an affected person may make a complaint;

(d) sending of complaints to, and their investigation by, the referee;

(e) recording of all complaints and the referee's decisions and recommendations;

(f) advice to the applicant of the complaint procedure;

42 Under division 6, a local government may resolve that the Queensland Competition Authority be the referee for its complaint process for certain activities. The division contains provisions about the application of this part, and certain provisions of the *Queensland Competition Authority Act 1997*, to the complaint process.

(g) giving the applicant an opportunity to give to the referee further details about the applicant's complaint;

(h) times in which the referee must give reports to the local government;

(i) any other matters the local government considers appropriate.

(2) Also, the process mentioned in subsection (1)(a) must require that the person appointed to be a referee to investigate a complaint must not be involved with the carrying on of the activity the subject of the complaint.

(3) The fee charged by a local government for making a complaint must not be more than the maximum fee prescribed under a regulation for making a complaint.

795 Grounds for complaints

The grounds for a complaint must be the failure of a local government business entity to carry on an activity in a way that complies with the competitive neutrality principles applying to the activity.

796 Effect of complaint on activities

A complaint about an activity of a local government business entity does not prevent the entity from continuing to carry on the activity pending a decision by the local government on the referee's report and recommendation on the complaint.

797 Referee to act fairly

In investigating a complaint and making a report, the referee must act fairly and impartially.

798 Matters to be considered by referee on complaint

(1) In investigating a complaint, the referee must have regard to the following matters—

(a) the need to ensure compliance with the relevant competitive neutrality principles;

(b) the need for efficient resource allocation;

(c) the need to promote competition;

(d) any local government policies affecting the application of competitive neutrality principles, including—

(i) any directions about the application of competitive neutrality principles given to the local government business entity by the local government; and

(ii) any arrangements between the local government and the local government business entity about a competitive advantage gained or competitive disadvantage suffered by the entity because of the local government ownership of the entity; and

(iii) social welfare and equity considerations including community service obligations and the availability of goods and services to consumers; and

(iv) policies on economic and regional development issues, including employment and investment growth;

(e) any law or local government policies relating to ecologically sustainable development;

(f) any law or local government policies relating to occupational health and safety or industrial relations.

(2) In investigating a complaint, the referee may also have regard to the interests of consumers or any class of consumers.

(3) However, in deciding whether a complaint has been substantiated, the referee must not accept that any competitive advantage enjoyed by the local government business entity solely because of local government ownership of the entity is justified because of the existence of a competitive disadvantage suffered by the entity because of the local government ownership of the entity.

(4) Subsections (1) and (2) do not limit the matters the referee may have regard to in investigating a complaint.

Division 3 Investigation of complaints

799 Requirement of referee to investigate

(1) The referee must investigate a complaint unless—

(a) the referee reasonably believes the applicant is not, or could not be, in competition with the local government business entity carrying on the activity; or

(b) the referee reasonably believes the applicant is not, or is unlikely to be, adversely affected by the failure alleged in the complaint of the local government business entity to carry on the activity in a way that complies with the competitive neutrality principles applying to the activity; or

(c) the referee reasonably believes the applicant has not shown the applicant has made a genuine attempt to resolve the subject matter of the complaint through the preliminary procedure of the complaint process mentioned in section 794(1)(b); or

(d) the applicant has failed, without reasonable excuse, to give relevant information asked for by the referee within the reasonable time stated by the referee; or

(e) the local government business entity carrying on the activity has a current accreditation for the activity granted by the Queensland Competition Authority under part 4; or

(f) the referee reasonably believes the complaint is frivolous or vexatious.

(2) In forming a belief for subsection (1)(a), the referee must have regard to the following—

(a) laws governing competition applicable to the activities of the local government business entity;

(b) whether the applicant is supplying, or could supply, goods or services similar to the goods or services the subject of the activity carried on by the local government business entity;

(c) any other matter the referee considers appropriate.

(3) If the referee decides not to investigate a complaint, the referee must, within 14 days after making the decision, give a written notice stating the decision and the reasons for the decision to—

(a) the applicant; and

(b) the local government.

800 Investigation notice

(1) Before starting an investigation under this division, the referee must give notice of the investigation.

(2) The notice must be given to—

(a) the relevant local government; and

(b) the applicant; and

(c) if the local government business entity carrying on the activity is a corporatised corporation—the corporation; and

(d) another person the referee considers appropriate.

(3) The notice must—

(a) state the referee's intention to conduct the investigation; and

(b) state the subject matter of the complaint or be accompanied by a copy of the complaint; and

(c) invite the person to whom the notice is given to make written, or, if the referee approves, oral, submissions to the referee on the subject matter within a reasonable time stated in the notice; and

(d) state the referee's address.

801 Effect of giving an investigation notice

The referee must conduct the investigation and give a report under division 4 on the results of the investigation.

802 General procedures

(1) In an investigation, the referee—

(a) must act with as little formality as possible; and

(b) is not bound by technicalities, legal forms or rules of evidence; and

(c) may be informed on any matter relevant to the investigation in any way the referee considers appropriate; and

(d) must comply with natural justice.

(2) For subsection (1)(c), the referee may consult with persons as the referee considers appropriate.

(3) The referee may—

(a) require information or submissions to be presented in writing; and

(b) decide the matters on which information or submissions may be presented orally.

803 Consideration of submissions

(1) In an investigation, the referee must consider all submissions that—

(a) are made in response to an investigation notice; and

(b) are received by the referee in the time stated in the notice.

(2) Despite subsection (1), unless the referee, in an investigation notice, approved the making of oral submissions, the referee is required to consider a submission only if it is in writing.

804 Handling of documents

(1) If a document is produced to the referee for an investigation, the referee may—

(a) inspect the document; and

(b) make copies of the document if it is relevant to the investigation.

(2) Also, the referee may take possession of the document, and keep it while it is necessary for the investigation.

(3) While keeping a document, the referee must allow a person otherwise entitled to possession of it to inspect or copy the document at a reasonable time and place the referee decides.

805 Confidential information

(1) This section applies if a person believes—

(a) stated information made available, or to be made available, in an investigation is confidential; and

(b) the disclosure of the information is likely to damage the person's commercial activities.

(2) The person may—

(a) inform the referee of the person's belief; and

(b) ask the referee not to disclose the information to another person.

(3) The referee must take all reasonable steps to ensure the information is not, without the person's consent, disclosed to another person other than a person assisting the referee in carrying out the referee's duties who receives the information in the course of carrying out the duties.

(4) As soon as practicable after giving a report under division 4 on the investigation, the referee must return any document containing confidential information to the person who produced it to the referee.

(5) In this section—

commercial activities means activities conducted on a commercial basis.

Division 4 Reports on complaints

806 Giving of reports

(1) The referee must give a report (including recommendations) on the results of the referee's investigation of a complaint about an activity of a local government business entity to—

(a) the local government; and

(b) if the entity is a corporatised corporation—the corporation.

(2) The referee also must give to other persons to whom an investigation notice has been given the following—

(a) written notice of the giving of the report;

(b) a copy of the recommendations in the report;

(c) written notice that the report (including recommendations) is open to inspection at the local government's public office.[43]

807 Contents of reports

(1) The referee must, in a report—

(a) state whether the referee considers the complaint has been substantiated; and

(b) if the referee considers the complaint has been substantiated—

(i) for all complaints—include recommendations on how the local government business entity's failure to carry on an activity in a way that complies with the competitive neutrality principles applying to the activity could be overcome; and

(ii) for a complaint about a building certification business activity, include—

(A) comments on how the carrying out of statutory building functions has resulted in a

43 Section 7 (Meaning of *open to inspection*)

competitive advantage to the local government business entity; and

(B) recommendations on how the advantage provided to the entity could be overcome; and

(c) if the referee considers the local government business entity suffers a competitive disadvantage because of the local government ownership of the entity—

(i) include comments about the competitive disadvantage (including comments about the effect of the disadvantage on the local government business entity); and

(ii) include recommendations on how the disadvantage suffered by the local government business entity could be overcome; and

(d) state reasons for its recommendations.

(2) In this section—

building certifier see the *Building Act 1975*, section 8.

statutory building functions means building functions under the *Building Act 1975* or *Integrated Planning Act 1997* that only a local government is able to provide and on which a building certifier relies.

Example—

1 providing site or town planning information to a building certifier

2 receiving and processing documents from a building certifier

808 Reports open to inspection

(1) As soon as practicable after the local government receives the report, the local government must ensure a copy of it is open to inspection.

(2) For section 7, the report is a document of the local government.

809 Local government decisions on recommendations

(1) The local government must decide, by resolution, whether to implement the recommendations in the report.

(2) The resolution must include reasons for the decision.

(3) The local government must make the resolution—

(a) within 1 month after the local government receives the report from the referee on a complaint; or

(b) if the local government does not meet within the month—at the first meeting of the local government after the month.

(4) Within 7 days after making a decision, the local government must give written notice of the resolution to—

(a) the applicant; and

(b) if the local government business entity concerned is a corporatised corporation—the corporation.

(5) If the decision is to implement the recommendations and the local government business entity concerned is a corporatised corporation, the corporation must implement the recommendations as soon as practicable.

Division 5 General provisions about complaints process

810 Disposal of documents held by referee

(1) As soon as practicable after giving a report on a complaint, the referee must give to the chief executive officer of the local government any document not returned to a person under section 805.

(2) While the documents are kept by the chief executive officer, they are to be treated as the local government's documents.

811 Protection from liability of referee or person assisting referee

(1) The referee, or person assisting the referee, is not civilly liable for an act done, or omission made, honestly and without negligence under this part.

(2) If subsection (1) prevents a civil liability attaching to the referee or other person, the liability attaches instead to the relevant local government.

(3) The protection from liability under this section applies only to a referee, or a person assisting the referee, who is an employee of the relevant local government.

812 Protection from liability of person giving information to referee

A person is not liable in any way for any loss, damage or injury suffered by another person because of the giving in good faith of information to the referee for this part.

813 Secrecy

(1) A person to whom this section applies must not—

(a) make a record of protected information; or

(b) whether directly or indirectly, divulge or communicate to a person protected information about another person or a local government business entity.

Maximum penalty—1000 penalty units or 1 year's imprisonment.

(2) However, subsection (1) does not apply if—

(a) the record is made, or the information is divulged or communicated—

(i) under this part; or

(ii) in the performance of duties, as a person to whom this section applies, under this part; or

(iii) with the consent of the person or entity to whom the protected information relates; or

(b) the protected information is otherwise publicly available.

(3) In this section—

person to whom this section applies means a person who is, or has been, a referee or a person assisting a referee.

protected information means information that—

(a) is about a person or local government business entity; and

(b) is disclosed to, or obtained by, a person to whom this section applies in the course of, or because of, the person's duties under this part.

814 Draft reports

In preparing a report under this Act, the referee may give a draft of the report to the persons the referee considers appropriate.

Division 6 Provisions for Queensland Competition Authority as referee

815 Local government may resolve Queensland Competition Authority to be referee

(1) A local government may resolve the Queensland Competition Authority is the referee for its complaint process for—

(a) a significant business activity, under chapter 8, carried on by a local government business entity; or

(b) a roads business activity or building certification business activity under chapter 9.

(2) As soon as practicable after making the resolution, the local government must give written notice of the resolution to the authority.

(3) If the local government becomes aware a person proposes to make a complaint about the activity, the local government must—

(a) tell the person the complaint must be made to the authority; and

(b) give the person information to enable the person to make the complaint.

816 Application of complaints process

Section 794(1)(a), (c), (d), (f), (g), (h), and (i), (2) and (3) does not apply to the complaint process for the activity.

817 Making a complaint

A complaint must—

(a) be made in writing to the Queensland Competition Authority; and

(b) contain details of the alleged noncompliance by the local government business entity to carry on the activity in a way that complies with the competitive neutrality principles applying to the activity; and

(c) include sufficient details to show—

(i) how the applicant is, or may be, adversely affected by the alleged noncompliance; and

(ii) the applicant is, or could be, in competition with the local government business entity carrying on the activity; and

(iii) the applicant has made a genuine attempt to resolve the subject matter of the complaint through the preliminary procedure of the complaint process mentioned in section 794(1)(b).

818 Further information to support complaint

(1) The Queensland Competition Authority may, by written notice given to an applicant, require the applicant to give the authority further information about the complaint within the reasonable time stated in the notice.

(2) A notice under subsection (1) must relate to information that is necessary and reasonable to help the authority decide whether or not to investigate the complaint.

819 Application of part and Queensland Competition Authority Act 1997

(1) Sections 802, 803, 804, 805, 810, 811, 812, 813 and 814 do not apply to a complaint made in relation to the activity.[44]

(2) Also, the following provisions of the *Queensland Competition Authority Act 1997* (the ***provisions***) apply, with all necessary changes and the changes prescribed in subsection (3), to a complaint made in relation to the activity—

- part 6
- part 9
- section 236
- section 237
- section 238
- section 239
- section 240
- section 241
- section 243.

(3) Unless a contrary intention appears, the provisions apply as if a reference in the provisions to—

(a) a complaint were a reference to a complaint under this part; and

(b) the complainant were a reference to the affected person who made the complaint under this part; and

(c) a government agency were a reference to the local government business entity mentioned in the complaint; and

44 Under section 816, certain provisions in section 794 do not apply if the Queensland Competition Authority is a referee.

(d) an investigation were a reference to an investigation under this part; and

(e) the responsible Minister, or the Ministers, were a reference to the relevant local government.

820 Local government decisions on recommendations

Within 7 days after making a resolution under section 809,[45] the local government must give written notice to the Queensland Competition Authority of the resolution.

Part 3 References to Queensland Competition Authority

Division 1 Application of part

821 Application of pt 3

(1) This part applies to—

(a) a significant business activity, under chapter 8, carried on by a local government business entity; and

(b) a roads business activity or building certification business activity under chapter 9.

(2) However, this part does not apply to—

(a) a local government business entity applying the code of competitive conduct to a business activity under chapter 9; or

(b) an activity carried on by a local government business entity for which there is a current accreditation by the Queensland Competition Authority under part 4; or

45 Under section 809 the local government is required to give written notice of the resolution to the applicant and, if the local government business entity concerned is a corporatised corporation, the corporation.

(c) an activity carried on by a local government business entity if the authority is the referee for a complaint for the activity.

Division 2 Institution of reference

822 Reference of outcome of complaint to Queensland Competition Authority

(1) An applicant may, under this part, refer to the Queensland Competition Authority—

(a) a referee's decision not to investigate a complaint by the applicant; or

(b) a local government's decision on a recommendation by a referee in a report on a complaint by the applicant.

(2) The reference must be on 1 or more of the following grounds—

(a) the complaint process for an activity of the local government business entity is not appropriate;

(b) the referee's decision not to investigate a complaint is not in accordance with the relevant facts;

(c) the referee's recommendation—

(i) is not in accordance with the relevant facts or the competitive neutrality principles; or

(ii) is deficient because the local government business entity did not give the referee relevant information about an activity requested by the referee;

(d) the decision of the local government on the referee's recommendation is not in accordance with the competitive neutrality principles.

823 Making a reference

(1) A reference must—

(a) be in writing; and

(b) contain details of the complaint; and

(c) if the reference alleges the complaint process for an activity of the local government business entity is inappropriate—the reasons why the process is inappropriate.

(2) Also, a reference must include sufficient details to show—

(a) how the applicant is, or may be, adversely affected by—

(i) the alleged failure to comply with the competitive neutrality principles; or

(ii) the alleged inappropriateness of the process; and

(b) the applicant and local government business entity are, or could be, in competition.

824 Request for referee's documents

(1) This section applies if the Queensland Competition Authority, by written notice given to the chief executive officer of a local government, asks for the documents received by the chief executive officer from the referee under section 810 concerning the complaint referred to the authority.

(2) As soon as practicable after receiving the request, the chief executive officer must give the documents held under the section to the authority.

825 Further information to support reference

(1) The Queensland Competition Authority may, by written notice given to an applicant, require the applicant to give the authority further information about the reference within the reasonable time stated in the notice.

(2) A notice under subsection (1) must relate to information that is necessary and reasonable to help the authority decide whether or not to deal with the reference.

826 Matters to be considered by Queensland Competition Authority in considering reference

(1) In considering a reference on a ground mentioned in section 822(2)(b), (c) or (d), the Queensland Competition Authority—

(a) must have regard to the matters stated in section 798(1) and (3); and

(b) may have regard to the interests of consumers or any class of consumers.

(2) Subsection (1) does not limit the matters the authority may have regard to in considering a reference.

827 Procedures for dealing with references

(1) Sections 796, 797, 799, 800 and 801 apply, with all necessary changes, to the Queensland Competition Authority considering a reference as if a reference in the sections to—

(a) a complaint were a reference to a reference under this part; and

(b) the referee were a reference to the Queensland Competition Authority.

(2) Also, the following provisions of the *Queensland Competition Authority Act 1997* (the ***provisions***) apply, with all necessary changes and the changes prescribed in subsection (3), to the consideration of a reference by the authority—

- part 6
- part 9
- section 236
- section 237
- section 238
- section 239
- section 240
- section 241
- section 243.

(3) Unless a contrary intention appears, the provisions apply as if a reference in the provisions to—

(a) a complaint were a reference to the reference; and

(b) the complainant were a reference to the applicant who made the reference; and

(c) a government agency were a reference to the local government business entity mentioned in the reference; and

(d) an investigation were a reference to an investigation under this part; and

(e) the responsible Minister, or the Ministers, were a reference to the relevant local government.

Division 3 Reports of Queensland Competition Authority about references

828 Giving of reports

(1) If the Queensland Competition Authority gives an investigation notice to anyone, it must give a report on its consideration of a reference about an activity of a local government business entity to—

(a) the local government; and

(b) if the entity is a corporatised corporation—the corporation.

(2) The authority also must give to other persons to whom the authority has given an investigation notice the following—

(a) written notice of the giving of the report;

(b) a copy of the recommendations in the report;

(c) written notice that the report (including recommendations) is open to inspection at the local government's public office.

829 Contents of reports

The Queensland Competition Authority must, in a report—

(a) if the reference alleges the complaint process for an activity of the local government business entity is not appropriate—comment on the appropriateness of the process; and

(b) state whether it considers any relevant allegation has been substantiated; and

(c) if the authority considers the reference has been substantiated—include its recommendations on how the local government business entity's failure to carry on an activity in a way that complies with the competitive neutrality principles applying to the activities could be overcome; and

(d) if the authority considers the local government business entity suffers a competitive disadvantage because of the local government ownership of the entity—

(i) include comments about the competitive disadvantage (including comments about the effect of the disadvantage on the local government business entity); and

(ii) include recommendations on how the disadvantage suffered by the local government business entity could be overcome; and

(e) state its reasons for its recommendations.

830 Reports open to inspection

(1) As soon as practicable after the local government receives the report, the local government must ensure a copy of it is open to inspection.

(2) For section 7, the report is a document of the local government.

831 Local government decisions about reports

(1) The local government must decide, by resolution, whether to implement the recommendations in the report.

(2) The resolution must include reasons for the decision.

(3) The local government must make the resolution—

(a) within 1 month after the local government receives the report from the Queensland Competition Authority on a reference; and

(b) if the local government does not meet within the month—at the first meeting of the local government after the month.

(4) Within 7 days after making a decision, the local government must give written notice of the resolution to—

(a) the applicant; and

(b) if the local government business entity concerned is a corporatised corporation—the corporation; and

(c) the Queensland Competition Authority.

(5) If the decision is to implement the recommendations and the local government business entity concerned is a corporatised corporation, the corporation must implement the recommendations as soon as practicable.

Part 4 Accreditation

832 Application of pt 4

This part applies to—

(a) a significant business activity, under chapter 8, carried on by a local government business entity; and

(b) a business activity, roads business activity or building certification business activity under chapter 9.

833 Purpose of accreditation

The purpose of accreditation under this part is to remove doubt for a local government business entity carrying on an

activity about whether it carries on the activity in accordance with the relevant principles of competitive neutrality.

834 Application for accreditation

(1) A local government business entity carrying on an activity may apply to the Queensland Competition Authority for an accreditation of the activity for the entity.

(2) An application must be made in the form approved by the authority.

(3) The authority may investigate an application to decide whether to accredit the applicant.

835 Investigation notice

(1) Before starting an investigation under this part, the Queensland Competition Authority must give reasonable notice of the investigation to—

(a) the applicant; and

(b) if the applicant is a corporatised corporation—the local government: and

(c) any other person the authority considers appropriate.

(2) The notice must—

(a) state the authority's intention to conduct the investigation; and

(b) invite the person to whom the notice is given to make written, or, if the authority approves, oral, submissions to the authority within a reasonable time stated in the notice; and

(c) state the authority's address.

836 Matters to be considered by authority for investigation

(1) In conducting an investigation under this part, the Queensland Competition Authority must have regard to the following matters—

(a) the need to ensure compliance with the relevant competitive neutrality principles;

(b) the need for efficient resource allocation;

(c) the need to promote competition;

(d) any local government policies affecting the application of competitive neutrality principles, including—

(i) any directions about the application of competitive neutrality principles given to the local government business entity by the local government; and

(ii) any arrangements between the local government and the local government business entity about a competitive advantage gained or competitive disadvantage suffered by the entity because of the local government ownership of the entity; and

(iii) social welfare and equity considerations including community service obligations and the availability of goods and services to consumers; and

(iv) policies on economic and regional development issues, including employment and investment growth;

(e) any law or local government policies relating to ecologically sustainable development;

(f) any law or local government policies relating to occupational health and safety or industrial relations.

(2) In conducting an investigation, the authority may also have regard to the interests of consumers or any class of consumers.

(3) However, in deciding whether an activity carried on by the local government business entity be accredited, the authority must not accept that any competitive advantage enjoyed by the entity solely because of local government ownership of the entity is justified because of the existence of a competitive disadvantage suffered by the entity because of the local government ownership of the entity.

(4) Subsections (1) and (2) do not limit the matters the authority may have regard to in conducting an investigation.

837 Procedures for investigations

(1) The following provisions of the *Queensland Competition Authority Act 1997* (the ***provisions***) apply, with all necessary changes and the changes prescribed in subsection (2), to an investigation under this part—

- part 6
- part 9
- section 236
- section 237
- section 238
- section 239
- section 240
- section 241
- section 243.

(2) Unless a contrary intention appears, the provisions apply as if a reference in the provisions to—

(a) a government agency were a reference to the local government business entity mentioned in the application; and

(b) an investigation were a reference to an investigation under this part; and

(c) the responsible Minister or the Ministers were a reference to the relevant local government.

838 Decision on application

(1) The Queensland Competition Authority must consider an application for accreditation received by it and either grant, or refuse to grant, the accreditation.

(2) In considering an application, the authority must have regard to the relevant competitive neutrality principles applying to the activity and—

(a) if the authority is satisfied the applicant carries on the activity in accord with the principles—the authority must grant the accreditation; or

(b) if the authority is not satisfied the applicant carries on the activity in accord with the principles—the authority must refuse to grant the accreditation.

(3) Also, the authority may refuse to grant the accreditation if—

(a) under an investigation notice the authority has sought further information about the application; and

(b) the applicant has failed, without reasonable excuse, to give the information to the authority within the time stated in the relevant notice.

839 Conditions on grant of accreditation

(1) If the Queensland Competition Authority decides to grant an accreditation, the grant is subject to the following conditions—

(a) a condition that the local government business entity must continue to comply with the relevant competitive neutrality principles;

(b) a condition that the local government business entity must inform the authority of any change in the entity's structure or operations that may affect the entity's continued compliance with the relevant competitive neutrality principles.

(2) The authority may impose any other conditions it considers are necessary and reasonable for ensuring compliance with the accreditation.

(3) Without limiting subsection (2), a condition may relate to requirements of the local government business entity to give relevant information to the authority that is necessary and reasonable to enable the authority to decide whether it is appropriate to maintain the accreditation.

(4) For a condition mentioned in subsection (3), the information may be required to be given to the authority either—

(a) from time to time, at reasonable intervals; or

(b) at stated reasonable times.

840 Notice of decision

(1) If the Queensland Competition Authority decides to grant an accreditation, the authority must give a written notice to—

(a) the applicant; and

(b) if the applicant is a corporatised corporation—the local government.

(2) The notice must state—

(a) the decision; and

(b) the period of accreditation (not longer than 2 years); and

(c) the conditions of the accreditation; and

(d) for a condition imposed by the authority—the reasons for the condition.

(3) If the authority decides not to grant the accreditation, the authority must give the applicant a written notice stating the decision and the reasons for the decision.

841 Publication of decision

If the Queensland Competition Authority decides to grant an accreditation, the authority must publish in the gazette a notice of the grant.

842 Period of effect of accreditation

(1) An accreditation remains in force until the end of the period stated in the authority's accreditation notice, unless it is sooner surrendered or cancelled.

(2) In this section—

authority's accreditation notice means a notice given to an applicant for an accreditation by the Queensland Competition Authority advising the applicant of the grant of the accreditation.

843 Surrender of accreditation

(1) A local government business entity that has been granted an accreditation may surrender the accreditation by written notice given to the Queensland Competition Authority.

(2) The surrender takes effect—

(a) the day the notice is given to the authority; or

(b) if a later day of effect is stated in the notice—the later day.

844 Cancellation of accreditation

(1) An accreditation may be cancelled on the ground the local government business entity concerned has contravened a condition of the accreditation.

(2) If the Queensland Competition Authority believes the ground exists to cancel an accreditation, the authority must give the local government business entity a written notice that—

(a) states the authority proposes to cancel the accreditation; and

(b) states the grounds for the proposed action; and

(c) outlines the facts and circumstances forming the basis for the grounds; and

(d) invites the entity to show, in writing, within the show cause period why the proposed action should not be taken.

(3) If, after considering all written representations made within the show cause period, the authority still believes the grounds exist to cancel the accreditation, the authority may cancel the accreditation.

(4) The authority must give a written notice stating its decision and the reasons for the decision to—

(a) the local government; and

(b) if the entity is a corporatised corporation—the corporation.

(5) The decision takes effect—

(a) the day the notice is given to the local government business entity; or

(b) if a later day of effect is stated in the notice—the later day.

(6) In this section—

show cause period, for a notice given to a local government business entity under subsection (2), means the period ending not less than 14 days, and not more than 21 days, after the notice is given to the entity.

845 Lists of accreditations

The Queensland Competition Authority must keep a list of all current accreditations granted under this part available for inspection by any person.

Part 5 Miscellaneous

846 Register of accreditations, complaints etc.

A local government must keep open to inspection a register of activities carried on by local government business entities to which competitive neutrality principles apply containing the following particulars—

(a) activities under chapter 8, parts 5, 6 or 7 to which the local government has applied competitive neutrality principles and the date from which the competitive neutrality principles apply;

(b) activities to which the code of competitive conduct currently applies under chapter 9 and the date on which the code first applied to each activity;

(c) activities currently accredited under part 4;

(d) activities for which the Queensland Competition Authority is the referee for the complaint process for the entity carrying on the activity;

(e) a list of—

(i) current investigation notices for complaints and references received; and

(ii) the local government's decisions on—

(A) the referee's recommendations on the complaints; and

(B) the Queensland Competition Authority's recommendations on references of complaints.

847 Annual report to include summary of complaints and decisions by local government

The local government must include in its annual report[46] for each financial year—

(a) a summary of—

(i) investigation notices for complaints and references received by the local government in the year; and

(ii) the local government's decisions in the year on—

(A) the referee's recommendations on the complaints; and

(B) the Queensland Competition Authority's recommendations on the references; and

(b) a list of all activities of its local government business entities currently accredited under part 4.

46 Under section 531, a local government is required to prepare an annual report. Also, under the *City of Brisbane Act 1924*, section 119, the Brisbane City Council is required to prepare an annual report.

Chapter 12 Local laws and subordinate local laws

Part 1 Preliminary

Division 1 Object and application

848 Object

(1) A local government's jurisdiction to make laws is stated in chapter 2, part 1, division 3.

(2) This chapter provides a common law-making process for all laws made by local governments.

(3) It also provides for subordinate local laws to assist the detailed implementation of a local law's objects.

Examples for subsections (2) and (3)—

1 If a local law on libraries states that the local government may make a subordinate local law about the management and use of library resources, the local government has a general power to make a subordinate local law about a variety of issues, including, for example, the hours of operation of the library, use of its facilities and restrictions on borrowing books.

2 If a local law on libraries states that the local government may make a subordinate local law on a specific issue, for example, the restriction of borrowing rights or suspension of membership if a member retains borrowed items for substantially longer than permitted by the library rules, the local government can not, without specific authority in the local law, make a subordinate local law about other library matters, including, for example, the hours of operation of the library.

849 Application of chapter to Brisbane City Council

This chapter applies to the Brisbane City Council.

Division 2 Local laws and related concepts

850 Meaning of *local law*

A ***local law*** is a law made by a local government.

851 Meaning of *model local law*

(1) A ***model local law*** is a law about a matter within the jurisdiction of local government that is proposed by the Minister as suitable for adoption by local governments as a local law.

(2) A model local law must be gazetted.

852 Meaning of *interim local law*

An ***interim local law*** of a local government is a local law that the local government and Minister agree may be made using the process stated in part 2, division 2 because of the nature of the law.

853 Meaning of *subordinate local law*

A ***subordinate local law*** is a law made by a local government about a matter that a local law expressly states that the local government may make about the matter.

854 Local laws and subordinate local laws about development

(1) A local government must not, on or after 30 March 1998, pass a resolution to propose to make a local law, or a subordinate local law, establishing a process about development, within the meaning of the *Integrated Planning Act 1997*, if the process would be similar to or duplicate all or part of the processes in chapter 3 of that Act.[47]

47 See sections 866 (Step 1—propose a law) and 877 (Step 1—propose a subordinate local law).

(1A) Subsection (1) does not apply for local laws about the following until the local government makes a decision under the *Integrated Planning Act 1997*, schedule 1, section 1, to prepare its second IPA planning scheme—

(a) gates and grids;

(b) levees;

(c) advertising devices;

(d) roadside dining.

(2) A local law or a subordinate local law, to the extent the law or subordinate local law is contrary to subsection (1), is of no effect.

(3) If a provision of a local law or a subordinate local law includes a process of the type mentioned in subsection (1)—

(a) until a new planning scheme (other than a transitional planning scheme within the meaning of chapter 6 of that Act) has effect in the local government's area, the provision may be amended or repealed; or

(b) on or after a new planning scheme (other than a transitional planning scheme within the meaning of chapter 6 of that Act) has effect in the local government's area, the provision may not be amended but may be repealed.

(3A) Subsection (3) does not apply for local laws of the type mentioned in subsection (1A) until the local government makes a decision under the *Integrated Planning Act 1997*, schedule 1, section 1 to prepare its second IPA planning scheme.

(4) Subsection (3) also applies to a local law of a local government if—

(a) the area or part of the area of the local government (the ***first local government***) has been amalgamated with another local government's area; and

(b) the local law—

(i) under a regulation, continues to apply in what was the first local government's area; or

(ii) has, by another local law, been applied, with or without amendment, to the entire area of the amalgamated local government areas.

(5) For subsection (1)—

development does not include clearing vegetation until 6 months after the day the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3, commences.[48]

(6) A local law, whether the law is made before or after the commencement of this section, is void to the extent it regulates a subscriber connection.

(7) In subsection (6)—

subscriber connection means an installation for the sole purpose of connecting a building, structure, caravan or manufactured home to a line that forms part of an existing telecommunications network.

854A No jurisdiction to make local laws and subordinate local laws about distributing how-to-vote cards

(1) A local government has no jurisdiction to make a local law or subordinate local law prohibiting or regulating the distribution of how-to-vote cards for an election under this Act or the *Electoral Act 1992*.

(2) A local law or subordinate local law, to the extent that it is contrary to subsection (1), is of no effect.

(3) In this section—

how-to-vote card includes a how-to-vote card under the *Electoral Act 1992*.

854AA No jurisdiction to make local laws and subordinate local laws prohibiting placement of election signs or posters

(1) A local government has no jurisdiction to make a local law or subordinate local law prohibiting, in its area, the placement of election signs or posters for an election under this Act, the

48 See the *Integrated Planning Act 1997*, section 1.3.5, definition *operational work*, paragraph (1)(f).

City of Brisbane Act 1924, the *Electoral Act 1992* or the *Commonwealth Electoral Act 1918* (Cwlth).

(2) A local law or subordinate local law, to the extent it is contrary to subsection (1), is of no effect.

(3) In this section—

election signs or posters means signs or posters that are able, or are intended—

(a) to influence a person about voting at an election; or

(b) to affect the result of an election.

854B Local laws and subordinate local laws about airport landing charges

(1) To remove any doubt, it is declared that a local government may make a local law or subordinate local law giving the local government power to recover an airport landing charge from the holder of the certificate of registration issued for an aircraft under the *Civil Aviation Regulations 1988* (Cwlth).

(2) In this section—

aircraft has the meaning given by the *Civil Aviation Act 1988* (Cwlth), section 3.

airport means an aerodrome within the meaning of the *Civil Aviation Act 1988* (Cwlth), section 3.

airport landing charge means a charge made by the local government under section 36 or, for the Brisbane City Council, the *City of Brisbane Act 1924*, section 6A, for the landing of an aircraft at an airport owned or operated by the local government.

Part 2 Making local laws and subordinate local laws

Division 1 Making model local laws

855 Application of division

This division applies subject to division 5.

856 Model local law process

(1) The process stated in this division or division 3 must be used to make a model local law.

(2) If a local government purports to make a model local law in contravention of subsection (1), the purported law is of no effect.

856A Step 1—propose a law

Before making a model local law, a local government must, by resolution, propose to adopt the model local law.

857 Step 2—make a law

(1) A local government makes a model local law if, by resolution, it—

(a) adopts a model local law about a matter; and

(b) if there is an existing local law about the matter that is inconsistent with what is adopted—amends or repeals the existing local law so that there is no inconsistency.

(2) The local government's chief executive officer must certify the required number of copies of the local law to be the local law as made by the local government.

(3) For subsection (1)(a), the adoption of a model local law with changes about an anti-competitive provision consistent with a resolution of the local government made under section 891 in relation to the local law is the adoption of a model local law.

(4) A local government must not adopt a model local law with an anti-competitive provision (whether or not in an amended form) unless the local government has complied with division 5 in relation to the proposed model local law.

858 Step 3—give public notice of law

(1) A notice of the making of the model local law must be published in the gazette stating the following—

(a) the name of the local government making the local law;

(b) the name of the local law;

(c) the date of the local government's resolution making the local law;

(d) the name of any existing local law amended or repealed by the new local law;

(e) if a public interest test report under division 5 has identified an anti-competitive provision in the model local law and the provision is changed—the fact of the anti-competitive provision and the extent of change.

(2) The notice also may state the following—

(a) that the local law is a model local law proposed by the Minister as suitable for adoption by local governments;

(b) the purposes and general effect of the local law;

(c) that a certified copy of the local law is open to inspection at the local government's public office and at the department's State office;

(d) that a copy of the certified copy of the local law may be purchased at the local government's public office.

(3) If the local law is not notified within 1 year of the date of the local government's resolution making the local law (or a longer period decided by the Minister), the process stated in this division must be used again before the local law is notified in the gazette.

(4) On the day of notification (or as soon as practicable after the day), the local government must give the Minister—

(a) a copy of the notice; and

(b) the required number of certified copies of the local law; and

(c) advice of any anti-competitive provisions included in the local law and reasons for their inclusion.

Division 2 Making interim local laws

859 Interim local law process

(1) The process stated in this division must be used to make an interim local law.

(2) If a local government purports to make an interim local law in contravention of subsection (1), the purported law is of no effect.

860 Step 1—propose a law

(1) Before making an interim local law, the local government must, by resolution, propose to—

(a) make a law; and

(b) get the Minister's agreement to make the law as an interim local law.

(2) The proposed local law must include a sunset provision stating the law will expire—

(a) 6 months after its commencement; or

(b) at the end of a longer period gazetted by the Minister.

861 Step 2—get Minister's agreement to use interim local law process

(1) The local government must—

(a) give the Minister—

(i) a copy of the proposed interim local law; and

(ii) a drafting certificate for the proposed local law; and

(b) advise the Minister why it is necessary or desirable for the local law to be made on an interim basis; and

(c) give the Minister the following information about the proposed interim local law—

(i) any provision of the proposed interim local law that, under division 5, is a possible anti-competitive provision and actions taken or proposed to be taken by the local government under the division about the provision;

(ii) information required by the Minister or under a regulation.

(2) The Minister must advise the local government that it may proceed further in making the interim local law if the Minister—

(a) agrees the proposed local law may be made on an interim basis; and

(b) considers State interests are satisfactorily dealt with by the proposed local law; and

(c) considers the proposed local law is drafted substantially in accordance with drafting standards prescribed under a regulation.

(3) The Minister's agreement may be given on conditions the Minister considers appropriate.

(4) If the Minister agrees the proposed local law may be made on an interim basis but considers State interests would be satisfactorily dealt with by the proposed local law if the local government satisfied particular conditions, the Minister—

(a) may impose the conditions on the local government the Minister considers appropriate; and

(b) must advise the local government that it may proceed further in making the interim local law if it—

(i) satisfies any conditions about the content of the proposed local law; and

(ii) agrees to satisfy any other conditions.

(5) Without limiting subsection (4)(a), the Minister may impose a condition about a longer consultation period for making the interim local law as a local law under division 3.

(6) Also, the Minister's advice may state that the local government may proceed without satisfying step 7 of division 3 if it agrees to satisfy particular conditions.

(7) Before proceeding to step 3, the local government must—

(a) get an advice under subsection (2) or (4); and

(b) satisfy any condition about the content of the proposed local law; and

(c) agree to satisfy any other conditions.

862 Step 3—make proposed law

(1) The local government must, by resolution, make the proposed interim local law.

(2) The local government's chief executive officer must certify the required number of copies of the local law to be the local law as made by the local government.

863 Step 4—give public notice of law

(1) A notice of the making of the interim local law must be published in the gazette stating the following—

(a) the name of the local government making the local law;

(b) the name of the local law;

(c) the date of the local government's resolution making the local law;

(d) the name of any existing local law amended or repealed by the new local law.

(2) The notice also may state the following—

(a) that the local law is an interim local law;

(b) the purposes and general effect of the local law;

(c) the date the local law will expire and that the Minister may extend this date by gazette notice;

(d) that a certified copy of the local law is open to inspection at the local government's public office and at the department's State office;

(e) that a copy of the certified copy of the local law may be purchased at the local government's public office.

(3) The notice must be published as soon as practicable after the resolution making the local law is made.

(4) On the day of notification (or as soon as practicable after the day), the local government must give the Minister—

(a) a copy of the notice; and

(b) the required number of certified copies of the local law.

863A Making proposed interim local law under div 3

(1) After making the proposed interim local law, the local government must proceed to make the proposed interim local law as a local law under division 3, starting at step 3.

(2) The local government must publish a notice about the proposed local law under section 868(4) within—

(a) 21 days after the resolution; or

(b) the longer period decided by the Minister under section 861(5) about making the local law.

Division 3 Making other local laws

864 Application of division

This division applies subject to section 863A and division 5.

865 Local law process

(1) The process stated in this division must be used to make a local law (other than a model local law or interim local law).

(2) The process stated in this division also may be used to make a model local law.

(3) If a local government purports to make a local law in contravention of subsection (1), the purported law is of no effect.

866 Step 1—propose a law

Before making a local law, the local government must, by resolution, propose to make a law.

867 Step 2—ensure proposed law satisfactorily deals with any State interest

(1) The local government must give the Minister the following—

(a) a copy of the proposed local law;

(aa) a drafting certificate for the proposed local law;

(b) the following information about the proposed local law—

(i) any provision of the proposed local law that, under division 5, is a possible anti-competitive provision and actions taken or proposed to be taken by the local government under the division about the provision;

(ii) information required by the Minister or under a regulation.

(2) The Minister must advise the local government that it may proceed further in making the law if the Minister considers—

(a) State interests are satisfactorily dealt with by the proposed local law; and

(b) the proposed local law is drafted substantially in accordance with drafting standards prescribed under a regulation.

(3) Alternatively, if the Minister considers State interests would be satisfactorily dealt with by the proposed local law if the local government satisfied particular conditions, the Minister—

(a) may impose conditions on the local government that the Minister considers appropriate; and

(b) must advise the local government that it may proceed further in making the law if it—

(i) satisfies any conditions about the content of the proposed local law; and

(ii) agrees to satisfy any other conditions.

(4) If the Minister considers that the proposed local law only amends an existing law to make an insubstantial change (including, for example, a change necessary for consistency with the local government's planning scheme or as a consequence of an amendment of this or another Act), the advice of the Minister also may state that the local government may proceed to step 8 without satisfying steps 3 to 7.

(5) Steps 3 to 7 do not apply if the Minister's advice to the local government includes the statement mentioned in subsection (4).

(6) The advice of the Minister also may state that the local government may proceed without satisfying step 7 if the local government agrees to satisfy particular conditions.

(7) Before proceeding further in making a proposed local law, the local government must—

(a) get an advice under subsection (2) or (3); and

(b) satisfy any condition about the content of the proposed local law; and

(c) agree to satisfy any other conditions.

868 Step 3—consult with public about proposed law

(1) The local government must consult with the public about the proposed local law for at least 21 days (the ***consultation period***).

(2) However, a longer consultation period may be—

(a) fixed by a condition agreed by the Minister and the local government in step 2 of this division or division 2; or

(b) prescribed by regulation.

(3) The consultation period begins on the day when the notice mentioned in subsection (4) is first published.

(4) A notice about the proposed local law must be—

(a) published at least once in a newspaper circulating generally in the local government's area; and

(b) displayed in a conspicuous place in the local government's public office from the first day of the consultation period until the end of the last day of the consultation period.

(5) The notice must state the following—

(a) the name of the local government proposing to make the local law;

(b) the name of the proposed local law;

(c) the purposes and general effect of the proposed local law;

(d) the length of the consultation period and the first and last days of the period;

(e) that a copy of the proposed local law is open to inspection at the local government's public office on or before the last day;

(f) that a copy of the proposed local law may be purchased at the local government's public office on or before the last day at a stated price;

(g) that written submissions by any person supporting or objecting to the proposed local law may be made and given to the local government on or before the last day stating—

(i) the grounds of the submission; and

(ii) the facts and circumstances relied on in support of the grounds.

(6) The price of a copy of the proposed local law must be no more than the cost to the local government of having the copy available for purchase, and, if the copy is posted to the purchaser, the postage cost.

869 Step 4—give public access to proposed law

On the first day of the consultation period and until the end of the last day of the consultation period—

(a) a copy of the proposed local law must be open to inspection at the local government's public office; and

(b) copies of the proposed local law must be available for purchase at the local government's public office at the price stated in the notice about the proposed local law.

870 Step 5—accept and consider all submissions

(1) The local government must consider every submission properly made to it.

(2) A submission is properly made to the local government if it—

(a) is the written submission of any person about the proposed local law; and

(b) states—

(i) the grounds of the submission; and

(ii) the facts and circumstances relied on in support of the grounds; and

(c) is given to the local government on or before the last day of the consultation period.

871 Step 6—decide whether to proceed with making proposed law

After considering every submission properly made to it, the local government must, by resolution, decide whether to—

(a) proceed with the making of the proposed local law as advertised (the ***advertised proposed law***); or

(b) proceed with the making of the proposed local law with amendments (the ***amended proposed law***); or

(c) not proceed with the making of the proposed local law.

872 Step 7—again ensure proposed law satisfactorily deals with any State interest

(1) This step does not apply in the following cases—

(a) if the local government got an advice under section 861(6) or 867(4) or (6) and has satisfied any agreed conditions;

(b) if the local government decides not to proceed with the proposed local law;

(c) if a regulation states the step does not apply.

(2) The local government must—

(a) advise the Minister of its decision under step 6; and

(b) give the Minister information about the proposed local law required by the Minister or by regulation.

(3) If the Minister considers that State interests are satisfactorily dealt with by the proposed local law, the Minister must advise the local government it may proceed to step 8.

(4) Alternatively, if the Minister considers that State interests would be satisfactorily dealt with by the proposed local law if the local government satisfied particular conditions, the Minister—

(a) may impose conditions on the local government that the Minister considers appropriate; and

(b) must advise the local government that it may proceed to step 8 if it—

(i) satisfies any conditions about the content of the proposed local law; and

(ii) agrees to satisfy any other conditions.

(5) Before proceeding further in making a proposed local law, the local government must—

(a) get an advice under subsection (3) or (4); and

(b) satisfy any condition about the content of the proposed local law; and

(c) agree to satisfy any other conditions.

(6) A local government must not act under subsection (2) unless the local government has complied with division 5 in relation to the proposed local law.

873 Step 8—make proposed law

(1) The local government must, by resolution, make—

(a) the advertised proposed law; or

(b) the amended proposed law; or

(c) the proposed law for which the local government received advice from the Minister that it could proceed to this step without satisfying steps 3 to 7.

(2) The local government's chief executive officer must certify the required number of copies of the local law to be the local law as made by the local government.

874 Step 9—give public notice of law

(1) A notice of the making of the local law must be published in the gazette stating the following—

(a) the name of the local government making the local law;

(b) the name of the local law;

(c) the date of the local government's resolution making the local law;

(d) the name of any existing local law amended or repealed by the new local law.

(2) The notice also may state the following—

(a) the purposes and general effect of the local law;

(b) that a certified copy of the local law is open to inspection at the local government's public office and at the department's State office;

(c) that a copy of the certified copy of the local law may be purchased at the local government's public office.

(3) If the local law is not notified within 1 year of the date of the local government's resolution making the local law (or a longer period decided by the Minister), the process stated in

this division must be used again before the local law is notified in the gazette.

(4) On the day of notification (or as soon as practicable after the day), the local government must give the Minister—

(a) a copy of the notice; and

(b) the required number of certified copies of the local law; and

(c) advice of any anti-competitive provisions included in the local law and reasons for their inclusion.

Division 4 Making subordinate local laws

875 Application of division

This division applies subject to division 5.

876 Subordinate local law process

(1) The process stated in this division must be used to make a subordinate local law.

(2) If a local government purports to make a subordinate local law in contravention of subsection (1), the purported subordinate local law is of no effect.

877 Step 1—propose a subordinate local law

Before making a subordinate local law, the local government must, by resolution, propose to make a subordinate local law.

878 Step 2—consult with public about proposed subordinate local law

(1) The local government must consult with the public about the proposed subordinate local law for at least 21 days (the ***consultation period***).

(2) However, a longer consultation period may be prescribed by regulation.

(3) The consultation period begins on the day when the notice mentioned in subsection (4) is first published.

(4) A notice about the proposed subordinate local law must be—

(a) published at least once in a newspaper circulating generally in the local government's area; and

(b) displayed in a conspicuous place in the local government's public office from the first day of the consultation period until the end of the last day of the consultation period.

(5) The notice must state the following—

(a) the name of the local government proposing to make the subordinate local law;

(b) the name of the proposed subordinate local law;

(c) the name of—

(i) the local law allowing the subordinate local law to be made; or

(ii) if this step is used under section 883—the proposed authorising law;

(d) the purposes and general effect of the proposed subordinate local law;

(e) the length of the consultation period and the first and last days of the period;

(f) that a copy of the proposed subordinate local law is open to inspection at the local government's public office on or before the last day;

(g) that a copy of the proposed subordinate local law may be purchased at the local government's public office on or before the last day at a stated price;

(h) that written submissions by any person supporting or objecting to the proposed subordinate local law may be made and given to the local government on or before the last day stating—

(i) the grounds of the submission; and

(ii) the facts and circumstances relied on in support of the grounds.

(6) The price of a copy of the proposed subordinate local law must be no more than the cost to the local government of having the copy available for purchase, and, if the copy is posted to the purchaser, the postage cost.

879 Step 3—give public access to proposed subordinate local law

On the first day of the consultation period and until the end of the last day of the consultation period—

(a) a copy of the proposed subordinate local law must be open to inspection at the local government's public office; and

(b) copies of the proposed subordinate local law must be available for purchase at the local government's public office at the price stated in the notice about the proposed subordinate local law.

880 Step 4—accept and consider all submissions

(1) The local government must consider every submission properly made to it.

(2) A submission is properly made to the local government if it—

(a) is the written submission of any person about the proposed subordinate local law; and

(b) states—

(i) the grounds of the submission; and

(ii) the facts and circumstances relied on in support of the grounds; and

(c) is given to the local government on or before the last day of the consultation period.

881 Step 5—make proposed subordinate local law

(1) If, after considering every submission properly made to it, the local government decides to make the proposed subordinate local law (whether as advertised or with amendments), it must, by resolution, make the subordinate local law.

(2) However, the local government may substantially amend the proposed subordinate local law only if the local government again consults with the public under section 878 and complies with steps 3 and 4.

(3) The local government's chief executive officer must certify the required number of copies of the subordinate local law to be the subordinate local law as made by the local government.

(4) For subsection (2), an amendment of a proposed subordinate local law with changes consistent with a resolution of the local government made under section 891 in relation to the subordinate local law is not a substantial amendment of the subordinate local law.

(5) A local government must not act under subsection (1) or (2) unless the local government has complied with division 5 in relation to the proposed subordinate local law.

882 Step 6—give public notice of subordinate local law

(1) A notice of the making of the subordinate local law must be published in a newspaper circulating generally in the local government's area stating the following—

(a) the name of the local government making the subordinate local law;

(b) the name of the subordinate local law;

(c) the date of the local government's resolution making the subordinate local law;

(d) the name of any existing subordinate local law amended or repealed by the new subordinate local law.

(2) The notice also may state the following—

(a) the name of the local law allowing the subordinate local law to be made;

(b) the purposes and general effect of the subordinate local law;

(c) that a certified copy of the subordinate local law is open to inspection at the local government's public office and at the department's State office;

(d) that a copy of the certified copy of the subordinate local law may be purchased at the local government's public office.

(3) On the day of notification (or as soon as practicable after the day), the local government must give the Minister—

(a) a copy of the notice; and

(b) the required number of certified copies of the subordinate local law; and

(c) a drafting certificate for the subordinate local law; and

(d) advice of any anti-competitive provisions included in the subordinate local law and reasons for their inclusion.

(4) The subordinate local law commences—

(a) on the day on which it is notified; or

(b) if a later day or time is fixed in the subordinate local law—on that day or at that time.

(5) If the subordinate local law is notified on a day after the day or time fixed by the subordinate local law for its commencement, the subordinate local law is valid, but commences on the day on which it is notified.

883 Early commencement under subordinate local law making process

(1) The purpose of this section is to permit a local government to start the process for making a subordinate local law even though the process for making the local law on which the subordinate local law is to be based (the ***proposed authorising law***) has not finished.

(2) A local government may use steps 1 to 5 of the process for making the subordinate local law (other than actually making the subordinate local law) before the proposed authorising local law is made if—

(a) in making the proposed authorising law, the local government has to satisfy division 1 or steps 3 to 7 of division 3; and

(b) for a proposed authorising local law made under division 3—the notice about the subordinate local law under section 878 is published no earlier than the notice about the proposed authorising law under section 868 is published.

Division 5 Anti-competitive provisions of proposed local laws and proposed subordinate local laws

884 Application of division

(1) In this section—

cut off day means—

(a) for a local law or subordinate local laws made before 31 December 1997—31 December 1997; or

(b) for a local law made under division 3 after 31 December 1997 and, if in making the local law, the local government, before 31 December 1997, complied with section 872(2)—a later day stated under a regulation.

(2) Subject to subsections (3) and (4), this division applies to local laws and subordinate local laws made after the commencement of this section.

(3) This division does not apply to local laws or subordinate local laws made before the cut off day if the local government, before 31 December 1997, decides to apply chapter 19, part 1, division 4 to the local law or subordinate local laws as if the local law or subordinate local laws were an existing local law or existing subordinate local laws under that division.

(4) This division does not apply to interim local laws.

885 Definitions for div 5

In this division—

anti-competitive provision, of a proposed local law or proposed subordinate local law, means a provision that, under

a regulation, is treated as creating barriers to entry to a market or barriers to competition within a market.

possible anti-competitive provision see section 887.

proposed local law includes a local law proposed to be made under division 1.

public interest test means a review of a possible anti-competitive provision of a proposed local law or proposed subordinate local law under this division.

public interest test report means the report, including recommendations, on a public interest test.

886 Local laws and subordinate local laws not to be made unless local government complies with division

A local government must not make a local law or a subordinate local law unless the local government complies with this division.

887 Review of proposed local law or proposed subordinate local law to identify possible anti-competitive provisions

A local government must carry out a review of its proposed local law or proposed subordinate local law and identify any provision of the law or subordinate local law that it considers may be an anti-competitive provision (a ***possible anti-competitive provision***).

888 Public interest test of possible anti-competitive provisions

(1) Before making a local law or subordinate local law containing a possible anti-competitive provision, a local government must ensure a public interest test is carried out and a public interest test report prepared for each of the possible anti-competitive provisions.

(2) A public interest test report must, for each possible anti-competitive provision, recommend—

(a) that the provision should be retained as it is not an anti-competitive provision; or

(b) for a provision that the report identifies as being an anti-competitive provision—that the whole or part of the provision—

(i) in the public interest, should be retained (whether in its current or another form); or

(ii) should not be retained.

(3) For subsection (2), it is in the public interest for an anti-competitive provision to be retained (whether in its current or another form) if—

(a) the benefits of the provision to the community as a whole outweigh the costs; and

(b) the most appropriate way of achieving the objectives of the proposed local law or proposed subordinate local law is by restricting competition in the way provided in the provision.

889 Local government to decide on test and report process

(1) The local government must decide—

(a) how the public interest test is to be conducted; and

(b) the matters with which the public interest test report must deal.

(2) The decision must provide for a consultation process for the public interest test and state how the process is to be used in the test.

Example—

A local government may decide that the consultation process concerning possible anti-competitive provisions must include—

(a) giving notice of the test and inviting submissions about the test; and

(b a period for submissions to be received; and

(c) direct consultation with interested parties; and

(d) consideration of the submissions received about the test.

The local government may also decide the process for the test may be carried out in conjunction with another process required for making the

local law or subordinate local law such as step 3 in section 868 or step 2 in section 878.

(3) The decision is subject to a regulation under section 893.

890 Public interest test report to be presented to local government meeting

As soon as practicable after a public interest test report is completed, it must be presented to a meeting of the local government.

891 Local government to resolve whether to implement recommendations of public interest test

(1) After a public interest test report has been presented to a meeting of a local government, the local government must resolve whether to implement the recommendations of the report.

(2) A local government may make a contrary resolution about an anti-competitive provision only if the local government is of the opinion and resolves that—

(a) the benefits of the provision in the proposed local law or proposed subordinate local law to the community as a whole outweigh the costs; and

(b) the most appropriate way of achieving the objectives of the proposed local law or proposed subordinate local law is by restricting competition in the way provided in the provision.

(3) A contrary resolution must include a statement of the reasons for finding that—

(a) the benefits of the provision to the community as a whole outweigh the costs; and

(b) the most appropriate way of achieving the objectives of the proposed local law or proposed subordinate local law is by restricting competition in the way provided in the provision.

(4) In subsections (2) and (3)—

contrary resolution means a resolution by a local government to—

(a) retain an anti-competitive provision of a proposed local law or proposed subordinate local law despite a recommendation in a public interest test report that the provision should not be retained; or

(b) retain an anti-competitive provision of a proposed local law or proposed subordinate local law in a form not consistent with the form recommended in a public interest test report.

892 Public interest test reports are open to inspection

From the day the public interest test report is presented to a meeting of a local government the report must be open to inspection.

893 Regulation about public interest tests and public interest test reports

A regulation may be made about—

(a) the procedures to be followed and criteria to be used to identify possible anti-competitive provisions of proposed local laws or proposed subordinate local laws; and

(b) requirements for public interest tests and public interest test reports; and

(c) the giving of information by local governments to the Minister.

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

893A Application of div 6

This division applies to a local law or subordinate local law for which a local government has resolved under division 5,

or chapter 19, part 1, division 4 as in force immediately before the commencement of this section, to retain an anti-competitive provision.

893B Definitions for div 6

In this division—

expiry date means—

(a) for the first review date—31 December 2010; or

(b) for a subsequent review date—31 December in the year that is 2 years after the review date.

first review date means 1 January 2008.

public interest test means a review of an anti-competitive provision of a local law or subordinate local law under this division.

public interest test report means the report, including recommendations, on a public interest test.

review date means the first review date or a subsequent review date.

subsequent review date means 1 January 2018, and each 1 January that is the tenth anniversary of the preceding subsequent review date.

893C Expiry of local laws and subordinate local laws unless local government complies with division

(1) A local law or subordinate local law in force on a review date expires on the expiry date for the review date unless the local government complies with this division.

Note—

See also section 899B for other expiry of local laws and subordinate local laws.

(2) However, subsection (1) does not apply if the local government repeals each anti-competitive provision in the local law or subordinate local law before the expiry date for the review date.

893D Review of anti-competitive provisions in local laws and subordinate local laws

A local government must carry out a review of the anti-competitive provisions in its local laws and subordinate local laws to which this division applies.

893E Public interest test of anti-competitive provisions

(1) A local government must ensure a public interest test is carried out and a public interest test report is prepared for each of its anti-competitive provisions.

(2) A public interest test report must, for each anti-competitive provision, recommend—

(a) that the provision should be retained as it is no longer an anti-competitive provision; or

(b) for a provision that the report states is an anti-competitive provision—that the whole or part of the provision—

(i) in the public interest, should be retained, whether in its current or another form; or

(ii) should not be retained.

(3) For subsection (2), it is in the public interest for an anti-competitive provision to be retained, whether in its current or another form, if—

(a) the benefits of the provision to the community as a whole outweigh the costs; and

(b) 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.

893F Local government to decide on test and report process

(1) The local government must decide—

(a) how the public interest test is to be conducted; and

(b) the matters with which the public interest test report must deal.

(2) The decision must provide for a consultation process for the public interest test and state how the process is to be used in the test.

Example—

A local government may decide that the consultation process concerning anti-competitive provisions must include—

(a) giving notice of the test and inviting submissions about the test; and

(b) a period for submissions to be received; and

(c) direct consultation with interested parties; and

(d) consideration of the submissions received about the test.

(3) The decision is subject to a regulation under section 893L.

893G Public interest test report to be presented to local government meeting

As soon as practicable after a public interest test report is completed, it must be presented to a meeting of the local government.

893H Local government to resolve whether to implement recommendations of public interest test

(1) After a public interest test report has been presented to a meeting of a local government, the local government must resolve whether to implement the recommendations of the report.

(2) A local government may make a contrary resolution about an anti-competitive provision only if the local government resolves that—

(a) the benefits of the provision in the local law or subordinate local law to the community as a whole outweigh the costs; and

(b) 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.

(3) A resolution under subsection (2) must include a statement of the reasons for finding—

(a) the benefits of the provision to the community as a whole outweigh the costs; and

(b) 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.

(4) As soon as practicable after making a resolution under this section, the local government must advise the Minister of its resolution.

(5) In this section—

contrary resolution means a resolution by a local government to—

(a) retain an anti-competitive provision of a local law or subordinate local law despite a recommendation in a public interest test report that the provision should be repealed; or

(b) amend an anti-competitive provision of a local law or subordinate local law contrary to a recommendation in a public interest test report.

893I Public interest test reports open to inspection

From the day the public interest test report is presented to a meeting of a local government, the report must be open to inspection.

893J Repeal or amendment of anti-competitive provision

(1) If a local government resolves to repeal or amend an anti-competitive provision of a local law under this division, it must, by resolution, make a local law repealing or amending the provision (a ***new local law***).

(2) If a local government resolves to repeal or amend an anti-competitive provision of a subordinate local law under this division, it must, by resolution, make a subordinate local law repealing or amending the provision (a ***new subordinate local law***).

(3) The local government must give notice of the making of the new local law or new subordinate local law.

(4) The notice must state the following—

(a) the name of the local government making the new local law or new subordinate local law;

(b) the name of the new local law or new subordinate local law;

(c) the date of the local government's resolution making the new local law or new subordinate local law;

(d) the name of the local law or subordinate local law;

(e) that there is an anti-competitive provision in the local law or subordinate local law;

(f) that the provision has been repealed or amended;

(g) that a certified copy of the new local law or new subordinate local law is open to inspection at the local government's public office and at the department's State office.

(5) The notice must be published in the gazette.

(6) The local government's chief executive officer must certify the required number of copies of the new local law or new subordinate local law to be the new local law or new subordinate local law as made by the local government.

(7) As soon as practicable after the making of the new local law or new subordinate local law, the local government must give the Minister—

(a) a copy of the notice; and

(b) the required number of certified copies of the new local law or new subordinate local law.

(8) Part 2 does not apply to a new local law or new subordinate local law made under this section.

893K Timing for resolution and implementation

For a local law or subordinate local law, a local government must make a resolution under section 893H and, if necessary, implement the resolution under section 893J, on or before the expiry date for the review date.

893L Regulation about public interest tests and public interest test reports

A regulation may prescribe—

(a) the procedures to be followed and criteria to be used to review anti-competitive provisions of local laws or subordinate local laws; and

(b) requirements for public interest tests and public interest test reports; and

(c) the giving of information by local governments to the Minister.

Part 3 Public access to local laws and subordinate local laws

894 Local laws and subordinate local laws available for inspection and purchase

(1) On and from the day of publication of a notice of the making of a local law or subordinate local law (or as soon as practicable after the day)—

(a) a certified copy of the local law or subordinate local law must be open to inspection at the local government's public office and the department's State office; and

(b) copies of the certified copy of the local law or subordinate local law must be available for purchase at the local government's public office.

(2) The price of a copy of a local law or a subordinate local law must be no more than the cost to the local government of having the copy available for purchase and, if the copy is posted to the purchaser, the postage cost.

895 Subordinate local law register

(1) A local government must keep a register of its subordinate local laws.

(2) The register must comply with the regulation.

(3) The register must be open to inspection at the local government's public office.

Part 4 Status of local laws, subordinate local laws and consolidated versions of local laws and subordinate local laws

896 Effect of local laws

On commencement, a local law made by a local government has the force of law.

896A Effect of expiry of interim local law

(1) This section applies if—

(a) a local law (the ***original local law***) is repealed or amended by an interim local law; and

(b) the interim local law expires; and

(c) the interim local law is not made, with or without change, as a local law under part 2, division 3.

(2) If the interim local law repealed the original local law, on the expiry of the interim local law—

(a) the original local law revives in the form it was immediately before the repeal; and

(b) a subordinate local law, or a provision of a subordinate local law, that ceases to have effect because of the repeal revives in the form it was immediately before the repeal.

(3) If the interim local law amended the original local law, on the expiry of the interim local law, the original local law is taken to never have been amended by the interim local law.

(4) Subsection (5) applies if a subordinate local law, or a provision of a subordinate local law, ceases to have effect because of the amendment of the original local law.

(5) On the expiry of the interim local law, the subordinate local law or provision is taken never to have been affected by the amendment.

(6) Subsections (3) and (5) do not affect anything done or suffered under the interim local law before it expired.

897 Extent to which subordinate local law is binding

(1) A local government's subordinate local law is binding on the local government.

(2) A local government's subordinate local law on a matter is, and it is declared always was, binding on anyone else to the extent stated in the local law stating the matter about which the subordinate local law may be made.

897A When subordinate local laws cease to have effect

(1) This section applies if—

(a) a local law or provision of a local law states a matter about which a subordinate local law may be made; and

(b) a subordinate local law is made about the matter; and

(c) the local law is repealed or the provision is omitted.[49]

(2) To remove any doubt, it is declared that the subordinate local law ceases to have effect on the repeal or omission.

(3) This section has effect subject to section 896A.

897B Consolidated versions of local laws and subordinate local laws

(1) A local government may prepare and adopt a consolidated version of a local law or subordinate local law.

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49 A local government may also repeal a subordinate local law by using the processes stated in part 2, division 4, for making a subordinate local law—see the *Acts Interpretation Act 1954*, section 24AA.

(2) Part 2 does not apply to the making or notification of the consolidated version of the local law or consolidated subordinate local law.

(3) Also, part 2 does not apply to the making of a minor amendment of a local law or subordinate local law (the ***amendment law***) if the local government incorporates the amendment law into a consolidated version of the local law or subordinate local law.

(4) However, for subsection (3)—

(a) the local government must, by resolution, make the amendment law; and

(b) the local government's chief executive officer must certify the required number of copies of the amendment law to be the amendment law as made by the local government; and

(c) the local government must notify the making of the amendment law as required under part 2.

(5) The consolidated version of a local law or subordinate local law is, in the absence of evidence to the contrary, taken to be the local government's local law or subordinate local law on and from the day the consolidated version of the local law or subordinate local law is adopted by the local government.

(6) As soon as practicable after the local government adopts the consolidated version of the local law or subordinate local law, the local government must give the chief executive a certified copy of the consolidated version of the local law or subordinate local law.

898 Proof of local laws, subordinate local laws and consolidated versions of local laws and subordinate local laws

(1) In a proceeding, a certified copy of a local law, subordinate local law or consolidated version of a local law or subordinate local law is evidence of the content of the local law, subordinate local law or consolidated version of a local law or subordinate local law.

(2) All courts, judges and persons acting judicially must take judicial notice of a certified copy of a local law, subordinate local law or consolidated version of a local law or subordinate local law.

(3) In a proceeding, a copy of the gazette or newspaper containing a notice about the making of a local law, subordinate local law or consolidated version of a local law or subordinate local law is—

(a) evidence of the matters stated in the notice; and

(b) evidence that the local law, subordinate local law or consolidated version of a local law or subordinate local law has been properly made.

899 Local law and subordinate local law presumed to be within jurisdiction

In a proceeding, the competence of a local government to make a particular local law or subordinate local law is presumed unless the issue is raised.

Part 5 Review and expiry of local laws and subordinate local laws

899A Definitions for pt 5

In this part—

expiry date means—

(a) for the first review date—31 December 2010; or

(b) for a subsequent review date—31 December in the year that is 2 years after the review date.

first review date means 1 January 2008.

redundant provision see section 899C.

review date means the first review date or a subsequent review date.

subsequent review date means 1 January 2018, and each 1 January that is the tenth anniversary of the preceding subsequent review date.

899B Expiry of local laws and subordinate local laws

A local law or subordinate local law in force on a review date expires on the expiry date for the review date unless—

(a) it sooner expires or is repealed; or

(b) the local government publishes a notice in the gazette for the laws under section 899C.

899C Reviews of local laws and subordinate local laws

(1) After each review date, a local government must review its local laws and subordinate local laws in force on the review date to identify any provision of the law that serves no useful purpose (a ***redundant provision***).

(2) After reviewing the law, the local government must, by resolution, decide whether it contains any redundant provisions.

(3) If, after reviewing the law, a local government by resolution decides that the law does not contain any redundant provisions, the local government must publish a notice about the review in the gazette stating the following—

(a) the name of the local government;

(b) the name of the law reviewed;

(c) that the law was reviewed by it to identify any provision that serves no useful purpose but no provision was identified;

(d) the date of the local government's resolution about the review.

(4) As soon as practicable after the notice is published, the local government must give a copy of the notice to the Minister.

899D Repeal of redundant provision

(1) This section applies if, after a review under this part of a local law or subordinate local law (the ***existing law***), a local government decides the law contains a redundant provision.

(2) The local government must, by resolution, make a local law or subordinate local law repealing the provision.

(3) A notice of the making of the local law or subordinate local law must be published in the gazette stating the following—

(a) the name of the local government making the law;

(b) the name of the law;

(c) the date of the local government's resolution making the law;

(d) the name of the existing law;

(e) that a redundant provision of the existing law has been identified;

(f) that the provision has been repealed;

(g) that a certified copy of the law is open to inspection at the local government's public office and at the department's state office.

(4) The local government's chief executive officer must certify the required number of copies of the law to be the law as made by the local government.

(5) As soon as practicable after the making of the law, the local government must give the Minister—

(a) a copy of the notice; and

(b) the required number of certified copies of the law.

(6) Part 2 does not apply to a law made under this section.

Chapter 13 Local government infrastructure

Part 1 Extended application of chapter

900 Application of chapter to Brisbane City Council

This chapter applies to the Brisbane City Council.

Part 2 Roads

Division 1 Control of roads

901 Local governments' control of roads

(1) A local government has control of all roads in its area.

(2) Control of roads includes capacity to take all necessary steps for—

(a) survey and resurvey of roads; and

(b) construction, maintenance and improvement of roads; and

(c) regulation of use of roads; and

(d) regulation of movement of traffic and parking vehicles on roads.

(3) Subsection (2)(d) is subject to the *Transport Operations (Road Use Management) Act 1995*.

(4) Regulation of use of roads includes—

(a) requiring, by local law, an owner of land adjoining a road to fence the land to prevent animals escaping from the land onto the road; and

(b) specifying, by local law, the obligations of the owner of the land.

Division 2 Realignment and widening of roads

902 Realignment of roads

(1) A local government may realign a road to widen it.

(2) A road may be realigned—

(a) by acquisition of land necessary for the purpose; or

(b) if a structure or part of a structure is on land affected by the realignment between the existing and proposed alignments—under a notice of realignment.

(3) A local government must serve a notice (the ***notice of realignment***) on the owner of land affected by a realignment.

(4) The notice must inform the owner in general terms of this section and section 904.

(5) The local government must lodge a copy of the notice of realignment with the registrar of titles for the registration on the instrument of title to the land.

903 Effect of notice of realignment

(1) The owner of land that is the subject of a notice of realignment must not erect, place, re-erect, replace or repair any structure or part of a structure on the land between the existing and proposed alignments of the road without the permission of the local government.

(2) Despite service of the notice, land between the existing and proposed alignments of a road does not form part of the road until it has been acquired by the local government and dedicated to public use as a road.

(3) The registrar of titles may register the notice despite the non-production of a relevant instrument of title.

904 Compensation for realignment of road

(1) A person who would be entitled to claim compensation on acquisition by a local government of land affected by a notice of realignment situated between the existing and proposed alignments of a road is entitled to compensation from the local government for injurious affection to the person's interest in the land because of—

(a) service of the notice; or

(b) refusal by the local government of permission mentioned in section 903(1).

(2) However, compensation is not payable on service of the notice until—

(a) the land is first sold after service of the notice; or

(b) the owner of the land has, after service of the notice, offered the land for sale in good faith, but can not sell the land for a fair and reasonable price.

905 Claims for compensation

(1) A claim for compensation must—

(a) be made to the chief executive officer of the local government in a form approved by the chief executive officer; and

(b) be made within 3 years after the entitlement to compensation arose.

(2) The claim is taken to have been properly made when the claimant has given the local government all information reasonably required by it to decide the claim.

(3) If, within 40 days after the claim is made, the local government has not given to the claimant written notice of its decision on the claim, it is taken to have refused compensation to the claimant on the 41st day after the claim is made.

906 Appeals

(1) A claimant aggrieved by the decision of a local government made on a claim for compensation may appeal against the decision to the Planning and Environment Court.

(2) The appeal must be started within 30 days after notice of the decision is given to the claimant or the decision is taken to have been made.

907 Assessment of compensation

Assessment of compensation for injurious affection of an interest in land because of a notice of realignment must be consistent with the following principles—

(a) the amount of compensation must represent the difference between the market value of the interest immediately after service of the notice and what would be the market value of the interest at that time if the notice had not been served;

(b) any benefit that may accrue, because of the realignment, to land adjacent to the land affected by the realignment, and in which the claimant has an interest, must be taken into account;

(c) the amount of compensation must not be increased because the land affected by the realignment has, since the service of the notice, become or ceased to be separate from other land.

908 Award of compensation

Before awarding compensation for injurious affection, the Planning and Environment Court must be satisfied—

(a) if the land has been sold—

(i) the sale price is less than the seller might reasonably have expected to receive had there been no notice of realignment; and

(ii) the seller sold the land in good faith; and

(iii) the seller took reasonable steps to obtain a reasonable price for the land; or

(b) if a local government has refused permission mentioned in section 903(1)—the permission was applied for in good faith.

909 Acquisition of land instead of compensation

(1) Unless land between the existing and proposed alignments of a road has been sold, a local government may acquire the land instead of paying compensation for injurious affection.

(2) If, after a notice of realignment is served, land between the existing and proposed alignments of a road has been cleared of all structures, a local government may, and, if required by the owner of the land, must, acquire the land.

(3) Land acquired under subsection (1) or (2) must be dedicated for public use as a road within 3 months after its acquisition.

(4) Compensation for the compulsory acquisition of land under subsection (1) or (2), if not agreed between the parties, must be assessed as at the date of the acquisition.

910 Notice of realignment not effective in certain circumstances

(1) A local government can not, without the consent of the Planning and Environment Court, serve notice of realignment on an owner of land after the owner has applied to it—

(a) for its approval of subdivision of the land; or

(b) for its approval, consent or permission—

(i) to erect or use a structure on the land; or

(ii) to use the land for any purpose.

(2) The court may consent to service of the notice only if it is satisfied the purpose of the notice is to enable the local government to make, in good faith, a reasonable widening of the road.

911 Realignment not carried out

(1) This section does not apply to a realignment of road necessary to comply with the requirements of a local government under

a planning scheme in its application to particular developments in the local government's area.

(2) A local government may, before a realignment of a road has been carried out, decide not to proceed with the realignment or with a part of it.

(3) The local government must serve notice of its decision on—

(a) all owners of land who were served with notice of the realignment; and

(b) all owners of land that, after the realignment has been carried out in part, adjoins the realigned boundary of the road.

(4) The notice must inform the owners in general terms of this section and section 912.

(5) The local government must—

(a) withdraw all notices of realignment, or, if the decision relates to part only of a realignment, all notices of realignment for the part, lodged with the registrar of titles but not registered; and

(b) lodge with the registrar of titles a notice of its decision on all instruments of title on which notice of realignment has been registered, or, if the decision relates to part only of a realignment, on which notice of realignment for the part has been registered.

912 Compensation if realignment not carried out

(1) This section applies if—

(a) a local government decides not to proceed with a realignment, or part of a realignment, of a road; and

(b) structural improvements are made on land adjoining the road on the basis of the proposed realignment being effected.

(2) The local government must pay the owner of the land reasonable compensation for the decrease in value of the land because of the decision.

(3) The amount of compensation is the difference between the value of the land before and after the decision.

(4) If the local government and the owner fail to agree on the amount of compensation, the amount is to be decided by the Land Court.

(5) The provisions of the *Acquisition of Land Act 1967* about the making, hearing and deciding of claims for compensation for land taken under that Act apply, with any necessary changes and any changes prescribed by regulation, to claims for compensation under this section.

(6) A decision by a local government not to proceed with a realignment, or part of a realignment, of a road does not give rise to an entitlement to compensation or a cause of action in any owner or occupier of land or other person other than under this section.

913 Acquisition of land for use as footpath

(1) A local government may widen a road by acquiring from the owner of land adjoining the road land for use as a footpath.

(2) The acquisition of land may be subject to a reservation in favour of the owner of any of the following rights as the local government decides, at or before the acquisition, to be appropriate—

(a) a right to ownership, possession, occupation and use of any existing structure, room or cellar at a specified height above or depth below the level of the new footpath, subject to the local government's right to enter, and make structural alterations to, the structure, room or cellar as it considers to be necessary;

(b) a right to erect a structure, in accordance with law, at a specified height above and extending over the new footpath and to the ownership, possession, occupation and use of the structure;

(c) a right of support for a structure mentioned in paragraph (a) or (b).

Division 3 Opening and closure of roads

914 Notice to local government of opening or closure of roads

(1) If an application is made under the *Land Act 1994* for the opening or closure of a road in a local government's area by a person (other than the local government), the Minister administering that Act must give written notice of the application to the local government.

(2) The notice must specify a date (no earlier than 1 month or later than 2 months after the local government is given the notice) on or before which the local government may object to the opening or closure of the road.

(3) An objection must state fully the reasons for the objection.

(4) The Minister must have regard to any objections properly made by the local government.

(5) If the Minister decides the road should be opened or closed, the Minister must give written notice to the local government of the decision and, if the decision is contrary to the local government's objection, the reasons for it.

915 Limited closure of roads by local government

(1) A local government may, by public notice, close a road, or part of a road, permanently or temporarily, to particular traffic, if there is another road, or route, reasonably available for use by the traffic.

(2) A local government may, by public notice, close a road to all traffic or particular traffic—

(a) during a temporary obstruction to traffic; or

(b) if it is necessary or desirable to close the road for—

(i) a temporary purpose; or

(ii) in the interests of public safety.

(3) Notice under subsection (1) or (2) may be published in the way the local government considers appropriate in each particular case.

(4) If a road, or part of a road, in a local government's area is closed to traffic under subsection (1) or (2), the local government may do everything necessary to stop traffic using the road or the part of the road.

Division 4 Miscellaneous

916 Temporary roads

(1) A local government may, to remake or repair part of a road, make a temporary road through land adjoining the road, to be used while the part is being remade or repaired.

(2) However, the temporary road may be made only if it is not reasonably practicable to temporarily close the part of the road to traffic while it is remade or repaired.

917 Fixing road levels

(1) The owner or occupier of land adjoining a road may give written notice to the local government requiring it to advise the owner or occupier of the permanent level fixed or to be fixed for the road.

(2) If the local government has not, within 6 months after receiving the notice, given to the owner or occupier written advice about the permanent level of the road, the local government is taken to have fixed the apparent level of the road when the notice was given as the permanent level of the road.

918 Compensation for change in road level

(1) This section applies if—

(a) after a local government has fixed the permanent level of a road, the local government changes the level of the road; and

(b) the owner or occupier of land adjoining the road is injuriously affected by the change.

(2) The owner or occupier, or the person's successor in title, is entitled to the reasonable compensation because of the injurious affection that is agreed between the local government and the person or, failing agreement, decided by the Planning and Environment Court.

919 Ancillary works and encroachments on roads

(1) In this section—

ancillary works and encroachments means—

(a) gates or grids; or

(b) private railways; or

(c) tramways, including sugar cane tramways; or

(d) viaducts; or

(e) cellars.

(2) A local government may, by local law, regulate the construction, maintenance and operation of ancillary works and encroachments in, on, along, across, under or over roads in its area.

(3) However, a local government can not make a local law about a railway to which the *Transport Infrastructure Act 1994*, chapter 7 applies.

919A Assessment of impacts on roads from certain activities

(1) This section applies if—

(a) a local government considers the carrying on of an activity prescribed under a regulation is having, or will have, a significant adverse impact on a road under its control; and

(b) the activity is not for—

(i) a significant project under the *State Development and Public Works Organisation Act 1971*; or

(ii) development declared under its planning scheme under the *Integrated Planning Act 1997* to be assessable development.

(2) The local government may require the entity carrying out the activity to provide information, within a reasonable time, that will enable the local government to assess the impact.

(3) After assessing the impact, the local government may decide to do 1 or more of the following—

(a) give the entity a direction about the use of the road to lessen the impact; or

(b) require the entity—

(i) to carry out works to lessen the impact; or

(ii) to pay an amount as compensation for the impact.

(4) The local government may require the works to be carried out or the amount to be paid before the impact commences or intensifies.

(5) The amount required to be paid under subsection (3)(b)(ii) is a debt payable to the local government and may be recovered in a court of competent jurisdiction.

(6) The regulation mentioned in subsection (1)(a)—

(a) must contain a process under which the local government's decision may be reviewed; and

(b) may contain a process for enforcing the decision.

920 Categorisation of roads

A local government must categorise roads in its area according to the surface of the road.

921 Roads map and register

(1) A local government must prepare and keep up-to-date a map and a register of roads in its area.

(2) The map of roads must show every road in its area.

(3) The register of roads must show—

(a) the category of every road in its area; and

(b) the level of every road of which the level is fixed; and

(c) other particulars prescribed by regulation.

(4) The register of roads also may show other particulars the local government considers appropriate.

(5) The map and register are open to inspection.

(6) On application and payment of a reasonable fee fixed by resolution or local law, a person may obtain—

(a) a copy of, or an extract from, a map or register of roads; or

(b) a certificate of an employee of the local government authorised for the purpose—

(i) about the category, alignment and levels of roads in its area; or

(ii) about the fact that the alignment or level of a road in its area has not been fixed.

Part 2A Public thoroughfare easements

921A Public thoroughfare easements

(1) This section applies if a public thoroughfare easement is created over relevant land.

(2) The local government in whose favour the easement is created has control of the easement land, subject to the provisions of the instrument creating the easement.

(3) Control of the easement land includes capacity to take all necessary steps for—

(a) construction, maintenance and improvement of the easement land; and

(b) regulation of the use of the easement land.

(4) Despite subsections (2) and (3)—

(a) the local government has responsibility for the maintenance of the easement land; and

(b) for deciding the respective rights and liabilities that attach to a relevant entity for anything that happens

arising out of the use of the easement land, the easement land must be taken to be a road under the control of the local government.

(5) The owner of the relevant land, as the grantor of the easement, or as a successor in title of the grantor of the easement—

(a) is not required, and can not be required, to maintain, or to contribute to the maintenance of, any part of the easement land; and

(b) is not, and can not be made, civilly liable for an act done, or omission made, honestly and without negligence, in relation to the easement land.

(6) In this section—

easement land means any part of the relevant land that is affected by the public thoroughfare easement.

owner, of the relevant land, means—

(a) if the relevant land is land granted in trust under the *Land Act 1994*—the trustee of the land; or

(b) if the relevant land is non-freehold land under the *Land Act 1994*—the lessee or licensee of the land; or

(c) if the relevant land is a lot under the *Land Title Act 1994*—the registered owner of the lot.

relevant entity means any of following—

(a) the owner of the relevant land;

(b) the local government;

(c) any member of the public generally.

relevant land means—

(a) land granted in trust, or non-freehold land, under the *Land Act 1994*; or

(b) a lot under the *Land Title Act 1994*.

Part 3 Malls

922 Purpose of part

This part contains the provisions under which a mall may be established in a road.

923 Closure of roads to traffic

(1) For the purpose of establishing a mall in a road, the Governor in Council may, by gazette notice, and a notice published in a newspaper circulating generally in the locality of the road, temporarily close a road to traffic for the proposed mall.

(2) The Governor in Council may, by gazette notice, amend or revoke the road closure.

(3) A notice of a road closure or amendment of a road closure must specify the day it becomes effective.

924 Provision of works for mall

(1) A local government may undertake and provide the works necessary or desirable for establishing a mall in a road.

(2) The local government also may do everything incidental to undertaking or providing the works.

925 Establishment of mall

The Governor in Council may, by gazette notice, nominate a day (the ***mall opening day***) on which a road closed to traffic for a proposed mall is to reopen as a mall.

926 Closure of mall

The Governor in Council may, by gazette notice, declare that a specified road ceases to be a mall on a specified day.

927 Operation of mall

(1) A local government may do everything necessary or desirable for the promotion, development, management, maintenance, cleaning, operation and use of a mall.

(2) A local government also may do everything incidental to its powers under subsection (1).

(3) The local government may permit the use of any part of the mall, including the erection of any structure, on the conditions it considers appropriate.

(4) The local government may exercise any of its powers in relation to the mall before the mall opening day if it is necessary or desirable for the mall's benefit immediately on its establishment.

928 Control of vehicles and animals in malls

A local government may, by local law, regulate the entry of vehicles and animals into, and the presence and use of vehicles and animals in, malls.

929 No entitlement to compensation for mall

A person has no entitlement at law to compensation for injurious affection to any right or interest of a business, commercial or industrial nature because of—

(a) the existence of a mall; or

(b) anything done under this part.

Part 4 Marine and aquatic matters

930 Ferry service in local government area

A local government has the exclusive right to provide a ferry service across a watercourse at a place where the land forming both banks of the watercourse is in its area.

931 Ferry service on boundary of local government areas

If a watercourse is the boundary between 2 or more local government areas, the Governor in Council may, by regulation, declare that a specified local government has exclusive control of—

(a) provision of a service by ferry across the watercourse at a place where it forms the boundary; and

(b) all proper approaches to the ferry and the part of either bank of the watercourse that, in the Governor in Council's opinion, is necessary for the convenient construction and use of the ferry and the proper approaches to it.

932 Lease of ferries

A local government may lease the right to operate a ferry, alone or with the land under its control that is required for the use of the ferry, for the period and on the terms it considers appropriate.

933 Local laws about ferries

A local government may make local laws for managing and regulating the use of ferries operated or leased by it.

934 Harbours, jetties, breakwaters and ramps

(1) A local government may construct, maintain, manage and regulate the use of—

(a) harbours for small vessels in or over tidal waters; and

(b) jetties, breakwaters and ramps in or over tidal waters.

(2) A local government may exercise powers under subsection (1) for a harbour or proposed harbour whether its waters are within or outside the limits of a port under the *Transport Infrastructure Act 1994*.

(3) A local government may occupy and use foreshore, tidal land or tidal waters to undertake work in exercising the powers.

(4) While the local government occupies or uses foreshore, tidal land or tidal waters, the foreshore, land or waters are taken to be in its area.

(5) This section has effect subject to the *Land Act 1994*.

934A Canals

(1) A local government may make local laws about each of the following matters for a canal in its area—

(a) the movement and use of vessels, and the use of structures, in the canal;

(b) the obligations of the owner of a structure in the canal, including, for example, obligations about maintaining the structure in a safe condition;

(c) if, under the *Coastal Protection and Management Act 1995*, the local government must maintain the canal and keep it clean—the maintenance and cleaning of the canal.[50]

(2) Subsection (1) is subject to the *Transport Operations (Marine Safety) Act 1994*.

(3) In this section—

canal means a canal as defined under the *Coastal Protection and Management Act 1995*, section 9.

owner, of a structure, means—

(a) the holder of a development permit under the *Integrated Planning Act 1997* to build the structure; or

(b) the owner of the land receiving the benefit of the structure or to which the structure is connected.

935 Management and regulation of bathing reserves

(1) In this section—

seashore means—

50 For the canals a local government must maintain and keep clean, see the *Coastal Protection and Management Act 1995*, section 121.

(a) foreshore; or

(b) State land above high-water mark at ordinary spring tides that is ordinarily covered by sand or shingle.

State land does not include land that is subject to a licence, permit or other authority granted under an Act by the State.

(2) The Governor in Council may, by gazette notice, place under the control of a local government as a bathing reserve—

(a) a part of the seashore; and

(b) land under the sea adjacent to that part of the seashore and seawards for a distance not more than 1km beyond low-water mark at ordinary spring tides; and

(c) sea above that part of the seashore and land.

(3) The local government may—

(a) manage and regulate the use of the bathing reserve; or

(b) construct and maintain enclosures, structures and facilities in the bathing reserve; or

(c) provide, or authorise someone else to provide, lifesaving services for the bathing reserve.

(4) While the bathing reserve is under the local government's control, the bathing reserve is taken to be in its area.

936 Control of foreshore

(1) The Governor in Council may, by gazette notice, place foreshore under the control of—

(a) the local government of the local government area adjoining the foreshore; or

(b) if there is no local government area adjoining the foreshore—the local government of a local government area convenient to the foreshore.

(2) The local government may manage and regulate the use of the foreshore.

(3) While the foreshore is under the local government's control, the foreshore is taken to be in its area.

Part 5 Local government control over levee banks

Division 1 Jurisdiction of local governments

937 Limited exclusion of jurisdiction of local government

The jurisdiction of a local government under this part to prohibit or regulate the construction and maintenance of levee banks does not extend to a part of its area included in an approved plan within the meaning of the *Soil Conservation Act 1986*.

Division 2 Control of levee banks

938 Regulation of levee banks etc.

(1) Subject to section 854, a local government may, by a local law—

(a) prohibit construction of levee banks without the local government's permission; and

(b) regulate the construction and maintenance of levee banks; and

(c) require changes to levee banks constructed before or after the commencement of this part, although their construction may have complied with the requirements and approval of the local government.

(2) A local law prohibiting construction of levee banks without the local government's permission must provide for—

(a) particulars to be supplied by an applicant for the local government's permission; and

(b) public notice of applications for the local government's permission to be given by advertisement at least twice in a newspaper circulating generally in the local government's area; and

(c) submissions supporting or objecting to applications and the requirements applying to the submissions; and

(d) procedures of the local government in considering and deciding applications; and

(e) all other issues the local government considers necessary for properly disposing of applications.

939 Decision on application for permission

(1) If a local government decides to give permission for a levee bank construction, it may decide the permission is subject to conditions.

(2) The decision on an application must—

(a) be given to the applicant by written notice; and

(b) be given to each person who made a submission on the application; and

(c) if the decision is to give permission, but the permission is to be subject to conditions—specify the conditions.

940 Issue of permit

(1) A permission has effect only if a permit is issued setting out the terms of the permission.

(2) A permit must not be issued before the end of 30 days after notice of the decision is given under section 939(2).

(3) However, if an appeal is started within the 30 days mentioned in subsection (2), a permit may be issued only if—

(a) the decision on appeal confirms the giving of permission, with or without conditions, or changed conditions, applying to the permission; or

(b) the appeal is struck out or is discontinued.

(4) An issued permit is subject only to the conditions stated in the permit.

941 Application for permission for existing levee banks

(1) If, when a local law mentioned in section 938 commences, there is on land to which the local law applies a levee bank that, in the local government's opinion, affects or is likely to affect natural drainage to an extent that it causes or may cause damage to land or a public work, service or undertaking, the local government may, by written notice, require the owner of the land to apply to it within a specified reasonable period for permission to keep the levee bank or part of the levee bank.

(2) This part applies to an application made in response to a requirement under subsection (1) as if the application were an application for permission to construct the levee bank or part concerned.

(3) A person must not keep on the person's land, or allow another person to keep on the person's land, a levee bank or part of a levee bank to which a requirement under subsection (1) applies—

(a) after the end of the period allowed by the request for applying for the local government's permission to keep the levee bank or part of the levee bank, if the application has not been properly made; or

(b) after the local government's permission has been refused; or

(c) in breach of the conditions stated in a permit issued by the local government.

Maximum penalty—50 penalty units.

(4) If a person convicted of an offence against subsection (3) continues to commit the offence, the person commits a continuing offence.

Maximum penalty—1 penalty unit for each day on which the offence is continued.

Division 3 Appeals

942 Appeal against local government's decision

(1) An appeal tribunal for hearing and deciding appeals against decisions of a local government on an application is formed by the chief executive of the department within which the *Water Act 2000* is administered or that chief executive's delegate.

(2) A person aggrieved by a decision of a local government on an application may appeal to an appeal tribunal.

(3) The appeal must be started within 30 days after the person aggrieved is given written notice of the decision.

(4) The appeal is started by the person filing a notice of appeal with the chief executive mentioned in subsection (1) and giving a copy of the notice to the local government.

(5) As soon as practicable after the appeal is started, the chief executive officer of the local government must inform the chief executive mentioned in subsection (1) of the persons, other than the appellant, who made the application and who made submissions on the application.

(6) The person who is to form the appeal tribunal on the appeal must inform the appellant, the local government, and the persons mentioned in subsection (5) of the day, time and place for hearing of the appeal.

943 Decision on appeal

(1) An appeal tribunal may—

(a) dismiss an appeal and confirm the decision of the local government; or

(b) allow the appeal, set aside the decision of the local government and substitute the decision it considers should have been made on the application.

(2) The decision of an appeal tribunal is taken to be the decision of the local government on the application.

(3) Section 940 does not apply to the issue of a permit on the decision of an appeal tribunal.

944 Duties of appeal tribunal

In hearing an appeal, the appeal tribunal—

(a) must observe natural justice; and

(b) must act as quickly as possible, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.

945 Appeal tribunal may decide procedures

(1) An appeal is by way of rehearing.

(2) The appeal tribunal—

(a) is not bound by the rules of evidence; and

(b) may inform itself in any way it considers appropriate; and

(c) may decide the procedures to be followed in the appeal.

(3) However, the appeal tribunal must comply with this division and any procedural rules prescribed by regulation.

946 Appeal tribunal's powers

(1) In hearing an appeal, the appeal tribunal may—

(a) act in the absence of a person who has been given reasonable notice; and

(b) receive evidence on oath or by statutory declaration; and

(c) adjourn the appeal; and

(d) permit a document to be amended; and

(e) disregard any defect, error, omission or insufficiency in a document.

(2) The appeal tribunal may administer an oath to a person appearing as a witness before the tribunal.

947 Representation before appeal tribunal

A party to an appeal may be represented by counsel, a solicitor or an agent appointed in writing.

948 Prosecution of appeal

(1) An appeal must be prosecuted diligently.

(2) An appeal tribunal may strike out an appeal if it considers the appellant is not prosecuting the appeal diligently.

(3) An appeal may be discontinued by the appellant by written notice given to the appeal tribunal and to the respondent.

949 Notice to witness

(1) The person forming the appeal tribunal may, by written notice given to a person, require the person to attend an appeal at a specified time and place to give evidence or produce specified documents.

(2) A person who is given a notice must—

(a) attend as required by the notice; and

(b) continue to attend as required by the appeal tribunal until excused from further attendance.

Maximum penalty—35 penalty units.

(3) A person required to appear as a witness before an appeal is entitled to the witness fees prescribed by regulation or, if no witness fees are prescribed, the reasonable witness fees decided by the appeal tribunal.

950 Duty of witness at appeal

(1) A person appearing as a witness at an appeal must not—

(a) fail to take an oath or make an affirmation when required by the appeal tribunal; or

(b) fail, without reasonable excuse, to answer a question the person is required to answer by the appeal tribunal; or

(c) fail, without reasonable excuse, to produce a document that the person is required to produce by a notice under section 949(1).

Maximum penalty—35 penalty units.

(2) It is a reasonable excuse for a person to fail to answer a question or produce a document if answering the question or producing the document might tend to incriminate the person.

951 Contempt of appeal tribunal

A person must not—

(a) insult the person forming the appeal tribunal in an appeal; or

(b) deliberately interrupt an appeal; or

(c) create or continue, or join in creating or continuing, a disturbance in or near a place where the appeal tribunal is conducting an appeal; or

(d) do anything that would be a contempt of court if the person forming the appeal tribunal were a judge acting judicially.

Maximum penalty—50 penalty units.

952 Change of person forming appeal tribunal

An appeal is not affected by a change in the person forming the appeal tribunal.

953 Costs of appeal

(1) An appeal tribunal may make an order for payment of costs of an appeal as it considers just.

(2) Unless an appeal tribunal's order states otherwise, costs of proceedings on an appeal are on the scale applying to taxation of costs in the District Court.

954 Recovery on orders of appeal tribunal

(1) An order of an appeal tribunal for payment of costs must be in written form and a copy of the order must be given to—

(a) the appellant or other person to whom an amount is ordered to be paid; and

(b) the local government or other person by whom an amount is ordered to be paid.

(2) A document purporting to be a copy of an order of an appeal tribunal for payment of a stated amount of costs may be filed in the registry of a court having jurisdiction in an action for debt in the amount stated in the order, and enforced as an order of the court.

(3) If an order of an appeal tribunal for payment of costs does not state the amount to be paid, the costs payable may be recovered by action in a court of competent jurisdiction as a debt payable by the person by whom the costs are ordered to be paid to the person to whose benefit the order was made.

Division 4 Effect of part

955 Effect of part on legal rights and remedies

A permission given on an application under this part does not affect a right or remedy a person had about a levee bank the subject of the permission.

Part 6 Kuranda rail line

Division 1 Preliminary

955A Definitions for pt 6

In this part—

free of charge, for a journey on the Kuranda rail line, means a journey provided without any of the following—

(a) payment or other consideration;

(b) requiring, or asking for, a donation, levy or other monetary contribution for the journey including, for example, the purchase of a ticket in a raffle;

(c) displaying a receptacle, whether on the train used for the journey or elsewhere, in a way that suggests a donation is expected or required to travel on the rail line.

Kuranda rail line means the rail line between Cairns and Kuranda.

Kuranda rail operator means a person who, under the *Transport Infrastructure Act 1994*, section 123, is accredited to operate rolling stock under that Act on the Kuranda rail line.

tourist infrastructure levy see section 955B(1).

Division 2 Tourist infrastructure levy

955B Imposition of levy

(1) A levy (the ***tourist infrastructure levy***) is imposed on each Kuranda rail operator for the period from the commencement of this section to 1 April 2014.

(2) The levy is at the rate of $1 for each passenger journey to or from Kuranda on the Kuranda rail line provided by the operator during the period, other than a journey provided free of charge.

(3) For subsection (2), a return journey is taken to be a single journey.

955C Payment of levy

Each Kuranda rail operator must, within 3 weeks after the end of each quarter year for which the tourist infrastructure levy is imposed, pay the State the amount of the levy imposed on it during the quarter.

955D Unpaid levy interest

(1) A Kuranda rail operator must pay interest on an amount owing under section 955C unpaid from time to time.

(2) Interest accrues daily at the rate of 10% per annum on the unpaid amount on and from the day after it is owing until it is paid in full.

955E Recovery of unpaid amounts

If a Kuranda rail operator does not pay an amount owing under section 955C or 955D, the State may recover it from the operator as a debt.

Division 3 Miscellaneous provisions

955F Obligation to give annual statements

(1) Each Kuranda rail operator must, within 4 months after each financial year ends, give the chief executive a written statement for the year that complies with subsection (2).

Maximum penalty—20 penalty units.

(2) The statement must—

(a) state how many passenger journeys on the Kuranda rail line were provided by the operator during the financial year, other than journeys provided free of charge; and

(b) if a form is approved for the statement—be in the approved form.

(3) For subsection (1), the period from the commencement of section 955B to 30 June 2001 is taken to be a financial year.

(4) The approved form may require the statement to be made or verified by statutory declaration.

955G How levy is to be applied

Amounts received by the State for payment of the tourist infrastructure levy must be paid to the Mareeba Shire Council in the way, and on the conditions, decided by the Minister.

Division 4 Expiry of part 6

955H Expiry

This part expires on 30 June 2015.

Part 7 Stormwater drainage

956 Local government may require stormwater to discharge to its stormwater drainage

(1) A local government may, by written notice, require the owner of premises to connect a stormwater installation for the premises to the local government's stormwater drainage in the way, under the conditions and within the time stated in the notice.

(2) A way, condition or time stated in the notice must be reasonable in the circumstances of the notice.

(3) The owner must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty for subsection (3)—165 penalty units.

956A Approval required to connect

(1) A person must not connect a stormwater installation for premises to a local government's stormwater drainage unless—

(a) the local government has given its approval for the connection; or

(b) the local government has, by written notice, required the owner of the premises to connect the stormwater installation to the local government's stormwater drainage.

Maximum penalty—165 penalty units.

(2) The local government may impose conditions on an approval mentioned in subsection (1), including conditions about the way the connection must be made.

(3) A person who connects a stormwater installation under an approval mentioned in subsection (1) must comply with the conditions imposed on the approval under subsection (2).

Maximum penalty for subsection (3)—165 penalty units.

956B Sanitary drainage must not connect to stormwater drainage

(1) The owner of premises must not connect, or allow an on-site sewerage facility, sanitary drainage or property sewer for the premises to be connected, to any part of a stormwater installation for the premises or local government's stormwater drainage.

Maximum penalty—165 penalty units.

(2) An owner of premises who becomes aware that an on-site sewerage facility, sanitary drainage or property sewer for the premises is connected to any part of a stormwater installation for the premises or local government's stormwater drainage, must, as soon as reasonably practicable, take all necessary steps to disconnect the facility, drainage or sewer from the stormwater installation or drainage.

Maximum penalty—165 penalty units.

956C Owner may be directed to do certain work

(1) This section applies if there is, on premises, any connection of sanitary plumbing, sanitary drainage or a discharge from an on-site sewerage facility to—

(a) a stormwater installation on the premises; or

(b) the local government's stormwater drainage.

(2) The local government may, by written notice, require the owner of the premises to perform, within the time stated in the notice, the work stated in the notice.

(3) The time stated in the notice must be—

(a) a time that is reasonable in the circumstances; and

(b) subject to subsection (4), at least 1 month after the notice is given to the owner.

(4) The time stated in the notice may be less than 1 month but must not be less than 48 hours if the work stated in the notice—

(a) is required to stop a serious health risk continuing; or

(b) relates to a connection that is causing damage to the local government's stormwater drainage.

(5) The work stated in the notice must be work that is reasonably necessary for fixing or otherwise dealing with the on-site sewerage facility, sanitary plumbing or sanitary drainage.

(6) Without limiting subsection (5), the notice may require the owner—

(a) to remedy a contravention of this Act; or

(b) to disconnect something connected to stormwater drainage without the local government's approval.

(7) The owner must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty for subsection (7)—165 penalty units.

956D Prohibition on discharge of prohibited substances and trade waste into stormwater drainage

(1) A person must not discharge a prohibited substance into stormwater drainage.

Maximum penalty—1000 penalty units.

(2) A person must not discharge trade waste into stormwater drainage.

Maximum penalty—1000 penalty units

956E Cost of repairing damaged stormwater drainage

(1) This section applies if—

(a) in contravention of section 956D, a person discharges a prohibited substance into a local government's stormwater drainage; and

(b) the discharge causes damage to the stormwater drainage.

(2) The local government may perform work to fix the damage, and may recover the reasonable costs for the work from the person who discharged the prohibited substance.

(3) The costs mentioned in subsection (2) are in addition to any penalty imposed for the discharge.

956F Interference with path of stormwater

(1) A person must not restrict or redirect the flow of stormwater over land in a way that may cause the water to collect and become stagnant.

Maximum penalty—165 penalty units.

(2) Subsection (1) does not apply to water collected in a dam, wetland, tank or pond, if no offensive material is allowed to accumulate.

Part 8 Special entertainment precincts

956G Establishment of special entertainment precinct

(1) A local government may, subject to subsections (3) and (4), establish a special entertainment precinct in its area.

(2) The effect of establishing a special entertainment precinct is that—

(a) noise from amplified music played at relevant licensed premises in the precinct's core area is regulated by the

local law mentioned in subsection (3)(b) instead of the *Liquor Act 1992*;[51] and

(b) requirements imposed under a planning scheme or development approval made or given under the *Integrated Planning Act 1997* about noise attenuation apply in relation to particular kinds of development in the precinct.

(3) To establish a special entertainment precinct, the local government must—

(a) amend its planning scheme to identify the special entertainment precinct and the part of the precinct (the precinct's ***core area***) in which the local law mentioned in paragraph (b) applies; and

(b) make a local law—

(i) regulating noise from amplified music from all or any relevant licensed premises or other premises in the precinct's core area; and

(ii) providing for the issue of licences, permits or other authorities for all or any relevant licensed premises or other premises in the precinct's core area.

(4) A special entertainment precinct must not include a major sports facility under the *Major Sports Facilities Act 2001*.

(5) A local law made under subsection (3)(b) does not apply to an activity for a motor racing event under the *Motor Racing Events Act 1990* carried on by or with the permission of the person who, under that Act, is the promoter for the year in which the event is held.[52]

(6) In this section—

relevant licensed premises means licensed premises under the *Liquor Act 1992*—

(a) that are in the precinct's core area; and

(b) from which amplified music emanates.

51 See the *Liquor Act 1992*, section 187 (Abatement of nuisance or dangerous activity).

52 See also the *Motor Racing Events Act 1990*, section 12 (Certain Acts and laws not to apply).

Chapter 14 Rates and charges

Part 1 General

Division 1 Rateable land

957 What land is rateable

(1) All land is rateable land other than—

(a) vacant State land; and

(b) land occupied by the State or a government entity (other than a non-exempt GOC), except under a lease from a private person; and

(c) land in a state forest or timber reserve, other than land occupied under an occupation permit or stock grazing permit under the *Forestry Act 1959* or under a lease under the *Land Act 1994*; and

(d) Aboriginal land under the *Aboriginal Land Act 1991* or Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*, other than land used for commercial or residential purposes; and

(e) the following land under the *Transport Infrastructure Act 1994*—

(i) strategic port land occupied by a port authority, the State, or a government entity;

(ii) existing or new rail corridor land;

(iii) commercial corridor land that is not subject to a lease; and

(ea) airport land, within the meaning given by the *Airport Assets (Restructuring and Disposal) Act 2008*, that is used for a runway, taxiway, apron, road, vacant land, buffer zone or grass verge; and

(f) land exempt from rating under an Act or a regulation made under this Act.

(2) A regulation under subsection (1)(f) may, for example, exempt from rating land used for religious, charitable, educational or public purposes.

(3) If part of a parcel of land mentioned in subsection (1)(d) is used for commercial or residential purposes and another part (the ***remainder***) of the parcel is used for other purposes, the remainder is not rateable land, even though the other part of the parcel is rateable land.

(4) A reference in subsection (1)(e)(i) to strategic port land occupied by a port authority includes strategic port land, used in connection with Cairns International Airport or Mackay Airport, occupied by a wholly owned subsidiary of a port authority.

(5) Subsection (1)(ea) stops applying to land on the earlier of——

(a) the coming into force of a development permit under the *Integrated Planning Act 1997* for the land for a use other than a use mentioned in subsection (1)(ea); or

(b) the start of development within the meaning of *Integrated Planning Act 1997*, other than reconfiguring a lot, for a use other than a use mentioned in subsection (1)(ea).

(6) In this section—

non-exempt GOC means a GOC, or a subsidiary of a GOC, within the meaning of the *Government Owned Corporations Act 1993* other than a GOC or subsidiary that is exempt from rating under an Act in relation to the relevant land.

private person means a person other than the State or a government entity.

Division 2 Averaging of valuations

958 Application to Brisbane City Council

This division applies to the Brisbane City Council.

959 Local government may decide to average land values for rating purposes

(1) A local government may decide by resolution that, for the purpose of making and levying rates for a financial year on rateable land in its area, the unimproved value of the land is to be its averaged value under this division.

(2) The resolution must specify whether the averaged value must be calculated under section 960 or section 961.

960 Averaging over 3 years

(1) If this section applies to a financial year, the averaged value of rateable land for the financial year is the lesser of—

(a) the land's effective value for the financial year; or

(b) the amount calculated as follows—

(i) if the land has effective values for the financial year and each of the previous 2 financial years—the average of the 3 effective values;

(ii) in any other case—an amount equal to the land's effective value for the financial year multiplied by the averaging factor.

(2) In subsection (1)—

averaging factor, for a financial year, means the number calculated, to 2 decimal places, using the formula—

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

where—

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

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

961 Averaging over 2 years

(1) If this section applies to a financial year, the averaged value of rateable land for the financial year is the lesser of—

(a) the land's effective value for the financial year; or

(b) the amount calculated as follows—

(i) if the land has effective values for the financial year and the previous financial year—the average of the 2 effective values;

(ii) in any other case—an amount equal to the land's effective value for the financial year multiplied by the averaging factor.

(2) In subsection (1)—

averaging factor, for a financial year, means the number calculated, to 2 decimal places, using the formula—

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

where—

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

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

962 Information available to calculate *averaging factor*

A local government may calculate the averaging factor using only the effective values of which it is aware at the time of making its resolution.

Part 2 Making and levying rates and charges

963 Power to make and levy rates and charges

A local government may, for a financial year, make and levy—

(a) a general rate or differential general rates; and

(b) minimum general rate levies; and

(c) separate rates and charges; and

(d) special rates and charges; and

(e) utility charges.

964 Making of rates and charges

A rate or charge mentioned in section 963 may only be made for a financial year by resolution at the local government's budget meeting for the year.

965 General rate or differential general rates must be made each year

A local government must make a general rate or differential general rates for each financial year.

966 Differential general rate

(1) Before a differential general rate is made and levied, rateable land must be categorised into 2 or more categories under part 3.

(2) A differential general rate made and levied on rateable land in a category may be the same as or different to the differential general rate made and levied on land in another category.

(3) If a local government makes and levies a differential general rate for rateable land for a financial year, the local government must not make and levy a general rate for the land for the year.

(4) A differential general rate may be made and levied on a lot under a community titles Act as if it were a parcel of rateable land.

(5) To avoid doubt, it is declared that a differential general rate may be made and levied on a lot included in a community titles scheme under the *Body Corporate and Community Management Act 1997*.

967 Minimum general rate levy

(1) A local government may identify rateable land for the purpose of making and levying a minimum general rate levy in any way it considers appropriate.

(2) Subject to subsection (3) and sections 968 and 969, a local government may, for a financial year, make and levy not more than 1 minimum general rate levy on rateable land.

(3) However, if a local government makes and levies a differential general rate for the financial year, the local government—

(a) may make and levy different minimum general rate levies on rateable land in different categories; but

(b) must not make and levy more than 1 minimum general rate levy for rateable land in a category.

(4) A local government must not make and levy a minimum general rate levy for a parcel of land if—

(a) the *Valuation of Land Act 1944*, section 25, applies to the parcel; and

(b) under that section, the parcel's discounted valuation period has not ended.

968 Minimum general rate levy on time shared property

(1) This section applies to a local government levying a minimum general rate levy on—

(a) rateable land where there is a structure wholly or partially subject to a time share scheme; or

(b) a lot within the meaning of a community titles Act, or a lot included in a community titles scheme under the

Body Corporate and Community Management Act 1997, where there is a structure wholly or partially subject to a time share scheme.

(2) The local government may decide that the minimum general rate levy is to be worked out using the formula—

$$\mathbf{L \times RU}$$

where—

L means the minimum general rate levy that would, apart from this section, be payable for the rateable land or the lot.

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

969 Minimum general rate levy on mining tenements

(1) A local government may decide that the minimum general rate levy on land mentioned in subsection (2) is different to the minimum general rate levy on other rateable land in its area.

(2) Subsection (1) applies to rateable land if the land is—

(a) a mining claim; or

(b) a mining lease granted for mining for minerals of not more than 2ha; or

(c) a mining lease granted for a purpose associated with mining for minerals of not more than 4ha.

(3) A local government also may decide that different minimum general rate levies apply to—

(a) a mining claim of not more than 900m^2; and

(b) a mining claim of more than 900m^2; and

(c) a mining lease mentioned in subsection (2).

970 Unimproved value of mining claims

The unimproved value of a mining claim is—

(a) for a mining claim of not more than 900m²—$150 or, if a greater amount is prescribed by regulation, the greater amount; or

(b) for a mining claim of more than 900m²—$450 or, if a greater amount is prescribed by regulation, the greater amount.

971 Special rates and charges

(1) A local government may make and levy a special rate or charge on rateable land if—

(a) the rate or charge is for a service, facility or activity; and

(b) in the local government's opinion—

(i) the land, or the occupier of the land, has or will specially benefit from, or has or will have special access to, the service, facility or activity; or

(ii) the occupier of the land, or the use made or to be made of the land, has, or will, specially contribute to the need for the service, facility or activity.

Examples for subsection (1)(b)(i)—

a rural fire services charge to raise funds for a rural fire brigade to purchase or maintain equipment to service only part of the local government's area

a tourism promotion charge levied on land used for businesses that would benefit from tourism promotion in the local government's area

a recreational facilities charge levied over a 2 year period to contribute to the cost of building playground facilities and amenities in a nominated park in part of the local government's area

a cultural centre charge levied over an 8 year period to contribute to the cost of building a centre in part of the local government's area (e.g. 1 of 2 towns in the area), with construction to start within a certain number of years after the charge is first levied

a charge, levied over a 20 year period, to repay a loan for the construction of a drainage system in part of the local government's area, from which some land would commence receiving a benefit in a year and the remainder in a later year of the 20 year period

Example for subsection (1)(b)(ii)—

an entity that relies on road transport for its business specially contributes to the wear and tear on a local road adjoining its property

and is likely to need a higher standard of road than the occupiers of other properties adjoining the road

(2) The special rate or charge may be made and levied on the bases the local government considers appropriate.

(2A) The local government may fix a minimum amount of a special rate.

(3) Without limiting subsection (2), the amount of the special rate or charge may vary according to the extent to which, in the local government's opinion—

(a) the land, or the occupier of the land, has or will specially benefit from, or has or will have special access to, the service, facility or activity; or

(b) the occupier of the land, or the use made or to be made of the land, has, or will, specially contribute to the need for the service, facility or activity.

(4) The local government's resolution making the special rate or charge must identify—

(a) the rateable land to which the rate or charge applies; and

(b) the overall plan for the supply of the service, facility or activity.

(4A) The overall plan must—

(a) be adopted by the local government by resolution either before, or at the same time as, the local government first makes the special rate or charge; and

(b) identify the rateable land to which the rate or charge applies; and

(c) describe the service, facility or activity; and

(d) state the estimated cost of implementing the overall plan; and

(e) state the estimated time for implementing the overall plan.

(4B) Under an overall plan, a special rate or charge may be made and levied for 1 or more years before any of the funds received by the local government from the special rate or charge are expended in implementing the plan.

(4C) If an overall plan will not be implemented within 1 year, the local government must, at or before the budget meeting for each year of the period for implementing the overall plan, by resolution, adopt an annual implementation plan for the year.

(4D) The local government may, by resolution, at any time, amend an overall plan or an annual implementation plan.

(5) The local government may identify parcels of rateable land to which the rate or charge applies in any way it considers appropriate.

(6) Subsection (1) is taken to have been complied with if the special rate or charge is made and levied on—

(a) all rateable land that, at the time of making and levying the rate or charge, could reasonably be identified as land on which the rate or charge may be made and levied; or

(b) all rateable land on which the rate or charge may be made and levied, other than land accidentally omitted.

(7) To remove any doubt, it is declared that a local government may make and levy a special rate or charge under subsection (1) for a service, facility or activity whether or not supplied or undertaken by the local government itself, including a service, facility or activity supplied or undertaken by another local government—

(a) in the other local government's area; and

(b) under arrangements entered into, under section 59, by the local governments.

971A Adjustment of special rates and charges

(1) If more funds are received by a local government from a special rate or charge made and levied in a financial year than are expended in carrying out the implementation plan for the year, the local government may carry the unexpended funds forward for expending under an implementation plan in a future financial year.

(2) A special rate or charge is not invalid merely because a local government made and levied a special rate or charge on land to which section 971(1)(b) did not apply.

(3) If a local government makes and levies a special rate or charge on land to which section 971(1)(b) does not apply, the local government must return the funds received to the person on whom the special rate or charge was levied.

(4) If a local government has funds received from a special rate or charge remaining after an overall plan is implemented, or after the local government decides not to fully implement an overall plan, the local government must, as soon as practicable after the plan is implemented or the decision is made, pay the remaining funds, in the same proportions as the special rate or charge was last levied, to the current owners of the land on which the special rate or charge was levied.

(5) However, subsection (4) does not apply if section 971B applies to the remaining funds.

971B Refund of special rates and charges—special circumstances

(1) This section applies if—

(a) the local government decides not to fully implement an overall plan that has been partly implemented; and

(b) the local government has funds received from a special rate or charge remaining; and

(c) the plan identifies, for different stages of its implementation, the rateable land, or occupiers of the land, that will benefit from, or have access to, the service, facility or activity.

(2) As soon as practicable after making the decision, the local government must pay the remaining funds, in the reasonable proportions decided by the local government by resolution, to the current owners of the land on which the special rate or charge was levied.

(3) The local government must decide the proportions having regard to the following—

(a) the proportions in which the rate or charge has been levied on each parcel of rateable land;

(b) the extent to which the land, or its occupiers, benefits from, or has access to, the service, facility or activity.

972 Separate rates and charges

(1) A local government may make and levy a separate rate or charge for a service, facility or activity in the way it considers appropriate.

(2) The local government may fix a minimum amount of a separate rate.

(3) To remove any doubt, it is declared that a local government may make and levy a separate rate or charge for a service, facility or activity whether or not the service, facility or activity is supplied by the local government itself.

973 Utility charges

(1) A local government may make and levy a utility charge on—

(a) any land, whether vacant or occupied, and whether or not it is rateable land; or

(b) a structure.

(2) A utility charge may be for—

(a) supplying water, gas or sewerage services; or

(b) occupied land or a structure—supplying cleansing services.

(3) A local government may, under section 973AA, make and levy a utility charge for supplying water or sewerage services before construction of the facilities for supplying the services is completed.

(4) A utility charge may be made and levied on the bases a local government considers appropriate.

(5) Without limiting subsection (4), the amounts of utility charges may differ on the basis of—

(a) the use made of particular land, or a particular structure or a class of land or structure; or

(b) the unimproved value of particular land; or

(c) any other circumstances peculiar to the supply of the relevant service to particular land, a particular structure or a class of land or structure.

(6) To remove any doubt, it is declared that a local government may make and levy a utility charge for a service whether or not the service is supplied by the local government itself.

(7) A local government may, and it is declared always could from the commencement of this section, do 1 or more of the following—

(a) make and levy a utility charge for services supplied or to be supplied during part of the financial year and part of another financial year;

(b) make and levy differing charges for services supplied or to be supplied during various periods in 1 or more financial years;

(c) in making and levying differing charges under paragraph (b), decide the way the charges are to be apportioned.

Examples of application of subsection (7)—

1 For water used between 30 April 1998 and 31 July 1998, the local government may resolve to charge—

(a) for water used (as measured) during the period 30 April 1998 to 31 July 1998 on the basis of the charge made at the budget meeting for the 1997–1998 financial year; or

(b) for water used (as measured) during the period 30 April 1998 to 31 July 1998 on the basis of the charge made at the budget meeting for the 1998–1999 financial year; or

(c) for—

(i) water used (as measured) during the period 30 April 1998 to 30 June 1998 on the basis of the charge made at the budget meeting for the 1997–1998 financial year; and

(ii) water used (as measured) during the period 1 July 1998 to 31 July 1998 on the basis of the charge made at the budget meeting for the 1998–1999 financial year; or

(d) an apportioned charge for water used during the 2 periods (30 April 1998 to 30 June 1998 and 1 July 1998 to 31 July 1998) on the basis of—

(i) the total amount of water used (as measured) during the period 30 April 1998 to 31 July 1998—93 days—being apportioned to each period according to the respective lengths of the periods—62 days and 31 days respectively; or

(ii) another basis set out in the resolution.

2 The local government may resolve to charge for water supplied between 1 July 1998 and 30 June 1999—

(a) for the period 1 July 1998 to 28 February 1999—a flat charge of $300 with an excess charge of $1 per kL of water used greater than 350kL; and

(b) for the period 1 March 1999 to 30 June 1999—an amount based on the actual consumption of water during the period.

(8) Despite subsection (7) a local government must not for a financial year make and levy a utility charge for services supplied or to be supplied other than in that, the previous or the next financial year.

(9) Charges made and levied in accordance with a decision under subsection (7) are lawfully made and levied under this Act.

(10) Subsections (7) to (9) apply despite the reference in sections 963 and 964 to the making and levying of rates and charges for a financial year.

(11) If—

(a) a meter or other measuring device is to be read on a particular day for working out the amount of a charge to be levied by a local government for a service; and

(b) the local government resolves to apply this subsection to the reading of meters or other measuring devices;

it is taken to have been read on that day if it is read within a period of 2 weeks before or after that day.

Example for subsection (11)—

If a local government resolves to apply this subsection to the supply of water that is to be charged on the basis of usage for a period ended 30 April and a meter is read on 10 May, that reading is taken to be the reading at 30 April for the purposes of calculating the water usage during the period.

(12) Subsection (11) does not restrict a local government's power to make local laws relating to other aspects of the administration of metered consumption for a utility service.

Example for subsection (12)—

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

973AA Utility charges for facilities under construction

(1) A local government may, for a financial year, make and levy a utility charge for supplying water or sewerage services before construction of the facilities for supplying the services is completed if, when the charge is made and levied—

(a) either—

(i) construction of the facilities has started; or

(ii) the local government intends that construction of the facilities will start during the financial year and has included, in its budget for the year, the funds necessary for construction to start; and

(b) the local government reasonably believes the services will be supplied within the next financial year.

(2) The utility charge is not invalid merely because the services are not supplied within the next financial year because of circumstances beyond the local government's control.

973A Validity of particular utility charges

(1) This section applies to a local government to which chapter 10 applies.

(2) A utility charge made and levied by the local government for supplying water or sewerage services is not invalid merely because the local government did not comply with chapter 10.

Part 3 Categorisation of land for differential rating

Division 1 Categorisation of land

976 Land must be categorised for differential general rates

A local government may make and levy a differential general rate for a financial year only if all the rateable land in its area has been categorised under this part.

977 Establishing criteria and categories

Before making and levying a differential general rate for a financial year, a local government must decide by resolution—

(a) the categories into which rateable land in its area is to be categorised; and

(b) the criteria by which land is to be categorised.

Example—

If the categories decided by a local government for rateable land are residential land, commercial and industrial land, grazing and livestock land, rural (sugar cane) land, rural (other) land, sugar milling land and other land, the criteria for the categories might be as follows—

(a) for residential land—land used for residential purposes in particular urban centres, rural localities, park residential estates and coastal villages;

(b) for commercial and industrial land—land used solely for commerce and industry in particular urban centres and rural localities, other than land used for manufacturing sugar or another rural production industry;

(c) for grazing and livestock land—land—

(i) used, for commercial purposes, for grazing and livestock; and

(ii) to which a concession under the *Valuation of Land Act 1944*, section 17(1) applies;

(d) for rural (sugar cane) land—land used for producing sugar cane;

(e) for rural (other) land—land that is not—

(i) in an urban centre or locality; or

(ii) used for grazing and livestock; or

(iii) rural (sugar cane) land or sugar milling land;

(f) for sugar milling land—land used for manufacturing sugar;

(g) for other land—land not mentioned in paragraphs (a) to (f).

978 Identification of categories for parcels of land

(1) After the categories and criteria have been decided, all rateable land in the local government's area must be categorised by the local government identifying the category in which each parcel of rateable land is included.

(2) The category in which a parcel of rateable land is included may be identified in any way the local government considers appropriate.

979 Specification of categories for parcels of land

(1) If a local government resolves to make and levy a differential general rate, the resolution must specify the categories in which rateable land is to be included.

(2) The rateable land included in a category may be identified in any way the local government considers appropriate.

(3) The accidental omission from categorisation of parcels of rateable land does not prevent the making and levying of the differential general rate.

Division 2 Entry on land for categorisation

980 Meaning of *authorised person* for division

In this division—

authorised person means—

(a) a person authorised by a local government for this division; or

(b) a member of the Land Court; or

(c) a person authorised by a member of the Land Court for this division.

981 Purposes for which powers may be exercised

An authorised person may exercise the powers mentioned in section 982 only for the purpose of—

(a) deciding the categories into which rateable land in a local government area is to be categorised or the criteria by which it is to be categorised; or

(b) identifying the category in which a parcel of rateable land should be included; or

(c) deciding an objection or appeal about the categorisation of land.

982 Power of entry

(1) An authorised person may—

(a) enter on land at any reasonable time; and

(b) inspect the land and the uses made of the land; and

(c) do anything reasonable and necessary to exercise powers under paragraphs (a) and (b).

(2) Before entering on the land, the authorised person must—

(a) obtain the agreement of the occupier or, if there is no occupier, an owner of the land; or

(b) give at least 14 days notice to the person mentioned in paragraph (a) of—

(i) the person's intention to enter on the land; and

(ii) the proposed purpose in entering on the land; and

(iii) the day and time when the person proposes to enter the land.

(3) In exercising a power under subsection (1), an authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

Division 3 Notice of categorisation

983 Notice to owner of categorisation

(1) If a local government resolves, for a financial year, to make and levy a differential general rate on land, a rate notice mentioned in subsection (2) must contain or be accompanied by a statement that complies with subsection (3).

(2) Subsection (1) applies to—

(a) the first rate notice given to the owner of the land during the financial year; and

(b) a later rate notice given to the owner of the land during the financial year only if either of the following has changed since the previous rate notice was given to the owner—

(i) the rating category in which the land is included;

(ii) the owner of the land.

(3) The statement must—

(a) specify the categories of rateable land in its area (the ***rating categories***) and the criteria by which land is categorised; and

(b) specify the rating category in which the owner's land is included; and

(c) inform the owner—

(i) that the owner may object to the categorisation of the land by giving to the local government notice of objection, in the form approved by the local government, within 30 days after the date of issue of the rate notice or any further period the local government allows; and

(ii) that the sole ground on which the owner may object is that, having regard to the criteria decided by the local government by which rateable land is categorised, the land should have been included, as at the date of issue of the rate notice, in another of the rating categories; and

(iii) that giving a notice of objection will not, in the meantime, affect the levy and recovery of rates; and

(iv) that, if the owner's land is included in another rating category because of the objection, an adjustment of rates will be made.

(4) A statement including the information mentioned in subsection (3) may be contained in or accompany any other rate notice.

Division 4 Objections and appeals

984 Owner's objection to categorisation

(1) An owner of rateable land categorised under division 1 may object to the categorisation of the land on the sole ground that, having regard to the criteria decided by the local government by which rateable land is categorised, the land should have been included, as at the date of issue of the relevant rate notice, in another rating category.

(2) The objection must be made by giving notice of the objection to the local government.

(3) The notice of the objection must—

(a) be given within 30 days after the date of issue of the rate notice or any further period the local government allows; and

(b) be in the form approved by the local government; and

(c) nominate the rating category in which the owner claims the land should have been included; and

(d) specify the facts and circumstances on which the claim is based.

985 Decision on owner's objection

(1) If the owner of rateable land objects to the categorisation of the land, a person authorised by the local government for the purpose must—

(a) consider the categorisation of the land; and

(b) consider the facts and circumstances on which the claim is based.

(2) The person may—

(a) allow the objection; or

(b) disallow the objection; or

(c) decide that the land should be included in another rating category.

(3) The person must decide the objection, and give written notice of the decision to the owner, within 60 days after the end of the period within which the objection had to be made.

(4) The notice must include the reasons for the decision.

986 Effect of decision on objections

(1) Unless it is set aside on appeal, the decision on an objection to the categorisation of land has effect under this section.

(2) If the decision allows the objection, the land is taken to be included, for the period for which the relevant rate notice is issued, in the category nominated by the objector in the notice of objection.

(3) If the decision disallows the objection, the land continues to be included in the category specified in the relevant rate notice.

(4) If the decision is that the land should be in another rating category, the land must be included in the category for the period for which the relevant rate notice is issued.

987 Right of appeal against decision

If the owner of rateable land is aggrieved by—

(a) the decision on an objection to the categorisation of the land; or

(b) the failure by the local government to allow a further period to give a notice of objection;

the owner may appeal to the Land Court against the decision or failure.

988 Where and how to start appeal

(1) The appeal must be started by filing a notice of appeal in the Land Court registry.

(2) The notice of appeal must—

(a) be filed within 42 days after the owner received notice of the decision or failure; and

(b) be in a form approved by the Land Court.

(3) The owner must give a copy of the notice of appeal to the local government within 7 days after the notice of appeal is filed in the Land Court registry.

(4) Failure to comply with subsection (3) does not affect the making of the appeal or the jurisdiction of the Land Court to decide the appeal, but costs of any adjournment caused by the failure may be awarded against the owner of the land.

989 Constitution and procedure of Land Court

(1) When exercising jurisdiction in an appeal under this division, the Land Court—

(a) is constituted by 1 member; and

(b) is not bound by rules of evidence.

(2) The appeal must be conducted as directed by the Land Court with a view to its prompt disposal.

990 Decision on appeal by Land Court

(1) In deciding an appeal against a decision on an objection to the categorisation of land, the Land Court may—

(a) set aside the decision and decide that the land should be included in a different rating category; or

(b) disallow the appeal.

(2) In deciding an appeal against a failure to allow a further period to give a notice of objection, the Land Court may—

(a) allow a further period to give the notice; or

(b) disallow the appeal.

(3) If the Land Court sets aside the decision on the objection, the land is taken to be included in the category decided by the Land Court for the period for which the relevant rate notice is issued.

991 Levy and recovery of rate unaffected by objection or appeal

The making of an objection, or the starting of an appeal, about the categorisation of land does not affect the levy and recovery of rates on the land.

Division 5 Late categorisation

992 Late categorisation

If rateable land in a local government area has been categorised and—

(a) the local government is later satisfied, having regard to the criteria decided by the local government, that the land should be included in a different rating category; or

(b) rateable land is not categorised by the local government because of accidental omission; or

(c) land later becomes rateable land; or

(d) land that was included in 2 or more parcels of rateable land, either in the same rating category or different rating categories, is later amalgamated into a single parcel;

the local government must decide that the land should be included in a specified rating category.

993 Time of effect of late categorisation

A decision under section 992 has effect—

(a) if the decision is made because of section 992(a)—for rates levied after the decision is made; or

(b) if the decision is made because of section 992(b)—from the start of the relevant financial year; or

(c) if the decision is made because of section 992(c)—from when the land became rateable land; or

(d) if the decision is made because of section 992(d)—from the day of registration in the office of the registrar of titles of the survey plan of the amalgamation.

Part 4 Land record of local government

Division 1 Land record

994 Land record to be kept

(1) A local government must keep a record of every parcel of rateable land in its area.

(2) A land record must comply with the regulations.

995 Land record open to inspection

(1) A land record is open to inspection.

(2) A person may inspect particulars of land in a land record free of charge if the person is, or is the agent of a person who is—

(a) an owner, lessee or occupier of the land; or

(b) an owner, lessee or occupier of adjoining land.

(3) For the purposes of subsection (2), the appointment of an agent must be evidenced in writing.

(4) A person may otherwise inspect a land record on payment of the fee decided by the local government.

996 Amendment of land record

(1) The chief executive officer of a local government must ensure the particulars contained in its land record are amended whenever necessary to make the record comply with the regulations.

(2) If an amendment of a land record (other than an amendment made because of an annual valuation of all rateable land in a local government area by the valuation authority) changes a rate that is or may be levied on land, the chief executive officer of the local government must immediately give written notice of the amendment to the owner of the land.

Division 2 Appeal against amendment of land record

999 Right of appeal

A person aggrieved by an amendment of a land record, other than a removal of land under section 1051A, may appeal to a Magistrates Court against the amendment.

1000 Where and how to start appeal

(1) An appeal must be made to the Magistrates Court nearest the relevant land.

(2) The appeal is started by—

(a) filing a written notice of appeal with the clerk of the court of the Magistrates Court; and

(b) giving a copy of the notice to the chief executive officer of the local government.

(3) The notice must state the grounds of the appeal.

1001 Hearing procedures

(1) The power to make rules of court under the *Magistrates Courts Act 1921* includes power to make rules of court for appeals to Magistrates Courts under this division.

(2) The procedure for an appeal to a Magistrates Court under this division is to be—

(a) in accordance with the rules made under the *Magistrates Courts Act 1921*; or

(b) in the absence of relevant rules, as directed by a magistrate.

(3) In deciding the appeal, the Magistrates Court—

(a) is not bound by the rules of evidence; and

(b) must observe natural justice; and

(c) may hear the appeal in court or in chambers.

1002 Powers of Magistrates Courts on appeal

In deciding the appeal, the Magistrates Court may—

(a) confirm the amendment; or

(b) set aside the amendment and order the particulars previously contained in the land record be restored.

1003 Appeal to District Court on question of law only

A party aggrieved by a decision of the Magistrates Court may appeal to the District Court, but only on a question of law.

Division 3 Notices of change in ownership

1004 Notice of sale of land

(1) In this section—

vendor, for land that has been sold, means the person who was the land's owner immediately before its sale.

(2) If land is sold, the vendor must give the local government concerned written notice of the sale within 30 days after it happens.

(3) The vendor complies with subsection (2) if—

(a) the notice is given by the vendor's agent in the sale; or

(b) the vendor (or the vendor's agent in the sale)—

(i) properly completes a combined form for the sale; and

(ii) files the form, together with the instrument of transfer of the land, with the registrar of titles within 30 days after the sale.

(4) A notice mentioned in subsection (3)(a) must state each of the following—

(a) the date of the sale;

(b) the description of the land;

(c) the full name and address of the vendor;

(d) the full name and address of the land's owner after the sale.

1005 Notice of surrender or forfeiture to State

(1) A person who surrenders land, or an entitlement to occupy or use land, to the State must give to the local government written notice of the surrender within 30 days after the instrument of surrender is signed.

(2) If land, or an entitlement to occupy or use land, is forfeited to the State, written notice of the forfeiture must be given to the local government, within 30 days after the forfeiture takes effect—

(a) for a forfeiture by action of the State—by the State; or

(b) in any other case—by the person who makes the forfeiture.

(3) A notice under subsection (1) or (2) must state the description of the land.

1006 Notice of change in ownership

(1) In this section—

required person, for land whose ownership has changed, means the person who was the land's owner immediately before the change.

(2) If ownership of any land in a local government area changes, except as mentioned in section 1004 or 1005, the required person must give written notice of the change to the local government within 30 days after the change happens.

(3) The notice must specify—

(a) the date of the change; and

(b) the nature of the change; and

(c) the description of the land; and

(d) the full name and address of the land's owner before the change; and

(e) the full name and address of the land's owner after the change.

(4) The required person complies with subsection (2) if the notice is given by the person's agent in dealing with the land.

1006A Notice of sale or change in ownership by new owner

(1) If land is sold or ownership of land changes, the person who becomes the owner of the land immediately after the sale or change (the ***new owner***), or an agent of the new owner, may give the local government concerned written notice stating each of the following—

(a) the date of the change;

(b) the nature of the change;

(c) the description of the land;

(d) the full name and address of the land's owner before the change;

(e) the full name and address of the new owner.

(2) If the local government is satisfied of the sale or change—

(a) it may record the new owner in its land record for levying rates; and

(b) the new owner is the owner of the land for sections 1010 and 1011.

1007 Result of failure to give notice of change in ownership

If written notice is not given as required by a section of this division (other than under section 1005(2)(a)), the person who was owner of the land immediately before the change in ownership—

(a) is liable for payment of all rates levied on the land, and all interest accrued, before the earlier of the following, as if no change in ownership had happened—

(i) the notice is given to the local government;

(ii) the local government records a sale or change in ownership under section 1006A; and

(b) commits an offence.

Maximum penalty—5 penalty units.

Part 5 Levying and payment of rates

Division 1 Levying of rates

1008 Levying rates

(1) A local government may levy a rate only by a rate notice given to—

(a) for a utility charge on a structure or land that is not rateable land—the person at whose request the service is supplied; and

(b) in any other case—the person recorded in the local government's land record as the owner of the land on which the rate is levied.

(2) A local government must state on the rate notice—

(a) the date the rate notice was issued; and

(b) the date by which or the time within which the rate must be paid.

(2A) The local government must also state on, or include with, the rate notice—

(a) if the local government has decided 1 or more discount dates or 1 or more discount periods for payment of the rate—

(i) the discount or information about how the discount is calculated; and

(ii) whether the discount is to be allowed only if either or both of the following amounts are paid before any of the discount dates, or within any of the discount periods, for the rates—

(A) another stated rate; or

(B) an amount, including any interest on the amount, payable for work performed by the local government under section 1066; and

(b) if the local government has resolved that a rate may be paid by instalments—requirements for payment by instalments.

(2B) The local government may also state on a rate notice amounts, other than rates, that are payable to the local government.

Example for subsection (2B)—

licence fees

(2C) If a local government includes an amount mentioned in subsection (2B) on a rate notice, it must be clear on the face of the rate notice that—

(a) the amount is not a rate; and

(b) payment of the amount, whether before or after any discount date or discount period for a rate mentioned in the notice, does not affect any discount relating to the rate.

(2D) Subsection (2E) applies if—

(a) the local government receives payment of an amount (the ***amount received***) that is less than the total of all amounts, mentioned on a rate notice (the ***rate notice amounts***), that are payable to the local government; and

(b) the person who pays the amount received does not specify which of the rate notice amounts the person is intending to pay.

(2E) The local government must use the amount received in payment of the rate notice amounts in the following order—

- overdue rates
- a rate or rates levied by the rate notice
- amounts, other than rates, that are payable to the local government.

(3) A rate must be levied—

(a) for a utility charge for supply of a water or gas service based on the quantity of water or gas supplied during a period as calculated by measurement at intervals—at the intervals the local government considers appropriate; and

(b) in any other case—for the whole, one-half or one-quarter of the relevant financial year, as the local government considers appropriate.

(4) Except for a charge mentioned in subsection (3)(a), rates must be levied on all persons liable to pay them for the same period of a financial year.

(4A) If a person liable to pay a rate has paid the rate before the local government has given the person a rate notice for the period for which the rate is levied, the local government is not required to give the person a rate notice for the period.

(5) In this section—

person includes—

(a) for a utility charge under subsection (1)(a)—any of the following—

(i) the Commonwealth;

(ii) a Commonwealth instrumentality, agency, authority or entity;

(iii) a division, branch or other part of a Commonwealth instrumentality, agency, authority or entity; and

(b) in all cases—the State and a government entity.

1009 Rate may be levied or adjusted after end of financial year

A local government may, in a financial year, levy a rate, or adjust a rate levy, even though its resolution for making the rate was made for an earlier financial year.

Division 2 Payment of rates

1010 Person who is liable to pay rate

(1) The owner for the time being of land is liable to pay a rate levied by a local government on the land.

(2) The person at whose request a service is supplied to a structure or land that is not rateable land is liable to pay a rate levied by a local government for supplying the service.

(3) If there is more than 1 owner or other person liable to pay a rate, all the owners or other persons are jointly and severally liable.

(4) In this section—

person has the same meaning as in section 1008.

1011 Liability to pay rate if change of ownership

A local government may recover the whole amount of a rate payable for rateable land from the owner for the time being of the land.

1012 Continuing responsibility for rates on land that ceases to be rateable land

(1) This section applies to land that ceases to be rateable land because of—

(a) termination of the tenure of a holding; or

(b) surrender or forfeiture of the land to the State; or

(c) acquisition of the land by the State or the Commonwealth; or

(d) exemption of the land from rating; or

(e) the property description of the land ceasing to exist.

(2) The owner of the land immediately before it ceased to be rateable land is taken to continue as the owner of the land, and the land is taken to continue to be rateable land, for the levy, collection or refund of a rate on the land for any period before it ceased to be rateable land.

1013 Where rates can be paid

(1) A rate is payable at the local government's public office.

(2) Payment of a rate may be accepted at—

(a) another place used by the local government to receive rate payments; or

(b) a place of business of a person appointed by the local government to receive rate payments.

1014 Time within which rates must be paid

(1) At its budget meeting, a local government must, by resolution, decide the date by which, or the time within which, each rate must be paid.

(2) The date by which, or the time within which, the rate must be paid must be—

(a) at least 30 days after the rate notice is issued; and

(b) the same date or time for each person liable to pay a rate.

(3) If, under section 1019(4), the local government alters the discount date or discount period for the rate to a date that is after the date by which, or the time within which, the rate must be paid, the local government must, by resolution, alter the date by which, or the time within which, the rate must be paid.

(4) The altered date or time must not be before the discount date, or the last day of the discount period, for the rate.

1015 Payment by instalments

(1) At its budget meeting, a local government may resolve that a rate may be paid by instalments on the terms specified in the resolution.

(2) The terms may provide for payment of a premium.

(3) The terms may provide, if an instalment is not paid by the last day (the ***due date***) of the period identified in the resolution as the period within which the amount of the instalment is payable, for 1 or more of the following—

(a) on the default day, for division 3—

(i) the unpaid instalment becomes an overdue rate; or

(ii) the unpaid instalment and all remaining instalments become an overdue rate;

(b) the unpaid instalment, or the unpaid instalment and all remaining instalments, may bear interest as an overdue rate from the default day or a later day decided by the local government under section 1018.

(4) However, if the unpaid instalment was an overdue rate before the resolution was made, the unpaid instalment is taken to have been an overdue rate for part 7, division 3, from the day it first became an overdue rate.

(5) Subsection (4) applies despite section 1016.

(6) In this section—

default day means the day after the due date.

Division 3 Overdue rates

1016 Meaning of *overdue rate*

An ***overdue rate*** is the amount of a rate payable to a local government that remains unpaid at the end of the period specified in the rate notice as the period within which the

amount of the rate is payable, (including any amount of interest on the rate under section 1018), but does not include the amount of a rate (other than amounts that, by terms under section 1015, 1031, 1032 or 1035A, become an overdue rate) if the amount is being paid under—

(a) the terms specified in a resolution under section 1015; or

(b) the terms of an arrangement under section 1031; or

(c) the terms of an arrangement under section 1032; or

(d) the terms stated in a resolution under section 1035A.

1017 Recovery of overdue rates

A local government may recover an overdue rate as a debt payable by the person liable under this part to pay the rate.

1018 Overdue rates may bear interest

(1) An overdue rate bears interest—

(a) at the percentage decided by the local government; and

(b) after it becomes an overdue rate, from the day decided by the local government.

(2) The amount of interest is calculated—

(a) on daily rests, applying the interest as compound interest; or

(b) if an equal or lower amount will be obtained—in the way decided by the local government.

(3) The rate of interest must not be more than—

(a) the percentage prescribed by regulation; or

(b) if no percentage is prescribed—15% a year.

(4) A decision of the local government about the rate of interest, and the date from which an overdue rate bears interest, must apply equally to all overdue rates.

Division 4 Discounts and other benefits for prompt payment of rates

1019 Discount for prompt payment

(1) At its budget meeting, a local government may, by resolution, decide to allow a discount for prompt payment of a rate.

(2) If a local government decides to allow a discount, the local government must decide—

(a) whether the discount is to be a fixed amount or a percentage of the rate; and

(b) if the discount is to be a fixed amount—the amount; and

(c) if the discount is to be a percentage of the rate—the percentage; and

(d) whether the discount is to be allowed only if—

(i) another rate is paid before the discount date, or within the discount period, for the rate or other rate; or

(ii) an amount, including any interest on the amount, is not payable for work performed by the local government under section 1066; and

(e) the discount date or discount period for the rate.

(3) The discount date or discount period for a rate must not be—

(a) for the discount date—after the date decided by the local government under section 1014 as the date by which the rate must be paid; and

(b) for the discount period—longer than the time decided by the local government under section 1014 as the time within which the rate must be paid.

(4) The discount date or discount period may be altered by the local government, by resolution, to allow each person liable to pay the rate a greater period of time to pay the rate and be allowed the discount.

(5) If the local government allows a discount for payment of a rate, it must allow the discount to each person liable to pay the

rate and who pays the rate by the discount date or within the discount period for the rate.

(6) The local government may allow more than 1 amount of discount or percentage discount for a rate only if the local government—

(a) decides more than 1 discount date or discount period for the rate; and

(b) allows a different amount of discount or percentage discount for each discount date or discount period decided.

1020 Discount if payment of rates by instalments

(1) This section applies to a rate being paid to a local government by instalments.

(2) At its budget meeting, the local government may decide, by resolution, to allow a discount for payment of an instalment of the rate by the last day of the period for paying the instalment.

(3) If a local government allows a discount for payment of the instalment, it must allow the discount to each person paying the rate by instalments and who pays an instalment by the day mentioned in subsection (2).

1021 Discount if special circumstances prevent prompt payment

If a local government is satisfied that a person liable to pay a rate has been prevented, by circumstances beyond the person's control, from paying the rate in time to benefit from a discount under section 1019 or 1020, the local government may still allow the discount.

1022 Discount if other rates are overdue

Sections 1019 to 1021 do not apply to a rate paid in full by the discount date or by the end of the discount period if other rates are overdue for the land.

1023 Other benefits for prompt payment

A local government may give, or join in giving, benefits (other than discounts) as inducements for the prompt payment of rates.

Division 5 Changes to land that affect rates

Subdivision 1 General

1024 Different period starts on day of change

For this division, the period after a change is taken to start on the day the change happens.

1025 Basis on which a rate is levied

(1) Despite subdivision 2, a local government may levy a rate on rateable land on the basis of the relevant information of which it has been notified on or before the day it levies the rate.

(2) However, if a change mentioned in subdivision 2 happens, section 1026 applies.

1026 Rate levied for a period in which a change takes effect

(1) This section applies if—

(a) a local government becomes aware that a change has happened to which a section of subdivision 2 applies; and

(b) a rate has already been levied on the relevant land for the period in which the change takes effect.

(2) The local government must adjust the rate in accordance with the section.

(3) If the owner or occupier has already paid the rate at the time it is adjusted, the local government—

(a) if the amount of the rate has decreased—must refund the overpaid amount; or

(b) if the amount of the rate has increased—may recover the underpaid amount.

Subdivision 2 Changes affecting rates

1027 Change in unimproved value of land

(1) This section applies if the unimproved value of rateable land changes.

(2) A rate levied on the land after the change must be calculated on the basis of—

(a) for the period before the change—the previous unimproved value; and

(b) for the period after the change—the new unimproved value.

1028 Land becomes or ceases to be rateable land

(1) This section applies if land becomes or ceases to be rateable land.

(2) A rate levied on the land after the change must be calculated only on the proportion of the relevant period for which the land was rateable land.

1029 Land included in a new rating category

(1) This section applies if land is included in a rating category under section 986, 990 or 992.

(2) A rate levied on the land after its inclusion must be calculated on the basis of—

(a) for the period before the inclusion—any previous categorisation that applied to the land; and

(b) for the period after the inclusion—the new rating category.

1030 Entitlement to occupy land is ended

(1) This section applies if—

(a) a person is entitled to occupy land—

(i) that is a holding; or

(ii) under a licence or permission given by the State; and

(b) the person loses the entitlement because of expiry, surrender or forfeiture of the relevant lease, licence or permission, or for some other reason.

(2) A rate levied on the land must be calculated only on the proportion of the relevant period for which the person was entitled to occupy the land.

1030A Land becomes or ceases to be land on which a special rate or charge may be levied

(1) This section applies if land—

(a) becomes land on which a local government may make and levy a special rate or charge; or

(b) ceases to be land on which a local government may make and levy a special rate or charge.

Example—

the boundaries of a rural fire brigade's area change to include or exclude a parcel of rateable land

(2) The special rate or charge may be levied only for the proportion of the relevant period for which the land is land on which the local government may make and levy a special rate or charge.

Part 6 Concessions

Division 1 Concessions for individual land owners

1031 Remission, composition and settlement of rates

(1) A local government may—

(a) remit the whole or a part of unpaid rates; or

(b) accept a composition or another arrangement for unpaid rates.

(2) If land for which unpaid rates are owing is free of encumbrance, the local government may accept a transfer to it of the land in full or part settlement of an owner's liability for the rates.

(3) The terms of an arrangement may provide for 1 or more of the following, if an amount identified in the arrangement is not paid by the last day (the ***due date***) of the period specified in the arrangement as the period within which the amount is payable—

(a) on the default day, for part 5, division 3—

(i) the unpaid amount becomes an overdue rate; or

(ii) the unpaid amount and all other amounts (the ***remaining amounts***) payment of which is provided for under the arrangement and which have not been paid become an overdue rate;

(b) the unpaid amount, or the unpaid amount and all remaining amounts, may bear interest as an overdue rate from the default day, or a later day decided by the local government, under section 1018.

(4) However, if the unpaid amount was an overdue rate before the arrangement was entered into, the unpaid amount is taken to have been an overdue rate for part 7, division 3, from the day it first became an overdue rate.

(5) Subsection (4) applies despite section 1016.

(6) For this section—

default day means the day after the due date.

(7) This section is subject to the following sections—

- section 1033
- section 1035.

1032 Deferral of liability to pay rates

(1) A local government may enter into an arrangement to defer payment of a rate until a specified time.

(2) The deferment may be for the lifetime of an owner of the land if the owner is a pensioner.

(3) The arrangement may provide for payment of a premium because of deferment.

(4) The terms of an arrangement may provide for 1 or more of the following, if an amount identified in the arrangement is not paid by the last day (the ***due date***) of the period specified in the arrangement as the period within which the amount is payable—

(a) on the default day, for part 5, division 3—

(i) the unpaid amount becomes an overdue rate; or

(ii) the unpaid amount and all other amounts (the ***remaining amounts***) payment of which is provided for under the arrangement and which have not been paid become an overdue rate;

(b) the unpaid amount, or the unpaid amount and all remaining amounts, may bear interest as an overdue rate from the default day, or a later day decided by the local government, under section 1018.

(5) However, if the unpaid amount was an overdue rate before the arrangement was entered into, the unpaid amount is taken to

have been an overdue rate for part 7, division 3, from the day it first became an overdue rate.

(6) Subsection (5) applies despite section 1016.

(7) For this section—

default day means the day after the due date.

(8) This section is subject to the following sections—

- section 1033
- section 1035.

1033 Resort to remission, composition, settlement or deferral requires justification

(1) A local government may exercise a power under section 1031 or 1032 only if—

(a) it resolves that the case justifies the exercise of the power; or

(b) the case is of a kind that has been accepted, by resolution of the local government, as justifying the exercise of the power.

(2) However, the only circumstances or factors justifying the exercise of the power are—

(a) that an owner of the land concerned is—

(i) a pensioner; or

(ii) an entity whose objects do not include the making of profit; or

(iii) an entity that provides assistance or encouragement for the arts or cultural development; or

(b) that payment of the rate would cause the owner of land hardship; or

(c) the assistance or encouragement of economic development of the whole or part of the area; or

(d) the preservation, restoration or maintenance of structures or places of cultural, environmental, historic,

heritage or scientific significance to the local government's area; or

(e) circumstances and factors prescribed by regulation.

1034 Remission for occupancy by pensioners

(1) A local government may remit, wholly or partially, the payment of a rate if the land is occupied, but not owned, only by pensioners or by pensioners and other persons.

(2) If the land is occupied only by pensioners, the local government may remit the payment of a rate only if the owner of the land has given a binding undertaking to the local government that the benefit of the remission will be extended to each pensioner.

(3) If land is occupied by pensioners and other persons, the local government may remit the payment of a rate only—

(a) for the part of the rate that, in its opinion, is fairly attributable to the parts of the land where a pensioner has rights to exclusive occupancy; and

(b) if the owner of the land has given a binding undertaking to the local government that the benefit of the remission will be extended to each pensioner.

(4) This section is subject to section 1035.

1035 Conditions on exercise of concession powers under div 1

(1) This section applies to a power under section 1031, 1032 or 1034.

(2) A local government may exercise the power—

(a) only on application of the owner of the land concerned, made in the form and way approved by the local government; and

(b) for—

(i) a period resolved by the local government; or

(ii) without limit of time while the owner continues to be eligible for the benefit conferred by the exercise of the power.

(3) To remove any doubt, it is declared that a local government may exercise a power whether or not the rate has been levied.

Division 2 Concessions for classes of land owners

1035A Local government may grant concessions to classes of land owners

(1) A local government may, by resolution, do any of the following for land owners of a class identified in the resolution—

(a) remit, wholly or partly, a rate;

(b) defer payment of a rate until a stated time.

(2) A local government may exercise a power under subsection (1) only if the local government is satisfied the exercise is justified by any of the following circumstances or factors—

(a) the land owners are—

(i) pensioners; or

(ii) entities whose objects do not include the making of profit; or

(iii) entities providing assistance or encouragement for the arts or cultural development;

(b) payment of the rate would cause the land owners hardship;

(c) the assistance or encouragement of economic development of the whole or part of the area;

(d) the preservation, restoration or maintenance of structures or places of cultural, environmental, historic, heritage or scientific significance to the local government's area;

(e) circumstances and factors prescribed under a regulation.

(3) If the local government remits a rate under subsection (1)(a) and a landowner of the class identified in the resolution has

already paid the rate, the local government must refund the overpaid amount.

(4) A resolution for subsection (1)(b) may provide for any of the following, if an amount identified in the resolution is not paid by the last day (the ***due date***) of the period stated in the resolution as the period within which the amount is payable—

(a) on the default day, for part 5, division 3—

(i) the unpaid amount becomes an overdue rate; or

(ii) the unpaid amount and all other amounts (the ***remaining amounts***) the payment of which is provided for under the resolution and that have not been paid become an overdue rate;

(b) the unpaid amount, or the unpaid amount and all remaining amounts, may bear interest as an overdue rate from the default day, or a later day decided by the local government, under section 1018.

(5) However, if the unpaid amount was an overdue rate before the resolution was made, the unpaid amount is taken to have been an overdue rate for part 7, division 3, from the day it first became an overdue rate.

(6) Subsection (5) applies despite section 1016.

(7) A local government may exercise a power under subsection (1) for the period—

(a) stated in the resolution; or

(b) without limit of time while the owners of the land continue to be eligible for the benefit conferred by the exercise of the power.

(8) To remove any doubt, it is declared that a local government may exercise the power whether or not the rate has been levied.

(9) In this section—

default day means the day after the due date.

Division 3 Limitation on rate increases

1036 Limitation of increase in rate levied

(1) When a local government resolves to make and levy a rate, it also may resolve that the amount levied will not be more than—

(a) for all or stated classes of land on which the rate levied for the previous financial year was for the full year—

(i) the amount of the rate levied for the previous financial year; or

(ii) the amount of the rate levied for the previous financial year increased by a stated percentage; or

(b) for land on which the rate levied for the previous financial year was for a period less than the full year—

(i) the corresponding annual amount for the rate levied for the previous financial year; or

(ii) the corresponding annual amount for the rate levied for the previous financial year increased by a stated percentage.

(2) The resolution may specify different percentages for—

(a) different land or classes of land; or

(b) different rates.

(3) In this section—

corresponding annual amount, for a rate levied for a previous financial year for a period less than the full year, means the amount worked out by—

(a) reducing the amount of the rate levied for the previous financial year to a daily amount; and

(b) multiplying the daily amount by 365.

Part 7 Recovery of rates

Division 1 Extended application of part

1037 Application of part to Brisbane City Council

This part applies to the Brisbane City Council.

Division 2 Registering charges for, and recovery of, overdue rates

1037A Registering charge over land

(1) An overdue rate is a charge on the land on which the rate was levied.

(2) The local government may lodge a request to register the charge in the appropriate form over the land with the registrar of titles.

(3) The request must be accompanied by a certificate signed by the local government's chief executive officer stating the overdue rate is a charge over the land under this section.

(4) The charge is in addition to any other remedy the local government has for recovery of the overdue rate.

(5) The local government must, as soon as practicable after payment of the overdue rate, lodge with the registrar—

(a) a request to release the charge in the appropriate form; and

(b) a certificate stating that the overdue rate has been paid.

1038 Recovery by court action

(1) Overdue rates may be recovered by a proceeding for debt brought in a court of competent jurisdiction by the local government.

(2) A person against whom an order for payment of an amount is made in a proceeding under subsection (1) is not liable to imprisonment on default.

(3) An unsatisfied order or judgment made in a proceeding by or for a local government for recovery of an amount from a person is not a bar to recovery of the amount from any other person who is liable to pay the amount.

(4) If, in a proceeding under subsection (1), the court orders a person against whom judgment is awarded to pay all or part of the local government's costs, the amount of the costs ordered is, from the date of the judgment, taken to be an overdue rate for section 1037A and division 3.

Division 3 Sale of land for overdue rates

1039 Application of division

This division applies if an overdue rate has remained unpaid for the following period—

(a) for a rate levied on a mining claim—3 months;

(b) for a rate levied on vacant land or land used solely for commercial purposes for which the local government has obtained judgment—1 year;

(c) for another rate—3 years.

1040 Power of sale

(1) The local government may, under this division, sell the land on which the rate was levied.

(2) However, the local government may not sell land if the liability of the owner of the land to pay the overdue rate is the subject of a proceeding pending in a court.

(3) A decision to sell the land may only be made by resolution.

(4) This section is also subject to section 1056.

1041 Local government must first give notice

(1) As soon as practicable after a local government decides to sell land under this division, it must give the information mentioned in subsection (2), in writing, to—

(a) the owner of the land; and

(b) each encumbrancee, lessee or trustee who has given written notice to the local government of the person's interest in the land.

(2) The information is—

(a) notice of intention to sell the land; and

(b) the provisions, or a general outline of the provisions, of sections 1042 to 1047.

(3) The notice of intention to sell must comply with a regulation that may be made for this section.

1042 Starting and ending of sale procedures

(1) The local government must start the procedures for selling the land within the required period after giving the notice of intention to sell, unless the amount of all overdue rates levied on the land has been paid to it.

(2) The required period is from 3 to 6 months after giving the notice or, for a mining claim, 1 to 6 months after giving the notice.

(3) The local government may only end, and must end, procedures for selling the land if the amount of all overdue rates levied on the land, and all expenses incurred by it for the intended sale, are paid to it.

1043 Procedures for sale

(1) Land intended for sale under this division must first be offered for sale by auction.

(2) The local government must prepare a notice containing—

(a) the time and place of the proposed auction; and

(b) a full description of the land.

(3) At least 14 days but not more than 21 days before the day of the proposed auction, the local government must—

(a) advertise the notice in a newspaper circulating generally in its area; and

(b) attach a copy of the notice to a conspicuous part of the land; and

(c) give a copy of the notice to—

(i) the owner of the land; and

(ii) each encumbrancee, lessee and trustee who has given written notice to the local government of the person's interest in the land.

(4) On the day it complies with subsection (3)(a), the local government must place a copy of the notice on display in a conspicuous place at its public office.

(5) The notice must be kept on display until the day of the auction.

(6) If the land is a lot under a community titles Act the copy mentioned in subsection (3)(b) may be attached to a conspicuous part of the common property for the lot if it is not practicable to attach it to a conspicuous part of the lot.

(7) If, under the *Body Corporate and Community Management Act 1997*, the land is a lot included in a community titles scheme (***scheme A***), the copy mentioned in subsection (3)(b) may, if it is not practicable for the copy to be attached to a conspicuous part of the lot, be attached to a conspicuous part of—

(a) the common property for scheme A; or

(b) the common property for a scheme for which scheme A is a subsidiary scheme under that Act.

1044 Reserve price at auction

(1) A local government that offers land for auction under this division must place a reserve price on the land.

(2) The local government may choose a reserve price of at least either—

(a) the market value of the land; or

(b) the higher of the following—

(i) the amount of all overdue rates levied on the land;

(ii) the unimproved value of the land.

1045 Sale by agreement after auction

(1) If the reserve price is not reached at the auction, the local government may enter into negotiations with the highest bidder at the auction to sell the land by agreement.

(2) A sale of the land by agreement must be at a price greater than the highest bid for the land at the auction.

1046 Unsold land acquired by local government

(1) If land offered for auction under this division is not sold at auction and—

(a) the local government does not enter into negotiations under section 1045 with the highest bidder at the auction; or

(b) the negotiations are unsuccessful;

the land is taken to have been sold at the auction to the local government at the reserve price, unless it is held on a tenure that the local government is not competent to hold.

(2) This section applies subject to section 1056.

1047 Application of proceeds of sale

(1) The local government must apply the proceeds of sale of land under this division, in priority to all encumbrances, as follows—

(a) first, in payment of the expenses of the sale;

(b) second, in payment of the overdue rate for the land;

(c) third, in payment of other rates that may be payable to the local government by the person (the ***former owner***) who was the owner of the land immediately before its sale;

(d) fourth, in payment of other amounts that may be payable to the local government by the former owner.

(2) After application of the proceeds of sale under subsection (1), any remainder must be paid to the person who was entitled to the rents and profits of the land immediately before its sale.

(3) Any part of the proceeds of sale that remains unclaimed for 2 years must be paid to the public trustee as unclaimed money.

(4) Subsection (1) is subject to sections 1057 and 1057A.

1048 Sale operates as a discharge

After a sale of land under this division (including a sale taken to be to the local government under section 1046), a proceeding for the recovery of rates for any period before the sale may not be started or continued.

1049 Issue of title

(1) On a sale of land under this division, other than a sale taken to be to the local government under section 1046, a local government must give to the registrar of titles a notice specifying—

(a) that the land has been sold under this division; and

(b) the full description of the land; and

(c) the full name and address of the purchaser; and

(d) the purchase price of the land.

(2) The notice must comply with the regulations that may be made for this section.

(3) On receiving the notice, the registrar of titles must register the purchaser for the interest held in the land by the owner of the land immediately before the sale, free of all encumbrances.

(4) The registrar of titles may comply with subsection (3) despite non-production of a relevant instrument of title.

(5) This section is subject to section 1056.

1050 Acquisition by local government of title to land

(1) If land offered for sale under this division is taken to have been sold to it under section 1046, a local government must apply to the registrar of titles to be registered for the interest held by the owner of the land immediately before the sale, free of all encumbrances.

(2) The application must comply with the regulations.

(3) On receiving the application, the registrar of titles must register the local government for the interest held by the owner of the land immediately before the land was sold, free of all encumbrances.

(4) The registrar of titles may comply with subsection (3) despite non-production of a relevant instrument of title.

(5) This section is subject to section 1056.

Division 4 Acquisition by local government of valueless land

1051 Purpose of this division

(1) This division states how a local government may—

(a) remove valueless land from its land record; and

(b) acquire the valueless land.

(2) This division applies subject to section 1057.

1051A Resolution to remove valueless land from land record

(1) A reference to a particular parcel of rateable land in the land record of a local government may be removed, on the local government's resolution, if—

(a) rates levied on the land by the local government for at least 3 years are overdue; and

(b) the overdue rates total more than—

(i) the unimproved value of the land; or

(ii) the market value of the land; and

(c) if paragraph (b)(i) applies—the land is considered to be—

(i) valueless; or

(ii) of so little value that, if offered for sale, it would not realise the overdue rates.

(2) If a local government resolves to remove a reference to rateable land from its land record, the local government must acquire the land under this division.

(3) This section does not apply to an interest in land held on a tenure that prohibits a corporation from holding an interest in the land.

1052 Local government must first give notice

(1) As soon as practicable after the local government resolves to remove the land from its land record, it must give a written notice of its intention to acquire the land to—

(a) the owner of the land; and

(b) each encumbrancee, lessee or trustee who has given written notice to the local government of the person's interest in the land.

(2) The notice of intention to acquire must comply with a regulation that may be made for this section.

1052A Restoration of valueless land to land record

If—

(a) a local government gives a notice of intention to acquire land under section 1052(1); and

(b) before the end of 6 months after the giving of the notice to the owner of the land, the overdue rates for the land are paid to the local government;

the local government must restore reference to the land in the land record.

1053 Application to be registered as owner

(1) If, at the end of 6 months after the day, or the last day, that the notice of intention to acquire is given, there is any overdue rate for the land, the local government may apply to the registrar of titles to be registered for the interest of the owner of the land, free of all encumbrances.

(2) If a local government makes an application under subsection (1), it must discharge all rates payable for the land.

(3) The application must comply with the regulations.

(4) On receiving the application, the registrar of titles must—

(a) register the local government for the interest of the owner of the land, free of all encumbrances; and

(b) give the local government an instrument of title to the land.

(5) The registrar of titles may comply with subsection (4) despite non-production of a relevant instrument of title.

Division 5 Provisions about dealing with land under this part

1054 One instrument of title for conterminous land

The registrar of titles may issue 1 instrument of title for 2 or more parcels of land acquired under this part if—

(a) the local government asks; and

(b) the parcels are conterminous.

1055 Sale of land and title valid despite irregularities

(1) A dealing by a local government with land under this part is valid, and effective to confer a paramount title to the land on a purchaser or on the local government, despite a failure to comply with a provision of this part.

(2) The purchaser of land dealt with under this part or the registrar of titles—

(a) need not inquire whether this part has been fully complied with for a sale of land or an application for registration of title to land; and

(b) is not affected by notice, actual or constructive, of a failure to comply with a provision of this part for the sale or application.

(3) A claim may not be made against a fund administered by the State about—

(a) a dealing with land under this part; or

(b) a registration of title by the registrar of titles purporting to give effect to a provision of this part.

(4) This section does not protect—

(a) a person who commits fraud or wilful default; or

(b) a local government that does not comply with a provision of this part;

from liability for loss caused by the fraud, default or noncompliance.

1056 Restrictions on local government dealing with land

(1) This section applies to land held on a tenure that—

(a) requires the holder to have particular qualifications; or

(b) requires the agreement or permission of a particular government entity before a person can lawfully hold an interest in the land.

(2) A local government may sell an interest in the land under this part only to a person who has the required qualifications or has obtained the required agreement or permission.

(3) A local government may not acquire an interest in land held on a tenure that prohibits a corporation from holding an interest in the land.

1057 Priority of State debts preserved

(1) This section applies if—

(a) a local government intends to deal with land under this part; and

(b) the land is subject to an encumbrance that confers rights on the State or a government entity.

(2) The local government must give written notice of its intention to deal with the land, to the State or government entity, before dealing with the land.

(3) The local government may sell, or acquire, the land only—

(a) subject to the encumbrance; or

(b) free of the encumbrance to the extent, and subject to any conditions, agreed by the State or government entity.

1057A Priority of State preserved—housing Act contracts

(1) This section applies if—

(a) a local government intends to deal with land under this part; and

(b) the land is the subject of a housing Act contract or a person has a share in the land that the person bought under a housing Act contract.

(2) The local government must give the chief executive (housing) written notice of its intention to deal with the land before dealing with the land.

(3) The local government may sell or acquire the land only on the conditions agreed with the chief executive (housing) about paying to the State an agreed amount on account of—

(a) the State's interest in the land; and

(b) if the land is the subject of a housing Act contract—amounts owing to the State under the contract.

(4) In this section—

chief executive (housing) means the chief executive of the department in which the *Housing Act 2003* is administered.

1058 Satisfaction of rates and charges on termination of tenure

(1) If the tenure of a holding is terminated for the whole or part of the land, an amount received by the State from an incoming holder of the whole or part of the land may, after deduction of any amount payable to the State, be applied by the State towards satisfaction of a liability for rates payable to a local government for the land.

(2) If an amount is applied under subsection (1), only the remainder of the amount received by the State is payable to the former holder of the land.

Chapter 15 Provisions aiding local government

Part 1 Extended application of chapter

1059 Application of chapter to Brisbane City Council

This chapter (other than sections 1114 and 1115) applies to the Brisbane City Council.

Part 2 Powers under this chapter

1060 Powers of entry

(1) A power given under this chapter to enter a place may not be exercised using force.

(2) Subsection (1) does not apply if the entry is made under—

(a) an order made under section 1063, if the order authorises the use of necessary and reasonable help and force; or

(b) a warrant issued under part 5.

Part 3 Right to take materials

1061 Taking materials from land

(1) A local government may authorise its employees or agents—

(a) to enter rateable land, other than—

(i) a protected area under the *Nature Conservation Act 1992*; or

(ii) the wet tropics area within the meaning of the *Wet Tropics World Heritage Protection and Management Act 1993*; or

(iii) a state forest or timber reserve under the *Forestry Act 1959*; or

(iv) improved land; and

(b) to search for, dig, raise and gather on the land and remove from the land any materials necessary for the exercise of the local government's jurisdiction.

(2) A power under subsection (1) may—

(a) be exercised on land in the local government's area or, with the Minister's approval, land outside its area; and

(b) be exercised only—

(i) with the agreement of the owner and occupier of the land; or

(ii) if the local government has given at least 7 days written notice to the owner and occupier.

(3) The notice must inform the owner and occupier of—

(a) the intention to enter the land; and

(b) the purpose of the entry; and

(c) the days and times when the entry is to be made.

(4) In exercising a power under subsection (1), the authorised employee or agent must take all reasonable steps to ensure the employee or agent causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(5) Subsection (1) does not authorise—

(a) causing, or contributing to, damage to any structure or works; or

(b) searching for, digging, raising or gathering materials, or removing materials from, within 50m of a dwelling house, bridge, dam, wharf, jetty or other structure or works.

(6) If a person incurs loss or damage because of the exercise of a power under subsection (1), the person is entitled to be paid by the local government the reasonable compensation because of the loss or damage that is agreed between the local government and the person, or failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.

(7) The court may make the order about costs it considers just.

(8) In this section—

loss includes the value of materials taken.

Part 4 Execution of local government Acts

Division 1 Compliance with requirements of local government Acts

1062 Owner's right of entry to comply with notice or order

(1) If an owner of land occupied by someone else is given a notice or order under a local government Act requiring work to be performed on the land or a structure on the land (the ***order***), the owner and the owner's employees and agents may, at reasonable times—

(a) enter the land and, if necessary, the structure to comply with the order; and

(b) perform work necessary to comply with the order.

(2) However, before entering the land or structure, the owner must—

(a) give at least 7 days written notice to the occupier of—

(i) the intention to enter the land or structure; and

(ii) the purpose of the entry; and

(iii) the days and times when the entry is to be made; and

(b) produce a copy of the order for inspection by the occupier.

(3) This section does not affect any rights the owner has apart from this section.

1063 Order on occupier who refuses entry

(1) If an occupier of land or a structure refuses to permit a person who is seeking—

(a) to exercise the jurisdiction of local government; or

(b) to exercise a power under a local government Act;

from entering the land or structure and performing work necessary for the purpose for which entry is sought, the person may make written application to a magistrate for an order under this section.

(2) The applicant must give written notice of the application to—

(a) the occupier of the land or structure; or

(b) if the applicant is not the owner—the owner and the occupier of the land or structure.

(3) The application must—

(a) be in the form approved by the chief executive; and

(b) be sworn; and

(c) state the grounds on which the order is sought.

(4) The magistrate may refuse to consider the application until the person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

(5) If the magistrate is satisfied the entry sought is reasonable and necessary for the purpose, the magistrate may make an order under this section.

(6) The order must—

(a) direct the occupier to permit the person to enter the land or structure and perform all work necessary for the purpose; and

(b) state the hours of the day or night when entry may be made; and

(c) state the day (within 14 days after the order is made) when the order ends.

(7) If the person is an employee or agent of a local government, the order may also authorise the person to use necessary and reasonable help and force to enter the land or structure.

(8) The magistrate must record the reasons for making the order.

(9) The occupier must comply with the order.

Maximum penalty for subsection (9)—50 penalty units.

1064 Protection of owner against occupier's obstruction

An owner of land who fails to perform work in contravention of a local government Act because of an occupier's refusal to permit entry is not liable for the failure if the owner takes reasonable steps to enter the land to perform the work.

1065 Discharge of obligations by occupier on failure of owner

(1) If the owner of land occupied by someone else fails to perform work or pay an amount the owner is required under a local government Act to perform or pay, the occupier may perform the work or pay the amount.

(2) If the occupier performs the work or pays the amount, the amount incurred by the occupier in performing the work, or the amount paid by the occupier, is a debt payable to the occupier by the owner.

(3) If the occupier is a tenant of the owner, the occupier may deduct, from rent payable to the owner by the occupier, the amount payable to the occupier by the owner under subsection (2).

(4) The owner can not terminate the tenancy of the occupier because of a deduction made from rent under subsection (3).

1066 Performing work for owner or occupier

(1) If the owner or occupier of land or a structure fails, or both the owner and occupier fail, to perform work required to be performed under a local government Act, a local government may, by its employees or agents, enter the land or structure and perform the work.

(2) The powers under subsection (1) may be exercised only if—

(a) both the owner and occupier agree to the entry; or

(b) the entry is under an order made under section 1063; or

(c) urgent action is necessary for local government purposes, including, for example, the interests of public health or safety; or

(d) reasonable notice has been given to the owner and occupier of the local government's intention to enter the land or structure and perform the work.

Example for subsection (2)(d)—

entry to, and clearing of, an overgrown allotment because of the allotment owner's failure under a local law to clear the allotment

(3) Subsection (2)(c) and (d) do not apply to the entry of a structure, or the part of a structure, used for residential purposes.

(4) The amount properly and reasonably incurred by the local government in performing the work is a debt payable to the local government by the person who failed to perform the work.

(5) If both the owner and occupier failed to perform the work, the amount incurred is payable by the owner and occupier jointly and severally.

1067 Cost of work recoverable as a rate

(1) The local government may recover the amount payable by the owner of land for the work performed by it as if the amount (together with interest on the amount under subsection (2))—

(a) were an overdue rate properly levied by the local government for the land; and

(b) became payable to the local government at the end of 30 days after the local government gave to the owner written notice of the amount payable by the owner for the work performed.

(2) The amount payable to the local government bears interest as if it were an amount of overdue rate payable to the local government.

1068 Cost of work a charge over land

(1) This section applies if an amount (including any interest on the amount) (the ***unpaid amount***) is payable by the owner of land for work performed by a local government under section 1066.

(2) The unpaid amount is a charge on the land.

(3) The local government may lodge a request to register the charge in the appropriate form over the land with the registrar of titles.

(4) The request must be accompanied by a certificate signed by the local government's chief executive officer stating there is a charge over the land under this section.

(5) A registered charge has priority over all encumbrances over the land other than—

(a) encumbrances in favour of the State or a government entity; and

(b) rates payable to the local government.

(6) The charge is in addition to any other remedy the local government has for recovery of the unpaid amount.

(7) The local government must, as soon as practicable after payment of the unpaid amount, lodge with the registrar—

(a) a request to release the charge in the appropriate form; and

(b) a certificate stating that the unpaid amount has been paid.

1069 Limitation of time in absence of notice of work done

If work on land or a structure is performed without an approval that is required under a local government Act, then, for any limitation of time for taking a proceeding or doing anything else about the work, the work is taken to have been performed when an employee or agent of the local government first finds out about the work.

Division 2 Entry on land

1070 Entry on land for local government purposes

(1) An employee or agent of a local government may enter land or a structure, at all reasonable times, if the entry is necessary for the exercise of the local government's jurisdiction, including for example—

(a) to carry facilities into, through, across or under the land; or

(b) to perform work on the land or structure; or

(c) to inspect, operate, change, maintain, remove, repair or replace the local government's facilities on the land or structure.

(2) The powers under subsection (1) may be exercised only if—

(a) the entry is made—

(i) to inspect, operate, change, maintain, remove, repair or replace the local government's facilities on the land or structure for its routine operations; or

(ii) to investigate the future placement, removal, repair or replacement of facilities on the land or structure; or

(b) the owner and occupier of the land or structure agree to the entry; or

(c) urgent action is necessary for local government purposes, including, for example, the interests of public health or safety; or

Examples of entry to land under paragraph (c)—

1 The employee or agent may enter the land to take urgent action, under a local law about the safety and convenience of the public, to remove a tree likely to fall and cause injury or damage.

2 The local government has received information that a swimming pool fence may be dangerous to children because it does not comply with the *Building Act 1975*. The employee or agent may enter the land on which the fence is constructed to assess whether the local government ought to

take action under the *Building Act 1975* or this Act in relation to the fence.

(d) the entry is under an order made under section 1063.

(3) Subsection (2)(a) does not apply to the entry of a structure, or the part of a structure, used for residential purposes.

1071 Compensation for loss or damage

(1) This section applies if a person incurs loss or damage because of the exercise by a local government of a power under section 1070.

(2) The person is entitled to be paid by the local government the reasonable compensation because of the loss or damage that is agreed between the local government and the person, or failing agreement, decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.

(3) The court may make the order about costs it considers just.

Division 2A Regulatory fees

1071A Power to fix regulatory fees

(1) A local government may, by local law or resolution, fix a fee (a ***regulatory fee***) for any of the following—

(a) an application for, or the issue of, an approval, consent, licence, permission, registration or other authority under a local government Act;

(b) recording a change of ownership of land;

(c) giving information kept under a local government Act;

(d) seizing property or animals under a local government Act;

(e) the performance of a function, other than a function mentioned in paragraphs (a) to (d), imposed on the local government under the *Building Act 1975* or the *Plumbing and Drainage Act 2002*.

(2) A regulatory fee must not be more than the cost to the local government of providing the service or taking the action for which the fee is charged.

(3) However, subsection (2) does not apply to the extent the regulatory fee includes a tax component under this division.

(4) A local government may fix a regulatory fee by resolution even if a corresponding fee had previously been fixed by local law.

(5) A local law or resolution for subsection (1)(e) must state—

(a) the person liable to pay the regulatory fee; and

(b) the period within which the fee must be paid.

1071B Regulation may prescribe circumstances in which regulatory fee can include tax

(1) A regulation may prescribe circumstances in which a regulatory fee mentioned in section 1071A(1)(a) (a ***prescribed regulatory fee***) may include an amount that is a tax (a ***tax component***).

(2) The regulation must state the purposes for which the prescribed regulatory fee may include the tax component.

1071C Requirements of local law or resolution fixing regulatory fee including tax component

(1) A prescribed regulatory fee may include a tax component only—

(a) in the circumstances and for a purpose prescribed under a regulation made under section 1071B; and

(b) if the local government resolves that the purpose of the tax component benefits its local government area.

(2) The local law or resolution fixing the prescribed regulatory fee must state the amount and purpose of the tax component.

1071D Tax component of prescribed regulatory fees applies only to rateable land

If a local government fixes a prescribed regulatory fee that includes a tax component and is payable in relation to land, the tax component of the fee applies only in relation to rateable land.

1071E Register of regulatory fees

(1) A local government must keep a register of its regulatory fees.

(2) The register is open to inspection.

(3) The register must identify—

(a) for each regulatory fee—the paragraph of section 1071A(1) under which the fee is fixed; and

(b) for a regulatory fee fixed under—

(i) section 1071A(1)(a)—the provision of the local government Act under which the approval, consent, licence, permission, registration or other authority is applied for or issued; or

(ii) section 1071A(1)(c)—the provision of the local government Act under which the information is kept; or

(iii) section 1071A(1)(d)—the provision of the local government Act under which the property or animals are seized; or

(iv) section 1071A(1)(e)—the provision of the *Building Act 1975* or the *Integrated Planning Act 1997* under which the function is imposed.

Division 3 General

1072 Obstructing execution of local government Act etc.

(1) A person must not obstruct or hinder, or attempt to obstruct or hinder, a local government or any person in taking any action

the local government or person is required or authorised to take under a local government Act.

Maximum penalty—50 penalty units.

(2) An occupier of land or a structure who obstructs a person as mentioned in section 1063 may be proceeded against under that section or under this section, but can not be proceeded against under both sections.

(3) A person must not destroy, pull down, damage or deface a board or anything else on which a local law, order, notice or other matter is displayed under authority of a local government.

Maximum penalty—35 penalty units.

(4) An occupier of land or a structure, when required by or for a local government to disclose the name of the owner of the premises, must not—

(a) without reasonable excuse, fail to disclose the owner's name; or

(b) knowingly state a false name.

Maximum penalty—35 penalty units.

1076 Fines

(1) If a proceeding for an offence against a local government Act about a local government matter is taken and a court imposes a fine for the offence, the fine must be paid to the operating fund of the local government.

(2) If a person other than the local government prosecutes the offence, subsection (1) does not apply to any part of the fine the court orders be paid to the person.

1077 Indictable and summary offences

(1) The following offences are indictable offences—

(a) an offence against chapter 8, part 7 for which the maximum penalty of imprisonment is 2 years or more;

(b) an offence against section 956D.

(2) Any other offence against this Act, other than a designated election offence, is a summary offence.

1077A Designated election offences and application of Criminal Code

(1) An offence (a ***designated election offence***) against any of the following provisions is a crime—

- section 383
- section 385
- section 386
- section 389
- section 399
- section 401.

(2) Sections 1078 and 1079 do not apply to a designated election offence.

(3) The Criminal Code, chapter 58A applies to a designated election offence.

(4) Without limiting subsection (3), the chapter applies to a designated election offence as if the offence were an offence mentioned in section 552B(1)(ka) of the code.

Editor's note—

The Criminal Code, section 552B(1)(ka) refers to an offence against chapter 14, chapter division 2 of the code.

1078 Proceedings for indictable offences

(1) A proceeding for an indictable offence against this Act may be taken, at the prosecution's election—

(a) by way of summary proceedings under the *Justices Act 1886*; or

(b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

(a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or

(b) the magistrate considers that the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

(a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceeding must be disregarded; and

(c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).

(4) The maximum penalty that may be summarily imposed for an indictable offence is 100 penalty units or 1 year's imprisonment.

1079 Limitation on who may summarily hear indictable offence proceedings

(1) A proceeding must be before a magistrate if it is a proceeding—

(a) for the summary conviction of a person on a charge for an indictable offence; or

(b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

1080 Limitation on time for starting summary proceedings

A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

(a) within 1 year after the commission of the offence; or

(b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

1081 Attempt to commit offence

A person who attempts to commit an offence against this Act commits an offence and, on conviction, is liable to the same penalties as if the person had committed the offence.

Part 5 Enforcement of local government Acts

Division 1 Interpretation

1082 Definitions for pt 5

In this part—

authorisation means an approval, consent, licence, permission, registration or other authority issued under a local government Act.

authorised person means a person who is—

(a) appointed under this part as an authorised person; and

(b) other than in division 2—an authorised person for the provision in which the expression is used.

budget accommodation building see the *Building Act 1975*, section 216.

notice means a notice or direction issued under a local government Act.

occupier of a place includes a person who reasonably appears to be the occupier of, or in charge of, the place.

warrant means a warrant issued under this part.

1083 References to *local government* and *authorised person*

In a provision of this part about—

(a) a local government, a reference to an authorised person is a reference to an authorised person appointed by the local government; and

(b) an authorised person, a reference to a local government is a reference to the local government that appointed the authorised person.

Division 2 Authorised persons

1084 Appointment

(1) A local government may appoint any of the following persons as authorised persons under this part—

(a) employees of the local government;

(b) other persons prescribed under the regulations.

(2) An appointment of a person as an authorised person under this part must state the provisions of this part for which the person is appointed as an authorised person.

(3) A local government may appoint a person as an authorised person under this part only if—

(a) the local government considers the person has the necessary expertise or experience for the appointment; or

(b) the person has satisfactorily finished training approved by the local government for the appointment.

1085 Limitation on authorised person's powers

An authorised person's powers may be limited in the person's instrument of appointment.

1086 Authorised person's appointment conditions

(1) An authorised person holds office on the conditions stated in the instrument of appointment.

(2) An authorised person—

(a) if the instrument provides for a term of appointment—ceases holding office at the end of the term; and

(b) may resign by signed notice of resignation given to the local government; and

(c) if the conditions of appointment provide—ceases holding office as an authorised person on ceasing to hold another office stated in the appointment conditions (the ***main office***).

(3) However, an authorised person may not resign from the office of authorised person (the ***secondary office***) under subsection (2)(b) if a term of the authorised person's employment to the main office requires the authorised person to hold the secondary office.

1087 Authorised person's identity card

(1) A local government must give each authorised person an identity card.

(2) The identity card must—

(a) contain a recent photograph of the authorised person; and

(b) be signed by the authorised person; and

(c) identify the person as an authorised person for the local government; and

(d) include an expiry date.

(3) A person who ceases to be an authorised person must return the person's identity card to the local government within 21 days after the person ceases to be an authorised person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(4) This section does not prevent the giving of a single identity card to a person for this part and for other provisions, Acts or purposes.

1088 Production of identity card

(1) An authorised person may exercise a power in relation to someone else (the ***other person***) only if the authorised person—

(a) first produces his or her identity card for the other person's inspection; or

(b) has the identity card displayed so it is clearly visible to the other person.

(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

1089 Offences

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

Division 3 Infringement notice offences

1090 Power to require name and address

(1) An authorised person may require a person (the ***other person***) to state the other person's name and address if the authorised person—

(a) finds the other person committing an infringement notice offence; or

(b) finds the other person in circumstances that lead, or has information that leads, the authorised person to suspect on reasonable grounds the other person has just committed an infringement notice offence.

(2) When making the requirement, the authorised person must warn the other person it is an offence to fail to state the other person's name and address, unless the other person has a reasonable excuse.

(3) The authorised person may require the other person to give evidence of the correctness of the other person's name or address if the authorised person suspects, on reasonable grounds, that the name or address given is false.

(4) The other person must comply with the authorised person's requirement under subsection (1) or (3), unless the other person has a reasonable excuse.

Maximum penalty—35 penalty units.

(5) The other person does not commit an offence against this section if—

(a) the authorised person required the other person to state the other person's name and address on suspicion of the other person having committed an infringement notice offence; and

(b) the other person is not proved to have committed the infringement notice offence.

Division 4 Investigations about offences

1091 Entry to places

(1) An authorised person may enter a place under this division if—

(a) its occupier agrees to the entry; or

(b) the entry is permitted by a warrant.

(2) An authorised person, without the occupier's agreement or a warrant, may—

(a) enter a public place when the place is open to the public; or

(b) enter land to ask for the occupier's agreement to the authorised person entering the land or a building or structure on the land.

1092 Agreement to entry

(1) This section applies if an authorised person seeks the agreement of an occupier of a place to an authorised person entering the place under this division.

(2) In seeking the agreement, the authorised person must inform the occupier—

(a) of the purpose of the entry; and

(b) that things or information obtained by the authorised person may be used in evidence in court; and

(c) that the occupier is not required to agree to the entry.

(3) If the agreement is given, the authorised person may ask the occupier to sign an acknowledgment of the occupier's agreement.

(4) The acknowledgment must—

(a) state the occupier was informed—

(i) of the purpose of the entry; and

(ii) that things or information obtained by the authorised person may be used in evidence in court; and

(iii) that the occupier was not required to agree to the entry; and

(b) state the occupier agreed to the authorised person entering the place and exercising powers under this division; and

(c) state the time and date the agreement was given.

(5) If the occupier signs an acknowledgment of agreement, the authorised person must immediately give a copy to the occupier.

1093 Evidence of agreement

(1) This section applies to a proceeding if—

(a) a question arises whether an occupier of a place agreed to the entry of the place by an authorised person under this division; and

(b) an acknowledgment of the occupier's agreement is not produced in evidence.

(2) In a proceeding to which this section applies, the court may assume the occupier did not agree to the entry, unless the contrary is proved.

Division 5 Warrants

1094 Warrants for entry

(1) An authorised person may apply to a magistrate for a warrant for a place.

(2) The application must—

(a) be in the form approved by the chief executive; and

(b) be sworn; and

(c) state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

(4) The magistrate may issue the warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the ***evidence***) that may provide evidence of an offence against a local government Act; and

(b) the evidence is at the place, or may be at the place within the next 7 days.

(5) The warrant must state—

(a) that the authorised person may, with necessary and reasonable help and force, enter the place and exercise the authorised person's powers under this Act; and

(b) the evidence for which the warrant is issued; and

(c) the hours of the day or night when entry may be made; and

(d) the day (within 14 days after the warrant's issue) when the warrant ends.

(6) The magistrate must record the reasons for issuing the warrant.

1095 Warrants—applications made otherwise than in person

(1) An authorised person may apply for a warrant by phone, fax, radio or another form of communication if the authorised person considers it necessary because of urgent circumstances or other special circumstances, including, for example, the authorised person's remote location.

(2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised person may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised person if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy of the warrant to the authorised person—

(a) the magistrate must—

(i) record on the warrant the reasons for issuing the warrant; and

(ii) tell the authorised person the date and time the warrant was signed; and

(iii) tell the authorised person the warrant's terms; and

(b) the authorised person must write on a form of warrant (the ***warrant form***)—

(i) the magistrate's name; and

(ii) the date and time the magistrate signed the warrant; and

(iii) the warrant's terms.

(6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers mentioned in the warrant issued by the magistrate.

(7) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if a warrant form was completed by the authorised person—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Unless the contrary is proven, a court must presume that a power exercised by an authorised person was not authorised by a warrant issued under this section if—

(a) a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence.

Division 6 Monitoring authorisations and notices and processing applications

1096 Monitoring authorisations and processing applications

(1) An authorised person may enter a place at any reasonable time (other than at night)—

(a) to inspect the place to process an application made under a local government Act; or

(b) to find out whether the conditions on which an authorisation or notice was issued have been or are being complied with; or

(c) to inspect work carried out under an authorisation or notice; or

(d) to inspect a record required to be kept under the *Building Act 1975* for chapter 7 of that Act.

(2) In addition, an authorised person may enter a place at night for a purpose mentioned in subsection (1) if—

(a) the place is a public place that is open to the public at the time of the entry; or

(b) the entry is at a time asked by the occupier; or

(c) the entry is in accordance with the times provided for in a lawfully imposed condition of an authorisation.

1097 Limitation on entry to residence

(1) This section limits an authorised person's powers of entry under this division.

(2) An authorised person may enter a building or other structure, or the part of a building or other structure, used for residential purposes only if the authorised person is accompanied by the occupier.

(3) Subsection (2) does not apply if the occupier has been given reasonable notice of the authorised person's intention to enter, and—

(a) the occupier is unavailable or unwilling to accompany the authorised person; or

(b) the authorised person is unable for another reason to comply with the subsection.

Division 7 Approved inspection programs

1098 Approval of inspection program

(1) A local government may by resolution approve a program (an ***approved inspection program***) under which authorised persons may enter places to monitor compliance with a local government Act or an aspect of a local government Act.

Examples of approved inspection programs—

1 monitoring compliance with requirements for swimming pool fencing or a budget accommodation building under the *Building Act 1975*

2 monitoring compliance with limits provided under a local law about the number of dogs that may be kept at a place

(2) An approved inspection program must be a selective inspection program or systematic inspection program.

(3) A selective inspection program provides for the selection, in accordance with the resolution, of places in the local government's area, or a particular part of the area, to be entered and inspected.

(4) A systematic inspection program provides for all places, or all places of a particular type, in the local government's area, or a particular part of the area, to be entered and inspected.

(5) An approved inspection program must state the following—

(a) the purpose of the program;

(b) when the program starts;

(c) for a selective inspection program—

(i) objective criteria for selecting places to be entered and inspected; and

(ii) if the places are to be selected from a part of the local government's area—a description of the part;

(d) for a systematic inspection program—

(i) if places in a part of the local government's area are to be entered and inspected—a description of the part; and

(ii) if a type of place is to be entered and inspected—a description of the type;

(e) the period (not more than 3 months or another period prescribed under the regulations) over which the program is to be carried out.

1099 Notice of proposed inspection program

(1) At least 14 days, but not more than 28 days, before an approved inspection program starts, the local government must give notice of the program.

(2) The notice must be published in a newspaper circulating generally in the local government's area.

(3) The notice must state the following—

(a) the name of the local government;

(b) in general terms, the purpose and scope of the program;

(c) when the program starts;

(d) the period over which the program is to be carried out;

(e) that a copy of the program is open to inspection at the local government's public office until the end of the program;

(f) that a copy of the program may be purchased at the local government's public office until the end of the program;

(g) the price of a copy of the program.

(4) The price of a copy of the program must be no more than the cost to the local government of having the copy available for purchase, and, if the copy is posted to the purchaser, the postage cost.

1100 Access to program

From the publication of the notice about an approved inspection program until the end of the program—

(a) a copy of the program must be open to inspection at the local government's public office; and

(b) copies of the program must be available for purchase at the local government's public office at the price stated in the notice.

1101 Power of entry under approved inspection program

(1) Subject to subsection (2), an authorised person may enter a place under an approved inspection program at any reasonable time of the day or night.

(2) For a building or other structure, or the part of the building or other structure, used for residential purposes, subsection (1)—

(a) applies if entry is made to monitor compliance with the requirements for a budget accommodation building under the *Building Act 1975*, chapter 7; but

(b) otherwise does not apply.

Division 7A Monitoring commission water restrictions

1101A Power of entry for monitoring commission water restrictions

(1) This section applies if an authorised person—

(a) reasonably suspects a commission water restriction is being, or has been, contravened at any place; or

(b) reasonably considers it is necessary to enter a non-residential place to conduct an audit or inspection to monitor compliance with a commission water restriction.

(2) Subject to subsections (3) and (5), the authorised person may enter the place for the purpose of monitoring compliance with the commission water restriction at any reasonable time of the day or night.

(3) Before entering the place, the authorised person must do, or make a reasonable attempt to do, the following things—

(a) identify himself or herself to an occupier, by complying with section 1088;

(b) tell the occupier the purpose of the entry.

(4) Subsection (3) does not require the authorised person to take a step that may frustrate or otherwise hinder the purposes of the entry.

(5) For subsection (1)(a), a place does not include a building or other structure, or the part of a building or other structure, used for residential purposes.

(6) In this section—

commission water restriction see the *Water Act 2000*, schedule 4.

non-residential place means a place not used for residential purposes.

Division 8 Powers on entry

1102 General powers after entering places

(1) This section applies to an authorised person who enters a place under division 4, 6, 7 or 7A.

(2) The authorised person may—

(a) if the entry is under division 4—search any part of the place; or

(b) inspect, test, photograph or film anything in or on the place; or

(c) copy a document in or on the place; or

(d) take samples of or from anything in or on the place; or

(e) take into or onto the place any persons, equipment and materials the authorised person reasonably requires for exercising a power under this division; or

(f) require the occupier of the place, or a person in or on the place, to give the authorised person reasonable help to exercise the authorised person's powers under paragraphs (a) to (e).

(3) A person required to give reasonable help under subsection (2)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—8 penalty units.

(4) If the requirement is to be complied with by the person giving information or producing a document, it is a reasonable excuse for the person to fail to comply with the requirement if complying with the requirement might incriminate the person.

(5) This section does not apply to an authorised person who enters a place under section 1091(2)(b) to get the occupier's agreement unless the agreement is given or the entry is otherwise authorised.

Division 9 Other enforcement matters

1103 Authorised person to give notice of damage

(1) This section applies if—

(a) an authorised person damages anything in the exercise of a power under this part; or

(b) a person who is authorised by an authorised person to take action under this part damages anything in taking the action.

(2) The authorised person must promptly give written notice of the particulars of the damage to the person who appears to be the thing's owner.

(3) However, if for any reason it is not practicable to comply with subsection (2), the authorised person must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.

(4) In this section—

owner of a thing includes the person in possession or control of the thing.

(5) If the authorised person believes the damage was caused by a latent defect in the thing or other circumstances beyond the

authorised person's control, the authorised person may state this in the notice.

(6) This section does not apply to damage the authorised person believes, on reasonable grounds, is trivial.

1104 Compensation

(1) A person may claim compensation if the person incurs loss or expense because of the exercise or purported exercise of a power under this part, including, for example, in complying with a requirement made of the person under this part.

(2) Compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an offence against a local government Act brought against the person making the claim for compensation.

(3) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) The regulations may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

Division 11 Consideration of errors or omissions in registers of interests and election disclosure returns

Subdivision 1 Preliminary

1105A Definitions for div 11

In this division—

appointing officer, for an investigating officer, means—

(a) if the investigating officer is an investigating officer for the department—the department chief executive; or

(b) if the investigating officer is an investigating officer for a local government—the chief executive officer of the local government.

department chief executive means the chief executive of the department.

incorrect, for a register or return, includes incomplete.

investigating officer—

1 An *investigating officer*, for the department, means a person who is appointed under this division as an investigating officer for the department.

2 An *investigating officer*, for a local government, means a person who is appointed under this division as an investigating officer for the local government.

register means a register of interests under section 247.

return means—

(a) a return under section 242; or

(b) a return under chapter 5, part 8.

Subdivision 2 Investigating officers

1105B Appointment

(1) The department chief executive may appoint a person as an investigating officer for the department.

(2) The chief executive officer of a local government may act for the local government to appoint a person as an investigating officer for the local government.

(3) The appointing officer may appoint a person as an investigating officer only if the appointing officer is satisfied—

(a) the appointment is reasonably necessary for the proper administration of this division; and

(b) the person has the necessary expertise or experience for the appointment.

1105C Investigating officer's powers

(1) An investigating officer holds office on the conditions stated in—

(a) the investigating officer's instrument of appointment; or

(b) a signed notice given to the investigating officer; or

(c) a regulation.

(2) Subject to any limitation under subsection (3), for any matter arising under this division in relation to a register or a return, the investigating officer—

(a) has all the powers of an investigating officer under this division; and

(b) without further appointment, is an authorised person under divisions 4, 5, 8 and 9.

(3) The instrument of appointment, a signed notice given to the investigating officer or a regulation may limit the investigating officer's powers under this Act, including the powers the investigating officer may exercise as an authorised person.

(4) In this section—

signed notice means a notice signed by the investigating officer's appointing officer.

1105D Investigating officer's identity card

(1) An investigating officer's appointing officer must give the investigating officer an identity card.

(2) The identity card must—

(a) contain a recent photograph of the investigating officer; and

(b) contain a copy of the investigating officer's signature; and

(c) identify the investigating officer as an investigating officer under this Act; and

(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this division and other provisions, Acts or

purposes, including for example for the purposes of the investigating officer's holding office as an authorised person under this part.

1105E Production or display of identity card

(1) In exercising a power under this division in relation to another person, an investigating officer must—

(a) produce the investigating officer's identity card for the other person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the other person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the investigating officer must produce the identity card for the other person's inspection at the first reasonable opportunity.

1105F When investigating officer ceases to hold office

(1) An investigating officer ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the investigating officer ceases to hold office;

(c) the investigating officer's resignation under section 1105G takes effect.

(2) Subsection (1) does not limit the ways an investigating officer for a local government may cease to hold office.

(3) In this section—

condition of office means a condition on which the investigating officer holds office.

1105G Resignation

An investigating officer may resign by signed notice given to the investigating officer's appointing officer.

1105H Return of identity card

A person who ceases to be an investigating officer must return the person's identity card to the investigating officer's appointing officer within 21 days after the person ceases to be an investigating officer, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

1105I Impersonation of an investigating officer

A person must not pretend to be an investigating officer.

Maximum penalty—50 penalty units.

Subdivision 3 Investigations

1105J Making of inquiries for local government

(1) This section applies if the chief executive officer of a local government suspects or believes, on reasonable grounds, that information included in a register or return held by the local government is incorrect because of an error or omission.

(2) The chief executive officer, or, if directed by the chief executive officer, an investigating officer for the local government, may make all inquiries the chief executive officer considers to be reasonable to find out whether and to what extent the register or return is incorrect.

1105K Making of inquiries for department

(1) This section applies if the department chief executive suspects or believes, on reasonable grounds, that information included in a register or return held by a local government is incorrect because of an error or omission.

(2) Without limiting subsection (1), receiving a report under this division from the chief executive officer of the local government may provide reasonable grounds under subsection (1).

(3) An investigating officer for the department, if directed by the department chief executive, may make all inquiries the chief executive considers to be reasonable to find out whether and to what extent the register or return is incorrect.

1105L Power to require information or document for local government investigation

(1) This section applies if the chief executive officer of a local government suspects or believes, on reasonable grounds, that—

(a) either or both of the following applies—

(i) information included in a register or return held by the local government is incorrect because of an error or omission;

(ii) an offence against this Act has been committed in relation to a register or return; and

(b) a person—

(i) is able to give information about the error, omission or offence; or

(ii) holds a document relating to the error, omission or offence.

(2) The chief executive officer, or, if directed by the chief executive officer, an investigating officer for the local government, may require the person to give the information or produce the document.

(3) When making the requirement, the chief executive officer or investigating officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

(4) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(5) If the person is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the information or producing the document might tend to incriminate the person.

(6) It is a defence in a prosecution under subsection (4) that the information or document sought by the chief executive officer or investigating officer is not relevant to the error, omission or offence.

(7) If the person produces a document to the chief executive officer or investigating officer, the chief executive officer or investigating officer—

(a) may keep the document to take an extract from it or make a copy of it; and

(b) must return the document to the person as soon as practicable after taking the extract or making the copy.

1105M Power to require information or document for department investigation

(1) This section applies if the department chief executive suspects or believes, on reasonable grounds, that—

(a) either or both of the following applies—

(i) information included in a register or return held by a local government is incorrect because of an error or omission;

(ii) an offence against this Act has been committed in relation to a register or return; and

(b) a person—

(i) is able to give information about the error, omission or offence; or

(ii) holds a document relating to the error, omission or offence.

(2) Without limiting subsection (1), receiving a report under this division from the chief executive officer of the local government may provide reasonable grounds under subsection (1).

(3) The chief executive, or, if directed by the chief executive, an investigating officer for the department, may require the person to give the information or produce the document.

(4) When making the requirement, the chief executive or investigating officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

(5) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(6) If the person is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the information or producing the document might tend to incriminate the person.

(7) It is a defence in a prosecution under subsection (5) that the information or document sought by the chief executive or investigating officer is not relevant to the error, omission or offence.

(8) If the person produces a document to the chief executive or investigating officer, the chief executive or investigating officer—

(a) may keep the document to take an extract from it or make a copy of it; and

(b) must return the document to the person as soon as practicable after taking the extract or making the copy.

1105N Referral to department

(1) This section applies if, because of inquiries or requirements made under this subdivision by the chief executive officer of a local government or an investigating officer for a local government, the chief executive officer of the local government concludes on reasonable grounds that an offence has been committed under this Act in relation to a return or register.

(2) The chief executive officer must report the chief executive officer's conclusion, including the reasons for the conclusion, to the department chief executive.

(3) Subsection (2) does not limit any duty the chief executive officer may have under the *Crime and Misconduct Act 2001* to notify the CMC of any complaint, information or matter that

the chief executive officer suspects involves, or may involve, official misconduct under that Act.

1105O Access to information in register

(1) To remove any doubt, it is declared that a relevant person acting under this division in relation to a register held by a local government is, for section 248(2)(c)(ii), a person permitted by law to have access to information in the register.

(2) In this section—

relevant person means—

(a) the department chief executive; or

(b) an investigating officer for the department; or

(c) an investigating officer for the local government.

Subdivision 4 Chief executive officer's authority under division 11

1105P Chief executive officer not subject to local government

The chief executive officer of a local government is not subject to direction by or the approval of the local government in acting under this division.

Part 6 Legal processes involving local governments

1106 Authentication of documents made by local governments

A document made by a local government—

(a) is sufficiently authenticated if it is signed for the local government by—

(i) the local government's mayor or chief executive officer; or

(ii) an employee of the local government authorised by the mayor or chief executive officer for the purpose; and

(b) is not sufficiently authenticated if the only signature purporting to be for the local government is that of a person other than a person mentioned in paragraph (a).

1107 Service of documents on local governments

A document required or permitted to be served on a local government is properly served if it is given in a way authorised by law to the local government's chief executive officer.

1108 Substituted service

(1) If an owner of rateable land is known to be absent from the State, a local government may serve a document on the owner by serving it on the owner's agent in the State.

(2) If a local government does not know, or is uncertain about, the current address of the place of residence or business of a person, a document may be served on the person—

(a) if the identity of the person is known—by addressing the document to the person and publishing notice of its substance once in the gazette and once in a newspaper circulating generally throughout the State; or

(b) if the identity of the person is not known—by addressing the document to the 'owner' or 'occupier' of the land or premises identified in the address and publishing notice of its substance once in the gazette and once in a newspaper circulating generally throughout the State.

1109 Exemption from stating law in the case of substituted service

(1) A provision of a local government Act requiring a document given to any person to contain or be accompanied by a statement of any relevant provision of law is taken to be complied with despite the absence of the statement if—

(a) the document is served in a way permitted by section 1108; and

(b) subsection (2) is complied with.

(2) A document served in circumstances mentioned in subsection (1) must contain a statement to the effect that particulars of the relevant provision of law may be obtained, free of charge, on application to the local government.

1110 Service on time share owners

A document is taken to be properly served under a local government Act on the owners of a structure subject to a time share scheme if it is addressed to the 'owners' of the land or structure identified in the address and served in a way authorised by law—

(a) on the person named in the notice given to the local government under section 1124 as the person responsible for administration of the scheme as between the participants in the scheme; and

(b) at the address for service specified in the notice.

1111 Acting for local government in legal proceedings

(1) In a legal proceeding, the chief executive officer of a local government or other employee authorised in writing by the local government—

(a) may give instructions and act as authorised agent for the local government; and

(b) may sign all documents for the local government.

(2) A local government must pay the costs incurred by the chief executive officer or other employee of the local government in a legal proceeding.

(3) If the Attorney-General could take a proceeding on the relation of a local government to secure compliance with an Act, the local government is taken to sufficiently represent the public interest and may take the proceeding in its own name.

1112 Judges and other office holders not disqualified from adjudicating

A judge, magistrate or justice or a presiding member of the Land and Resources Tribunal is not disqualified from adjudicating in a proceeding to which a local government is a party only because the person is, or is liable to be, a ratepayer of the local government.

Part 7 Evidentiary matters

1113 Constitution and limits of local government need not be proved

It is not necessary for the plaintiff in a legal proceeding started by, for or against a local government to prove—

(a) the local government's constitution; or

(b) the limits of the local government's area; or

(c) the limits of a division of the local government's area.

1114 Proof of voters roll

In a proceeding, a document purporting to be a copy of the voters roll for a local government's area or a division of a local government's area, and to be certified by the chief executive officer of the local government, is evidence of the roll and of the matters contained in the roll.

1115 Proof of proceedings of local government

In a proceeding—

(a) an entry in a record kept by the chief executive officer of a local government purporting to record the proceedings of the local government, or of any of its committees, and to be signed by the mayor of the local government or chairperson of the committee, at the time the entry was made; or

(b) a document purporting to be a copy of, or an extract from, the entry certified by the local government's current chief executive officer;

is evidence of the proceedings recorded by the entry and that the meeting at which the recorded proceedings happened was properly held.

1116 Evidentiary value of land record

In a proceeding in which the liability for rates is relevant, an entry in the land record kept by a local government under this Act, or a document purporting to be a copy of or an extract from the entry certified by the local government's chief executive officer, is evidence—

(a) of the matters contained in the entry; and

(b) that the valuation and rate recorded in the entry were properly made; and

(c) that the person recorded in the entry as owner of the land mentioned in the entry is liable for payment of the rates levied for the land.

1117 Evidentiary value of copies and certificates

(1) A copy of a document purporting to be made under authority of a local government or its mayor and purporting to be verified by the mayor or an employee authorised by it, is taken to be, or to evidence, a document made under the local government's authority or its mayor in the absence of evidence to the contrary.

(2) The copy of the document is evidence in a proceeding as if it were the original of the document.

(3) A certificate purporting to be signed by the chief executive officer of a local government about the state of, or a fact appearing from, a record of the local government is evidence in a proceeding of the matters contained in the certificate.

1118 Proof of matters about roads

(1) In this section—

appropriate officer of a local government means an employee of the local government responsible for a road register kept by the local government under this Act.

(2) In a proceeding—

(a) a road register kept by a local government under this Act or a document purporting to be certified by the appropriate officer to be a copy of, or an extract from, an entry in the register is evidence of the categorisation and levels of a road in the local government's area; and

(b) a certificate purporting to be that of the appropriate officer that the alignment or level of a road in the local government's area has not been fixed is evidence of the matters contained in the certificate.

1119 Proof of directions given to local government

In a proceeding, a document purporting to be certified by or for the Minister as a true copy of a direction given to a local government by the Governor in Council or the Minister under this Act is evidence of the giving of the direction and of the matters contained in the direction.

1120 Proof of orders for costs

In a proceeding, a document purporting to be certified by the person who constitutes an appeal tribunal or a responsible person associated with the conduct of an appeal tribunal as a true copy of an order for payment of costs made by the appeal tribunal under this Act is evidence of the making of the order and of the matters contained in the order.

1121 Proof of complainant's knowledge of matter

In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.

Part 8 General administrative matters

1122 Ownership of things in local government's control

(1) In this section—

roadway means the part of a road used by vehicles, bicycles or pedestrians, and includes—

(a) a bridge, culvert, ferry, ford, tunnel or viaduct; and

(b) works associated with the road, including, for example, gutters, stormwater drains, kerbing and channelling.

(2) The materials in wharves, jetties and other structures or works under the control of a local government, and in improvements to them, are the local government's property.

(3) If a local government, in exercise of the jurisdiction of local government, constructs a roadway or other structure or performs any works on someone else's land, the materials in the roadway, structure or works are the local government's property.

(4) Subsection (3) does not apply to the materials in—

(a) an open drain other than any lining of the drain; or

(b) anything that is the outcome of work performed under section 1066.

1123 Insurance against liability

A local government must insure itself by way of—

(a) public liability insurance; and

(b) professional indemnity insurance;

in relation to its exercise of local government jurisdiction to a minimum amount prescribed by regulation.

1124 Notice of time share scheme to local government

(1) If a time share scheme is implemented for a structure on land, the owner of the land must, within 30 days after the

implementation, give to the local government written notice of the implementation.

(2) The notice must—

(a) include information about the number of parts of the structure that may at any time be occupied for residential purposes by a person to the exclusion of other occupants of the structure; and

(b) specify the name and address for service of notices of the person responsible for administration (including maintenance of the structure and other property) of the scheme as between the participants in the scheme; and

(c) be signed by or for the owner and person mentioned in paragraph (b).

(3) A time share scheme is taken to be implemented when any person becomes or agrees to become a participant in the scheme.

1125 Changes affecting time share schemes

(1) If the address for service of a person (the ***previous nominated person***) whose name and address for service are notified to a local government under section 1124 changes, the person must immediately give to the local government written notice of the new address for service.

(2) If at any time after a notice has been given to a local government under section 1124 another person becomes responsible for administration of the time share scheme as between the participants in the scheme, the previous nominated person and the person (the ***new nominated person***) who has become responsible for the administration must immediately give to the local government notice of the name and address for service of notices of the new nominated person.

1126 Land registry searches free of charge

(1) This section applies to any of the following persons—

(a) the chief executive officer of a local government;

(b) an employee of a local government who is authorised by the chief executive officer;

(c) a solicitor or other agent acting for a local government;

(d) an employee of a solicitor or agent mentioned in paragraph (c) who is authorised by the solicitor or agent.

(2) The person may conduct searches of registers or documents about land in the land registry in accordance with the practice of the registry without payment of a fee.

Chapter 16 Local government staff

Part 1 Corporate structure and staff resources

1127 Corporate structure

(1) A local government must have a corporate structure appropriate for the conduct of its affairs.

(2) The corporate structure must be approved by the local government by resolution.

1128 Resources for staff

A local government must, by resolution, decide the resources to be allocated to the employment of staff.

Part 2 Employment of staff and personnel practices

1129 Employment of staff

(1) A local government—

(a) must appoint and employ an individual as its chief executive officer; and

(b) may employ other employees for the exercise of its jurisdiction of local government.

(2) The chief executive officer is to appoint the other employees of the local government.

(3) However, the local government may decide that it, rather than the chief executive officer, is to appoint employees to fill particular senior executive positions.

(4) In appointing employees, the chief executive officer must act consistently with—

(a) the corporate structure approved by the local government; and

(b) the resources the local government has decided to allocate to the employment of staff.

(5) The terms of employment of a local government's employees are to be decided by it.

(6) However, subsection (5) has effect subject to any relevant industrial award or agreement.

1130 Personnel practices

(1) A local government must comply with the following principles in its personnel practices—

(a) processes for appointing persons to positions are to be directed towards ensuring proper assessment of merit of each applicant;

(b) employees are to be treated fairly and equitably without resort to arbitrary action, irrelevant personal preference or coercion;

(c) employees are to be given, as far as practicable, effective education, training and development directed to better organisational and individual performance.

(2) A regulation may—

(a) require each local government to adopt and implement a plan for equal opportunity in employment; and

(b) state criteria the Minister must consider before granting an exemption to a local government from complying with a requirement under paragraph (a).

(3) A regulation under subsection (2)(a) does not apply to a local government if—

(a) the Minister, after considering the criteria set out in the regulation, exempts the local government from complying with the regulation; and

(b) the local government complies with any conditions of the exemption.

Part 3 Chief executive officer and other employees

1131 Role of chief executive officer

(1) The chief executive officer of a local government has the role of implementing the local government's policies and decisions.

(2) On a day-to-day basis, the chief executive officer's role includes managing the local government's affairs.

(3) The chief executive officer alone is responsible for—

(a) organising the presentation of reports and reporting to the local government; and

(b) conducting correspondence between the local government and other persons; and

(c) managing and overseeing the administration of the local government and its corporate plan; and

(d) coordinating the activities of all employees of the local government.

(4) The chief executive officer has—

(a) all the powers necessary for performing the chief executive officer's role; and

(b) the powers the local government specifically delegates to the chief executive officer.

1132 Delegation by chief executive officer

(1) The chief executive officer of a local government may delegate the chief executive officer's powers (including powers delegated to the chief executive officer by the local government) to another employee of the local government.

(2) However, the chief executive officer may not delegate—

(a) a power delegated by the local government if the local government has directed the chief executive officer not to further delegate the power; or

(b) a power under section 247 or 1139.

(2A) Also, the chief executive officer may not delegate the chief executive officer's power to sign a drafting certificate for a proposed interim local law, proposed local law or subordinate local law.

(3) All delegations made by the chief executive officer must be recorded in a register of delegations kept by the chief executive officer.

(4) The register must contain the particulars prescribed by regulation.

(5) The register is open to inspection.

(6) In this section—

employee of a local government includes—

(a) a person who contracts with it to provide services to it; and

(b) a person prescribed by regulation.

1133 Selection of chief executive officer

(1) In selecting a person to be its chief executive officer, a local government must have regard to—

(a) the role of the chief executive officer; and

(b) the extent of its resources and jurisdiction of local government.

(2) A local government must appoint as its chief executive officer a person with enough ability, experience, knowledge and skills to effectively perform the chief executive officer's role.

1134 Acting chief executive officer

A local government may appoint a person to act as its chief executive officer during—

(a) any vacancy, or all vacancies, in the position; or

(b) any period, or all periods, when the chief executive officer is absent from duty or can not, for another reason, perform the position's duties.

1135 Requests to employees for help or advice

(1) A local government councillor may ask for help or advice from—

(a) the chief executive officer; or

(b) if the request is made under guidelines made by the chief executive officer—another employee of the local government.

(2) If a councillor asks for help or advice from another employee of the local government other than under guidelines made by the chief executive officer, the employee must tell the chief executive officer about the request as soon as is practicable.

(3) However, the mayor of the local government may ask for reasonable help or advice from any employee.

(4) In this section—

employee of a local government includes—

(a) a person who contracts with the local government to provide services to it; and

(b) a person prescribed by regulation.

1136 Role of other local government employees

The employees of a local government, under the chief executive officer's direction, help the chief executive officer to implement the local government's policies and decisions.

1137 Concurrent employment of local government employees

(1) An employee of a local government, other than its chief executive officer—

(a) may hold more than 1 position under the local government; and

(b) may, with the agreement of each of the local governments concerned, be employed by more than 1 local government.

(2) The chief executive officer of a local government may not—

(a) hold more than 1 position under the local government; or

(b) be employed by another local government.

(3) However, the chief executive officer of a component local government also may hold a position under the joint local government.

Part 4 Obligations of local government employees

1138 Integrity of local government employees

An employee of a local government must—

(a) act with integrity in the position held by the employee; and

(b) act in a way that shows a proper concern for the public interest.

1139 Registers of interests

(1) The mayor of the local government must keep—

(a) a register of interests of the chief executive officer; and

(b) a register of interests of the persons who, under a regulation, are related to the chief executive officer.

(2) The chief executive officer must keep—

(a) a register of interests of each senior executive officer; and

(b) a register of interests of other employees of the local government decided by the local government; and

(c) a register of interests of the persons who, under a regulation, are related to the persons mentioned in paragraphs (a) and (b).

(3) A register—

(a) must relate to only 1 person; and

(b) must contain the financial and non-financial particulars prescribed by regulation.

(4) If the chief executive officer knows—

(a) of an interest that the mayor must record in a register of interests kept under subsection (1) in relation to the chief executive officer or a person who, under a regulation, is related to the chief executive officer (a ***related person***); or

(b) that particulars of an interest recorded in a register kept under subsection (1) about the chief executive officer or a related person are no longer correct;

the chief executive officer must tell the mayor of the interest, or the correct particulars, in accordance with the regulations.

Maximum penalty—85 penalty units.

(5) If another local government employee knows—

(a) of an interest that the chief executive officer must record in a register of interests kept under subsection (1) in relation to the employee or a person who, under a

regulation, is related to the employee (a ***related person***); or

(b) that particulars of an interest recorded in a register kept under subsection (1) about the employee or a related person are no longer correct;

the employee must tell the chief executive officer of the interest, or the correct particulars, in accordance with the regulations.

Maximum penalty—85 penalty units.

(6) In this section—

employee of a local government includes—

(a) a person who contracts with the local government to provide services to it; and

(b) a person prescribed by regulation.

1140 Access to register of interests

(1) A register kept by the mayor or chief executive officer (the ***keeper of the register***) of a local government is not open to inspection other than by—

(a) a councillor of the local government; or

(b) the chief executive officer; or

(c) a person permitted by law to have access to information in the register, or the person's agent.

(2) A person seeking access to a register must apply in writing to the keeper of the register.

(3) The keeper of the register must record—

(a) the name and home or business address of each person given access to the register; and

(b) the day the access is given.

(4) The keeper of the register must advise—

(a) if the keeper of the register is the mayor—the chief executive officer of any access given to the chief executive officer's register and any register of a person

who, under a regulation, is related to the chief executive officer; and

(b) if the keeper of the register is the chief executive officer—an employee of any access given to the employee's register and any register of a person who, under a regulation, is related to the employee.

(5) A person must not knowingly disclose information obtained from a register to a person other than a person mentioned in subsection (1)(a), (b) or (c).

Maximum penalty—85 penalty units.

1141 Queries on content of register

(1) A person who suspects on reasonable grounds that a register does not contain particulars that should be in the register may inform the keeper of the register.

(2) The keeper of the register must immediately inform the employee concerned.

(3) The employee must, within 30 days of being informed—

(a) if the register needs to be amended—give the keeper of the register the appropriate particulars in writing; or

(b) if the register does not need to be amended—

(i) complete a statutory declaration to the effect that the particulars in the register are a true record of fact; and

(ii) give the statutory declaration to the keeper of the register.

Maximum penalty—85 penalty units.

(4) In this section—

employee of a local government includes—

(a) a person who contracts with the local government to provide services to it; and

(b) a person prescribed by regulation.

1142 Disclosure of employee's interest in particular issues

(1) An employee of a local government who has a material personal interest in an issue to be, or being, dealt with by the employee in the course of the employee's duties—

(a) must immediately inform the chief executive officer, in writing, of the interest; and

(b) must not deal with, or further deal with, the issue except under the chief executive officer's written directions.

Maximum penalty—35 penalty units.

(2) If the employee mentioned in subsection (1) is the chief executive officer, the references in paragraphs (a) and (b) to the chief executive officer are taken to be references to the mayor.

(3) In this section—

employee of a local government includes—

(a) a person who provides services to the local government under a contract; and

(b) a person prescribed by regulation.

1143 Improper conduct by local government employees

(1) A local government employee must not ask for or accept a fee or another benefit (other than remuneration paid by the local government) for doing something as a local government employee.

Maximum penalty—35 penalty units.

(2) A person who is or has been a local government employee must not make improper use of information acquired as a local government employee—

(a) to gain, directly or indirectly, an advantage for the person or someone else; or

(b) to cause harm to the local government.

Maximum penalty—35 penalty units.

(3) A local government employee must not wilfully destroy or damage property or records of the local government.

Maximum penalty—35 penalty units.

(4) A person who is or has been a local government employee must not release information the person knows, or should reasonably know, is information that—

(a) is confidential to the local government; and

(b) the local government wishes to keep confidential.

Maximum penalty—35 penalty units.

(5) In this section—

employee of a local government includes—

(a) a person who provides services to the local government under a contract; and

(b) a person prescribed by regulation.

1144 Indemnity for local government employees

(1) A local government employee does not incur civil liability for an act or omission done honestly and without negligence under this Act.

(2) A liability that would, apart from this section, attach to a local government employee attaches instead to the local government.

Part 5 Disciplinary action

1145 Limitations on who may take disciplinary action

Disciplinary action against an employee of a local government may be taken only by the appointer of the employee.

1146 When disciplinary action may be taken

The appointer of a local government employee may take disciplinary action against the employee if the appointer is satisfied the employee—

(a) has engaged in misconduct; or

(b) has been incompetent or neglected the employee's duty.

1147 Types of disciplinary action

(1) Disciplinary action against an employee of a local government may be—

(a) dismissal; or

(b) demotion; or

(c) a deduction from salary or wages of an amount of not more than 2 penalty units; or

(d) a written reprimand.

(2) Not later than 2 years after a local government takes disciplinary action against an employee, it must destroy any record it has of the disciplinary action taken.

1148 Deductions from salary or wages

If disciplinary action taken against a local government employee consists of a deduction from the salary or wages of the employee, the local government may make the deduction—

(a) if no appeal is brought against the disciplinary action—once the period for starting an appeal against the disciplinary action has ended; or

(b) if an appeal is brought against the disciplinary action and the decision on the appeal confirms the deduction or changes the amount of the deduction—once notice of the decision is given to the employee; or

(c) if an appeal is brought against the disciplinary action and the decision on appeal changes the disciplinary action to a deduction from the salary or wages of the employee—once notice of the decision is given to the employee; or

(d) if an appeal is brought against the disciplinary action and the appeal is discontinued or struck out—once the appeal is discontinued or struck out.

1149 Suspension of employees

(1) If it appears on reasonable grounds to the appointer of a local government employee that the employee is liable to disciplinary action under section 1146, the appointer may suspend the employee from duty.

(2) If disciplinary action is not taken against an employee who is suspended from duty within 14 days after the suspension happens, the suspension stops.

(3) Suspension of an employee from duty does not affect—

(a) the continuity of the employee's service in employment with the local government; and

(b) the entitlements previously accrued to the employee from employment with the local government; or

(c) the accrual of entitlements to the employee during the period of suspension.

(4) A suspended employee must be paid the employee's full remuneration as at the start of the suspension for the period of suspension if—

(a) the disciplinary action taken against the employee is other than dismissal; or

(b) if the disciplinary action taken against the employee is dismissal—on an appeal under any Act, an order is made for the employee's reinstatement or re-employment; or

(c) no disciplinary action is taken against the employee.

(5) A suspended employee must not be paid remuneration while the suspension is in force.

1150 Employee to be given notice of grounds for disciplinary action

(1) A local government employee against whom disciplinary action is taken must, when the employee is given notice of the disciplinary action taken, be given written notice of—

(a) the grounds on which the action is taken; and

(b) the particulars of conduct claimed to support the grounds.

(2) The grounds and particulars are taken to be the only grounds and particulars for the disciplinary action taken, and no other ground or particular of conduct can be advanced in any proceeding to support the disciplinary action.

Part 6 Appeals about disciplinary action

1151 Appeal against disciplinary action

(1) A local government employee who is dissatisfied with disciplinary action taken against the employee may appeal to an appeal tribunal.

(2) However, an employee may not appeal to an appeal tribunal if the disciplinary action taken against the employee is dismissal.

(3) This section does not prevent an employee from seeking relief against a dismissal under the *Industrial Relations Act 1999*.

1152 Formation of appeal tribunal

An appeal tribunal for this part is formed by a person, appointed by the Minister, who is independent of the local government and the employee.

1153 Secretary of appeal tribunals

(1) The chief executive of the department is the secretary of each appeal tribunal formed under this part.

(2) A regulation may provide for—

(a) how the chief executive is to help appeal tribunals to operate; and

(b) how the chief executive is to advise parties of the results of appeals; and

(c) certification by the chief executive of amounts payable by persons under this part; and

(d) the use of the certificates in proceedings for the recovery of the amounts.

1154 Expenses of tribunal

(1) A person forming an appeal tribunal is entitled to be paid the salary, fees and allowances decided by the Governor in Council.

(2) A local government whose employee appeals under this part to an appeal tribunal must meet—

(a) all expenses properly incurred by the appeal tribunal (including salaries, fees and allowances payable to the person forming the appeal tribunal); and

(b) the cost to the department of providing the services of a secretary and other necessary administrative services to the appeal tribunal.

1155 Grounds of appeal

An appeal to an appeal tribunal may be brought on 1 or more of the following grounds—

(a) there has been a failure to comply with procedures required by law for taking disciplinary action against the appellant;

(b) the appellant is innocent of the matter claimed as grounds for the disciplinary action;

(c) the grounds for the disciplinary action are unreasonable or insufficient;

(d) the disciplinary action taken is excessive.

1156 Decisions open to appeal tribunal

(1) On an appeal the appeal tribunal may—

(a) if the appeal is against demotion—allow the appeal and order reinstatement of the appellant in the position held

by the appellant immediately before demotion, without loss of service; or

(b) allow the appeal, set aside the disciplinary action taken and order the taking of the disciplinary action that, in the tribunal's opinion, should be taken against the appellant; or

(c) if the appeal is against disciplinary action other than demotion—allow the appeal and set aside the disciplinary action taken; or

(d) dismiss the appeal and confirm the disciplinary action taken.

(2) If an appeal tribunal is satisfied that an appellant was not given written notice under section 1150, the tribunal must allow the appeal and order that the appellant be restored, in all respects, to a position no less favourable than the appellant would have been in if the disciplinary action had not been taken.

(3) In assessing whether disciplinary action is excessive, an appeal tribunal may have regard to the appellant's employment record.

1157 Duties of appeal tribunal

In hearing an appeal, the appeal tribunal—

(a) must observe natural justice; and

(b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.

1158 How to start an appeal

(1) An appeal is started by—

(a) filing a written notice of appeal with the chief executive of the department; and

(b) giving a copy of the notice to the local government.

(2) The notice of appeal must be filed within 1 month after the employee is given notice of the disciplinary action taken.

(3) However, if an appeal is filed late—

(a) the Minister still must appoint a person to form an appeal tribunal for the appeal; and

(b) whether or not the appeal is heard is in the discretion of the appeal tribunal.

(4) The notice of appeal must state the grounds of appeal.

1159 Appeal tribunal may decide procedures

(1) The appeal tribunal—

(a) is not bound by the rules of evidence; and

(b) may inform itself in any way it considers appropriate; and

(c) may decide the procedures to be followed before the appeal starts, and in the appeal.

(2) However, the appeal tribunal must comply with this part and any procedural rules prescribed by regulation.

1160 Preliminary hearing of appeals

(1) Without limiting section 1159(1)(c), the appeal tribunal may conduct a preliminary hearing of an appeal to decide interlocutory and other preliminary matters.

(2) In a preliminary hearing, the appeal tribunal may—

(a) make orders for the conduct of the appeal; or

(b) require parties to make discovery or permit inspection of evidentiary material; or

(c) require parties to file pleadings; or

(d) give a party leave to be represented by counsel or a solicitor; or

(e) strike out the appeal because it is frivolous or vexatious.

1161 Appeal tribunal's powers

In hearing an appeal, the appeal tribunal may—

(a) act in the absence of a person who has been given reasonable notice; and

(b) receive evidence on oath or by statutory declaration; and

(c) adjourn the appeal; and

(d) permit a document to be amended; and

(e) disregard any defect, error, omission or insufficiency in a document; and

(f) give a party leave to be represented by counsel or a solicitor.

1162 Prosecution of appeal

(1) An appeal must be prosecuted diligently.

(2) An appeal tribunal may strike out an appeal if it considers the appellant is not prosecuting the appeal diligently.

(3) An appeal may be discontinued by the appellant by written notice given to the appeal tribunal and to the respondent.

1163 Notice to witness

(1) The person forming the appeal tribunal may, by written notice given to a person, require the person to attend an appeal at a specified time and place to give evidence or produce specified documents.

(2) A person required to appear as a witness before an appeal tribunal is entitled to the witness fees prescribed by regulation or, if no witness fees are prescribed, the reasonable witness fees decided by the appeal tribunal.

(3) Fees to which a witness is entitled under subsection (2) must be paid to the witness—

(a) if the witness is called by the appellant to give evidence—by the appellant; and

(b) if the witness is not called by the appellant—by the local government.

1164 Duty of witness at appeal

(1) A person appearing as a witness at an appeal must not—

(a) fail to take an oath or make an affirmation when required by the appeal tribunal; or

(b) fail, without reasonable excuse, to answer a question the person is required to answer by the appeal tribunal; or

(c) fail, without reasonable excuse, to produce a document the person is required to produce by a notice under section 1163(1).

Maximum penalty—35 penalty units.

(2) It is a reasonable excuse for a person to fail to answer a question or produce a document if answering the question or producing the document might tend to incriminate the person.

1165 Leave for attending an appeal

(1) A local government must give leave of absence on full pay to an employee who—

(a) gives evidence at an appeal; or

(b) is the agent of the appellant at an appeal.

(2) The leave of absence must be for the period reasonably necessary for attending the appeal.

1166 Contempt of appeal tribunal

A person must not—

(a) insult the person forming the appeal tribunal in an appeal; or

(b) deliberately interrupt an appeal; or

(c) create or continue, or join in creating or continuing, a disturbance in or near a place where the appeal tribunal is conducting an appeal; or

(d) do anything that would be a contempt of court if the person forming the appeal tribunal were a judge acting judicially.

Maximum penalty—50 penalty units.

1167 Change of person forming appeal tribunal

An appeal is not affected by a change in the person forming the appeal tribunal.

1168 Costs of appeal

(1) An appeal tribunal may make an order for payment of costs of an appeal as it considers just.

(2) Unless an appeal tribunal's order states otherwise, costs of a proceeding on an appeal are on the scale that applies to taxation of costs in the District Court.

(3) In making an order for payment of costs, an appeal tribunal may order—

(a) the local government to reimburse the appellant for some or all of the amounts payable by the appellant under section 1163(3); or

(b) the appellant to reimburse the local government concerned for some or all of the amounts payable by the local government under—

(i) section 1163(3); or

(ii) if the appeal tribunal, having heard the evidence in the appeal, considers that the appeal was vexatious or frivolous—section 1154(2).

1169 Recovery on orders of appeal tribunal

(1) An order of an appeal tribunal for payment of costs must be in written form and a copy of the order must be given to—

(a) the appellant; and

(b) the local government.

(2) A document purporting to be a copy of an order of an appeal tribunal for payment of a stated amount of costs may be filed in the registry of a court having jurisdiction in an action for debt in the amount stated in the order, and enforced as an order of the court.

(3) If an order of an appeal tribunal for payment of costs does not state the amount to be paid, the costs payable may be recovered by action in a court of competent jurisdiction as a debt payable by the person by whom the costs are ordered to be paid, to the person to whose benefit the order was made.

Chapter 17 Superannuation

Part 1 Interpretation

1170 Definitions

In this chapter—

approved scheme see section 1190.

audit, of a superannuation scheme, means an audit required under the Commonwealth Superannuation Act.

board means the Queensland Local Government Superannuation Board.

contributory member, of the LG Super scheme, means a member who is required to make contributions for membership of the LG Super scheme.

election notice, for an employee of a local government, means a written notice given to the local government and board by the employee electing to become a permanent employee for this chapter.

eligible member see section 1181(1).

employees' scheme means the Local Government Employees' Superannuation Scheme under the repealed Act.

LG Super scheme see section 1180(1).

local government includes a local government entity.

local government entity means an entity—

(a) that—

(i) under an Act, exercises a power similar to a local government power; or

(ii) under an Act, exclusively performs a function in relation to the system of local government; or

(iii) exclusively exercises a local government power for a local government; or

(iv) helps a local government in exercising its jurisdiction; and

(b) that is prescribed under the regulations to be a local government entity for this chapter.

local government power means a power that may be exercised by a local government in exercising its jurisdiction of local government.

member means a member of the LG Super scheme.

non-contributory member, of the LG Super scheme, means a member who is not required to make contributions for membership of the LG Super scheme.

permanent employee, of a local government, see section 1171.

prescribed number, of directors, see section 1178(1).

relevant person means a person (other than an eligible member) who—

(a) works for, or provides a service to, a local government; and

(b) is prescribed under the regulations as a relevant person.

relevant persons scheme means a superannuation scheme providing superannuation, retirement or other similar benefits for relevant persons.

repealed Act means the *Local Government Superannuation Act 1985*.

salary, of an employee, means the employee's salary under the trust deed.

special permanent employee, of a local government, means a permanent employee who, immediately before the commencement, was required under the repealed Act to make contributions for membership of the employees' scheme at the rate of 5% of the employee's salary.

standard permanent employee, of a local government, means a permanent employee who—

(a) immediately before the commencement, was required under the repealed Act to make contributions for membership of the employees' scheme at the rate of 6% of the employee's salary; or

(b) starts employment after the commencement.

trust deed see section 1180(2).

1171 Meaning of *permanent employee*

(1) A ***permanent employee*** of a local government (other than a local government entity) is an employee of the local government who—

(a) has been continuously employed by the local government, or the local government and other local governments consecutively, for at least 1 year; or

(b) has—

(i) been continuously employed by the local government, or the local government and other local governments consecutively, for less than 1 year; and

(ii) given an election notice to the local government and board.

(2) However, if an employee is solely employed by a local government to carry out work on a particular job or project and the employee's employment is dependent on the time taken to carry out the job or project, the employee is not a permanent employee.

(3) Also, a person employed by a local government under a Commonwealth funded community development project for Aborigines or Torres Strait Islanders is not a permanent employee.

(4) For subsection (1), an employee is not continuously employed if—

(a) the employee's employment is broken by at least 60 consecutive days when the employee was not employed, and is not in a position to accept an offer of employment, by a local government; or

(b) the board is satisfied the employee is no longer employed by a local government and has no intention of taking up employment with a local government.

(5) An employee of a local government entity is also a permanent employee if the entity declares the employee to be a permanent employee for this chapter by written notice given to the board.

Part 2 Queensland Local Government Superannuation Board

Division 1 Establishment, functions and powers of board

1172 Establishment of board

The board established under the repealed Act is continued in existence under the name, Queensland Local Government Superannuation Board.

1173 Legal status of board

(1) The board—

(a) is a body corporate; and

(b) has a seal; and

(c) may sue and be sued in its corporate name.

(2) Judicial notice must be taken of the imprint of the board's seal appearing on a document and the document must be presumed to have been properly sealed unless the contrary is established.

1174 Board's functions

The board's functions are—

(a) to act as trustee of the LG Super scheme; and

(b) to manage approved schemes; and

(c) to act as trustee of, and establish and act as trustee of, relevant persons schemes.

1175 Board's powers

(1) The board may do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

(2) Without limiting subsection (1), the board—

(a) has the powers given to it by this chapter; and

(b) has, in the performance of its functions, all the powers of an individual.

(3) It may, for example—

(a) enter into contracts; and

(b) acquire, hold, deal with and dispose of property.

Division 2 Board of directors

1176 Board of directors

There is a board of directors of the board.

1177 Role of the board of directors

(1) The board of directors is responsible for how the board performs its functions and exercises its powers.

(2) Without limiting subsection (1), it is the role of the board of directors to ensure the board performs its functions in a proper, effective and efficient way.

1178 Composition of board of directors

(1) In this section—

prescribed number of directors means 3 or, if another number is prescribed under the regulations, the other number.

(2) The board of directors is to consist of—

(a) the prescribed number of directors appointed on the nomination of the Local Government Association; and

(b) the prescribed number of directors appointed on the nomination of members of the LG Super scheme; and

(c) if the trust deed provides for the appointment of an additional independent director and an independent director is appointed—the appointed independent director.

(3) The directors must be appointed under rules established to comply with the Commonwealth Superannuation Act.

Division 3 General

1179 Delegation of board's powers

The board may delegate its powers to an employee of the board.

Part 3 Local Government Superannuation Scheme

Division 1 Continuation and membership of scheme

1180 Scheme continued

(1) The Local Government Employees' Superannuation Scheme (the ***LG Super scheme***) established under the repealed Act is continued in existence under the name, Local Government Superannuation Scheme.

(2) Rules governing the operation of the LG Super scheme must be set out in a trust deed made by the board (the ***trust deed***).

(3) Without limiting subsection (2), the trust deed must contain provision about matters that, under the Commonwealth Superannuation Act, must be contained in the governing rules of regulated superannuation funds within the meaning of that Act.

(4) Without limiting subsection (2), the trust deed must provide for—

(a) the yearly contribution that a local government must make for a permanent employee, based on the advice of an actuary; and

(b) the terms and conditions on which the super board must obtain advice from an actuary in relation to the funds that the super board administers.

(5) An ***actuary*** is an accredited member, or a fellow, of the Institute of Actuaries of Australia.

1181 Membership of LG Super scheme

(1) An employee of a local government, other than a local government entity or the board is, while the employment continues, automatically a member of the LG Super scheme (an ***automatic member***).

(2) Also, the following persons are eligible to be members of the LG Super scheme (***eligible members***)—

(a) a councillor of a local government;

(b) an employee of a local government entity;

(c) a contractor of a local government;

(d) a member of the governing body of a local government entity;

(e) another person for whom a local government or the board is required under the *Superannuation Guarantee (Administration) Act 1992* (Cwlth) to contribute to a superannuation scheme;

(f) the spouse of an automatic member or of a person who under any of paragraphs (a) to (e) or (g) to (i) is an eligible member;

(g) an entitled former spouse;

(h) a person—

(i) who was an automatic member or who was a member of the LG Super scheme because the person was a person of a type mentioned in any of paragraphs (a) to (e) or (i); and

(ii) who has stopped being an automatic member or a person of that type; and

(iii) whose benefit under the LG Super scheme has not been fully paid out, withdrawn or transferred from the LG Super scheme;

(i) another person of a type prescribed under a regulation.

(3) In this section—

entitled former spouse means a person who is entitled, or conditionally entitled, under an agreement under the *Family Law Act 1975* (Cwlth) or a court order under that Act, to payment of an amount from the LG Super scheme.

Division 2 Contributions for permanent employees

1182 Local governments' liability for permanent employees

(1) A local government that employs a permanent employee for whom it must make contributions under a law of the Commonwealth must pay to the LG Super scheme yearly contributions for the employee within the time stated in the trust deed.

(2) The yearly contribution that the local government must make is the amount stated, from time to time, in the trust deed.

(3) The yearly contributions include contributions required to be paid to the LG Super scheme for the member under an industrial agreement or award.

(4) Despite subsections (1) to (3), the local government can not pay an amount as a contribution mentioned in subsection (1) to the extent the amount can not, under the Commonwealth Superannuation Act, be accepted by a regulated superannuation fund under that Act.

Editor's note—

See the *Superannuation Industry (Supervision) Regulations 1994* (Cwlth), regulation 7.04 (Acceptance of contributions—regulated superannuation funds).

1183 Permanent employees' liability for contributions

(1) A permanent employee of a local government for whom the local government is, under section 1182, required to pay yearly contributions to the LG Super scheme must pay to the local government yearly contributions calculated at the following rate—

(a) if the employee is a special permanent employee—5% of the employee's salary;

(b) if the employee is a standard permanent employee—6% of the employee's salary.

(2) Subsection (1) does not apply if, under the employee's remuneration agreement with the local government, a

contribution equivalent to the contribution mentioned in subsection (1) is made by the local government in addition to any contribution the local government is required to make under this Act.

1184 Additional contributions to LG Super scheme

(1) A member, or local government for a member, may make additional contributions to the LG Super scheme to secure additional benefits under the trust deed.

(2) Subsection (1) has effect subject to section 238.

(3) Also, the member, or the local government for the member, can not pay an amount as a contribution mentioned in subsection (1) to the extent the amount can not, under the Commonwealth Superannuation Act, be accepted by a regulated superannuation fund under that Act.

1185 Contributions may be deducted from employees' salaries

(1) A local government may deduct the amount of an employee's contributions or any part of them from the employee's salary or other amount owing to it by the employee.

(2) Subsection (1) applies despite any other Act.

1186 Adjustment of contributions because of change in salary

(1) The board may, by written notice given to a local government, require the local government to give the board the salary details for each of the local government's permanent employees as at 1 January or 1 July in a stated year or as at any other stated day during the year following any change to the salary of any of the employees.

(2) The local government must comply with the notice.

(3) If—

(a) a permanent employee's salary has decreased; and

(b) the employee gives the local government written notice that the employee wants to pay contributions as if the employee's salary had not decreased;

the local government must calculate the yearly contributions payable for the employee based on the employee's former salary.

(4) The employee's notice must be given within the time stated in the trust deed.

Division 3 Contributions for non-contributory members

1187 Local governments' liability for non-contributory members

(1) A local government that employs a non-contributory member must pay to the LG Super scheme all superannuation contributions required to be paid to the LG Super scheme for the member under an industrial agreement or award.

(2) A local government (other than a local government entity) that employs a non-contributory member must pay to the LG Super scheme all superannuation contributions required to be paid for the member under an Act of the State or Commonwealth.

Division 4 General

1188 Interest payable on outstanding contributions

(1) If a local government does not pay an amount to the LG Super scheme within the time stated under the trust deed, interest is payable on the amount by the local government to the LG Super scheme.

(2) Interest is payable at the rate prescribed under the regulations and calculated on a daily basis.

(3) However, the board may waive the payment of interest.

Part 4 Miscellaneous

1189 Prohibition on local governments establishing certain superannuation schemes

(1) A local government must not establish or join in establishing a superannuation scheme for the benefit of its employees.[53]

(2) Subsection (1) does not apply to a local government entity.

1190 Management of other superannuation schemes

With the Governor in Council's approval, the board may manage another superannuation scheme (an ***approved scheme***) for the scheme's trustee.

1191 Relevant persons superannuation schemes

With the Governor in Council's approval, the board may—

(a) act as trustee of a relevant persons scheme; or

(b) establish, and act as trustee of, a relevant persons scheme.

1192 Auditor-general's role

An audit of a superannuation scheme for which the board acts as trustee must be carried out by the auditor-general.

1193 Application of chapter to board's employees

For eligible members who are board employees, this chapter applies to the board with all necessary changes and any changes prescribed under the regulations.

53 For superannuation schemes for councillors, see section 238 (Superannuation benefits for councillors).

1193AA Provision for local government employees transferred to new water entities

(1) This section applies if, under a transfer notice under the water restructuring Act, employees of a local government are transferred to a new water entity other than the water grid manager.

(2) A transferred employee is eligible to be a member of the scheme.

(3) The new water entity is taken to be a local government entity for this chapter, but only in relation to its employment of transferred employees.

(4) For this chapter, a transferred employee who was a permanent employee immediately before the transfer continues to be a permanent employee.

(5) In this section—

new water entities see the water restructuring Act, section 6(1).

scheme means the Local Government Superannuation Scheme under section 1180(1).

transferred employee means an employee mentioned in subsection (1).

water grid manager means the SEQ Water Grid Manager established under the water restructuring Act, section 6(1)(d).

water restructuring Act means the *South East Queensland Water (Restructuring) Act 2007*.

Chapter 18 General

Part 1 Local Government Association

1194 Establishment of corporation

(1) The Local Government Association of Queensland (Incorporated) is established under this Act.

(2) The Local Government Association—

(a) is a body corporate with perpetual succession; and

(b) has a common seal; and

(c) may sue and be sued in its name.

(3) The Local Government Association has, in the performance of its objects and functions, all the powers of an individual.

(4) It may, for example—

(a) enter into contracts; and

(b) acquire, hold, deal with and dispose of property.

(5) Judicial notice must be taken of the imprint of the Local Government Association's seal appearing on a document and the document must be presumed to have been properly sealed unless the contrary is established.

1195 Rules

(1) The Local Government Association may, by resolution, make rules with respect to—

(a) all matters necessary or convenient for the management of the association; and

(b) payment to the association by each local government that is a member of annual subscriptions and of levies fixed by an entity specified under the rule.

(2) A rule is not subordinate legislation.

(3) A rule has effect only if approved by the Governor in Council.

(4) If the Local Government Association makes a rule, it must give to the Minister a copy of its resolution making the rule and a statement of the reasons for the rule.

(5) If the Governor in Council approves the rule, notice of the approval and of the rule must be published in the gazette.

1196 Litigation of common interest

(1) A local government may contribute to the Local Government Association amounts towards expenses of litigation for matters of common interest to local governments.

(2) The Local Government Association may pay amounts towards expenses of litigation for matters of common interest to local governments.

1197 When payments by local governments are payable

(1) An amount payable for any purpose to the Local Government Association by a local government is payable within 30 days after a written notice signed by the executive director of the association specifying the amount payable is given to the chief executive officer of the local government.

(2) An unpaid amount is a debt payable by the local government to the Local Government Association.

1198 Accounts

The Local Government Association must keep—

(a) full and accurate accounts of all amounts received or paid by it; and

(b) an accurate record of the purposes for which the amounts have been received or paid.

1199 Annual balance and audit

(1) In each financial year, the Local Government Association must prepare an annual account as at the date fixed under its rules.

(2) The annual account must—

(a) be prepared as soon as practicable after the date mentioned in subsection (1); and

(b) show a true statement of the Local Government Association's receipts and payments during the previous year; and

(c) show the balance of the account.

Part 2 Miscellaneous

1200 Delegation by Minister

The Minister may delegate the Minister's powers under this Act or another local government Act to an officer of the department.

1201 Delegation by chief executive of department

The chief executive of the department may delegate the chief executive's powers under this Act or another local government Act to an officer of the department.

1202 Approval of forms

The chief executive may approve forms for use under this Act.

1203 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation prescribing drafting standards for local laws or subordinate local laws may make provision about the following—

(a) the citation and numbering of the laws;

(b) the use of gender-neutral language in the laws;

(c) the application of fundamental legislative principles to the laws;

(d) the printing and drafting style used in the laws.

(3) Subsection (2) does not limit the matters for which the regulation may make provision.

1204 Declaration of existing electoral wards of City of Brisbane

(1) On or before 1 March 1997, a regulation must be made declaring the existing names and boundaries of the electoral wards of the City of Brisbane.

(2) In this section—

existing names and boundaries means the names and boundaries in force immediately before the commencement of this section.

1205 Application of Judicial Review Act

(1) This section applies to the Brisbane City Council.

(3) The *Judicial Review Act 1991* does not apply to a decision of a corporatised corporation made in carrying out its excluded activities.

(4) A regulation may declare the activities of a corporatised corporation that are taken to be, or are taken not to be, activities conducted on a commercial basis.

(5) In this section—

commercial activities means activities conducted on a commercial basis.

community service obligations has the same meaning as in section 677.

corporatised corporation has the same meaning as in chapter 8, part 7.

excluded activities means—

(a) commercial activities; or

(b) community service obligations prescribed under a regulation.

1205A Application of certain provisions

This Act, as amended by sections 27 to 33, 51(3) and 54 of the *Local Government Legislation Amendment Act 2003*, applies for the financial year beginning on 1 July 2003 and each later financial year.

Chapter 19 Transitional, validation and savings provisions, repeals and amendments

Part 1 Transitional, validation and savings provisions

Division 1 Preliminary

1206 Definitions

In this part—

pre-existing law means—

(a) a by-law or ordinance, made by a local government, as in force immediately before the commencement of chapter 12; or

(b) a by-law or ordinance made under section 1213.

repealed Local Government Act means the *Local Government Act 1936* as in force immediately before it was repealed.

unamended City of Brisbane Act means the *City of Brisbane Act 1924* as in force immediately before it was amended by this Act.

1207 References to *commencement day*

In this part, a reference in a provision to the ***commencement day*** is a reference to the day the provision commences.

1208 References to local authority etc.

(1) A reference in an Act or document—

(a) to a local authority is a reference to a local government; and

(b) to the area of a local authority is a reference to the area of a local government, and includes a reference to the joint local government area of a joint local government; and

(c) to a joint local authority board, joint local authority or joint board is a reference to a joint local government; and

(d) to the area of a joint local authority board, joint local authority or joint board is a reference to the joint local government area of a joint local government; and

(e) to the chairman or chairperson of a local authority is a reference to the mayor of a local government, and includes a reference to the president of a joint local government; and

(f) to the deputy chairman or deputy chairperson of a local authority is a reference to the deputy mayor of a local government, and includes a reference to a deputy president of a joint local government; and

(g) to the president, chairman or chairperson of a joint local authority board, joint local authority or joint board is a reference to the president of a joint local government; and

(h) to the deputy president, deputy chairman or deputy chairperson of a joint local authority board, joint local authority or joint board is a reference to the deputy president of a joint local government; and

(i) to an alderman, councillor or member of a local authority is a reference to a councillor of a local

government, and includes a reference to a member of a joint local government; and

(j) to the town clerk, shire clerk or clerk of a local authority (other than the Brisbane City Council) is a reference to the chief executive officer of a local government, and includes a reference to the chief executive officer of a joint local government; and

(k) to the clerk of a joint local authority board, joint local authority or joint board is a reference to the chief executive officer of a joint local government; and

(l) to a by-law or ordinance of a local government is a reference to a local law; and

(m) to any fund (other than the trust fund) of a local authority (other than the Brisbane City Council) is a reference to the operating fund of a local government; and

(n) to the director of local government is a reference to the chief executive of the department; and

(o) to the *Local Government Act 1936*, or the *Local Authorities Act 1902*, is taken to be a reference to this Act.

(2) Subsection (1) does not affect the application of the *Acts Interpretation Act 1954*, section 14H.

(3) The application of subsection (1) to a reference is not displaced, wholly or partly, merely because the reference is accompanied by a reference—

(a) to the *Local Government Act 1936*, or a provision of that Act, as amended from time to time or as in force at a particular time; or

(b) to a particular time.

Division 2 Financial operation and accountability

1209 Administration of sinking fund for liquidation of current borrowings

(1) The corporation continued in existence by the repealed Local Government Act, section 28(15) under the name 'Trustees of the Local Authorities Debt Redemption Fund' (the ***Trustees***) is continued in existence under the name 'Trustees of the Local Governments Debt Redemption Fund'.

(2) Its function is to administer sinking funds for the liquidation of amounts borrowed by local governments before the commencement day.

(3) The repealed Local Government Act, section 28(15) continues to apply to the Trustees with any necessary changes and any changes prescribed by regulation.

1210 Trustees are statutory bodies

(1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the Trustees of the Local Government's Debt Redemption Fund are a statutory body.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the Trustees' powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

Part 4 Validation provision for Local Government and Other Legislation Amendment Act 1999

1242 Validation for particular rates

It is declared that a rate levied by a rate notice given by a local government for, or for a period of, the financial year ending 30 June 2000 is not, and never was, invalidly levied merely because the local government—

(a) did not state on the rate notice, as required by section 1008(2)(b), the date by which, or the time within which, the rate must be paid under section 1014(2)(a) if the rate notice complied with sections 1008(2) and 1014(1) as in force immediately before their amendment by the *Local Government and Other Legislation Amendment Act 1999*; or

(b) did not decide, under section 1014, the date by which, or the time within which, the rate must be paid.

Part 5 Validation provision for Local Government and Other Legislation Amendment Act 2000

1243 Application to Brisbane City Council

This part applies to the Brisbane City Council.

1244 Validation for particular utility charges

(1) This section applies if—

(a) before the commencement of this section, a local government—

(i) prepared a two-part tariff report for a relevant business activity for chapter 10, regardless of whether the report complied with chapter 10; and

(ii) made a resolution under section 780 to apply a two-part tariff for the relevant business activity (the ***section 780 resolution***); and

(b) the local government, whether before or after the commencement, makes and levies a utility charge for the relevant business activity on the basis of the section 780 resolution.

(2) It is declared that a utility charge made and levied for the relevant business activity on the basis of the section 780 resolution is not, and never was, invalid merely because the local government did not comply with chapter 10, part 3 or 4, or section 783.

(3) Subsection (2) does not affect a decision of a court before the commencement in relation to the validity of a utility charge levied for a particular person on the basis of the section 780 resolution.

Part 6 Transitional provisions for Local Government and Other Legislation Amendment Act 2001

Division 1 Preliminary

1245 Interpretation for pt 6

(1) In this part—

commencing day means the day on which the provision in which the term is used commences.

former board means the Townsville/Thuringowa Water Supply Board established under the repealed Act.

repealed Act means the *Townsville/Thuringowa Water Supply Board Act 1987*.

(2) Another term used in this part that is defined for chapter 2A, has the meaning given for the chapter.[54]

Division 2 Transitional provisions for Townsville-Thuringowa Water Supply Joint Board

1246 Former board

On the commencing day, the former board is abolished and its members go out of office.

1247 Assets

On the commencing day—

(a) the assets of the former board vest in the joint board; and

(b) any property that, immediately before the commencing day, was held in trust by the former board vests in the joint board on the same trusts.

1248 Exemption from State tax

(1) State tax and fees are not payable in relation to anything done for—

(a) establishing the joint board; or

(b) vesting assets or property of the former board in the joint board.

(2) The reference in subsection (1)(b) to the vesting of assets or property includes a reference to the recording of the vesting of the assets or property.

54 See section 60A (Definitions for ch 2A).

1249 Rights and liabilities

On the commencing day, the rights and liabilities of the former board, whether vested or contingent, become the rights and liabilities of the joint board.

1250 Existing entitlement to take water

(1) This section applies to the entitlement to take water given to the former board under the repealed Act and in force immediately before the commencing day.

(2) The entitlement is taken to have been given to the joint board and continues under the repealed Act as if that Act had not been repealed until the entitlement is replaced with a water entitlement under the *Water Act 2000*.

1251 Existing contracts

A contract, agreement or arrangement entered into by or for the former board that is in force immediately before the commencing day—

(a) is taken to have been entered into by the joint board; and

(b) may be enforced against or by the joint board accordingly.

1252 Contracts and tendering—application of ch 6, pt 3

(1) This section applies if, before the commencing day, the former board—

(a) had invited tenders or quotations, or started similar action, for contracts for carrying out work, or supplying goods or services, for or by the joint board; but

(b) had not entered into the contracts.

(2) Chapter 6, part 3 does not apply to the joint board for the contracts.

1253 Guarantees, undertakings and securities

A guarantee, undertaking or security given by, for, or to, the former board that is in force immediately before the commencing day—

(a) is taken to have been given by or to the joint board; and

(b) may be enforced against or by the joint board accordingly.

1254 Proceedings

A proceeding that could have been started or continued by or against the former board before the commencing day may be started or continued by or against the joint board.

1255 Discontinuance or lessening of supply of water

(1) This section applies if—

(a) before the commencing day the former board entered into an agreement or arrangement (a ***water supply agreement***) with another person providing for the supply of a quantity of water to the person; and

(b) the water supply agreement is an agreement that is taken to have been entered into by the joint board; and

(c) the joint board reasonably believes it is necessary or appropriate to discontinue, or lessen, the supply of water because of—

(i) a breakdown of, or damage, repairs, alterations or additions to, headworks, treatment works or trunk mains; or

(ii) drought or another natural occurrence; or

(iii) an emergency.

(2) The joint board may direct the discontinuance, or lessening, of the supply of water for the period it considers appropriate.

(3) The direction may be given even if it affects the quantity of water to be supplied under the water supply agreement.

(4) The direction may be given either with the prior notice the joint board considers appropriate, or without prior notice.

(5) As soon as practicable after the direction is given, the joint board must give written notice of the direction to—

(a) the other party to the water supply agreement; and

(b) the Townsville and Thuringowa City Councils.

(6) It is lawful to give effect to a direction of the joint board given under this section.

(7) The joint board's power to give the direction may only be exercised by resolution of the joint board.

(8) However, if the joint board has, by resolution, delegated appropriate authority to the chairperson or chief executive officer of the joint board, or to a committee of the joint board, the power to give the direction may also be exercised by a decision made by the chairperson or chief executive officer, or by resolution of the committee.

1256 Former board's manager

(1) The person who, immediately before the commencing day, was the manager of the former board is taken to be the chief executive officer of the joint board.

(2) The person is taken to be employed by the joint board on the same conditions on which the person was employed by the former board.

(3) The person remains entitled to all existing rights of employment held by the person, and all rights of employment accruing to the person, as the manager of the former board, including existing and accruing rights to—

(a) remuneration; and

(b) recreation, long service, sick or other leave; and

(c) superannuation or other benefits and entitlements.

1257 Employees

(1) A person who, immediately before the commencing day, was an employee of the former board becomes an employee of the joint board.

(2) The person is taken to be employed by the joint board on the same conditions on which the person was employed by the former board.

(3) The person remains entitled to all existing rights of employment held by the person, and all rights of employment accruing to the person, as an employee of the former board, including existing and accruing rights to—

(a) remuneration; and

(b) recreation, long service, sick or other leave; and

(c) superannuation or other benefits and entitlements.

1258 Superannuation options for continuing employees

(1) This section applies to an employee of the former board who—

(a) becomes an employee of the joint board under section 1256 or 1257; and

(b) is a member of a superannuation scheme (the ***former scheme***) as an employee of the former board.

(2) Despite chapter 17 and sections 1256(3)(c) and 1257(3)(c), the employee may, within 30 days after the commencing day, by written notice given to the Queensland Local Government Superannuation Board, elect to remain a member of the former scheme.

(3) If the employee makes the election—

(a) chapter 17 does not apply to the employee; and

(b) the joint board, for as long as the employee continues as an employee of the joint board, must contribute to the former scheme as required under the former scheme.

(4) To facilitate the payment of contributions to the former scheme by the employee, the joint board is authorised—

(a) to deduct from the weekly, fortnightly or other periodic salary or wage of the employee an amount sufficient to meet the employee's contribution to the former scheme; and

(b) to remit the amount to the person authorised to receive contributions for the former scheme.

(5) If the employee does not make the election within 30 days after the commencing day—

(a) for the former scheme—the employee is taken to have ceased employment with the former board; and

(b) for chapter 17—the employee is taken to have become a new employee of the joint board.

1259 Transfer of property

(1) A certificate signed by the chief executive officer of the joint board is evidence of property having become property of, or vested in, the joint board on the commencing day if the certificate—

(a) identifies the property; and

(b) states the property was, immediately before the commencing day, the property of, or vested in, the former board; and

(c) states that the property became the property of, or vested in, the joint board under section 1247 on the commencing day.

(2) An entity with registration functions, under a law of the State, for property of the kind to which the certificate relates must, if asked by the joint board, make in the register all entries necessary to record the vesting of the property in the joint board.

(3) The request must be accompanied by the certificate.

(4) A request or certificate under this section is not liable to fees or stamp duty.

1260 Corporate and operational plans

(1) Despite section 504(2), the joint board may prepare and adopt its first corporate plan immediately before the joint board adopts a budget for the first financial year covered by the plan.

(2) Despite section 508(2), for the first financial year for which the joint board is required to prepare and adopt an operational plan, the joint board may prepare and adopt the operational plan immediately before the joint board adopts a budget for the financial year.

1261 Corporate and operational plans

For the application, under section 60R, of chapter 7, part 2 to the joint board in exercising its jurisdiction—

(a) the first financial year to be covered by the joint board's first corporate plan is the financial year beginning 1 July 2001; and

(b) the first financial year for which the joint board is required to prepare and adopt an operational plan is the financial year beginning 1 July 2001.

1262 Annual report

(1) For the first annual report prepared by the joint board after the commencing day, the financial year is taken to be the period 1 July 2000 to 29 June 2001.

(2) The joint board must, to the extent it is reasonably practicable, prepare the first annual report in the way in which the former board would have been required to prepare the report if the former board had been a local government.

(3) For the next annual report, the financial year is taken to be the period 30 June 2001 to 30 June 2002.

1263 Remuneration of members

(1) The remuneration that, immediately before the commencing day, was the remuneration of the chairperson of the former board is taken to have been authorised by the joint board

under this Act as the remuneration of the chairperson of the joint board.

(2) The remuneration that, immediately before the commencing day, was the remuneration of a member (other than the chairperson) of the former board is taken to have been authorised by the joint board under this Act as the remuneration of a member (other than the chairperson) of the joint board.

1264 Appointment of chairperson

(1) Within 1 month after the commencing day, the Townsville and Thuringowa City Councils must, by resolution, appoint a qualified person to be a member, and the chairperson, of the joint board.

(2) If the Townsville and Thuringowa City Councils do not appoint the chairperson within 1 month after the commencing day, the Governor in Council may appoint a qualified person to be the chairperson.

1265 Appointment of other members

(1) The Townsville City Council must, by resolution, appoint 2 of its councillors as members of the joint board.

(2) The Thuringowa City Council must, by resolution, appoint 2 of its councillors as members of the joint board.

(3) The appointment of the members must be made within 1 month after the commencing day.

(4) If a council does not appoint 2 of its councillors as members within 1 month after the commencing day, the Governor in Council may, by gazette notice, appoint the number of councillors of the council necessary to make up the required number of members.

1266 References to former board

A reference in an Act or document in existence immediately before the commencing day to the former board is a reference to the joint board.

Division 3 Repeal

1268 Repeal

The *Townsville/Thuringowa Water Supply Board Act 1987* is repealed.

Part 7 Transitional provision for State Housing and Other Acts Amendment Act 2002

1269 Application to Brisbane City Council

This part applies to the Brisbane City Council.

1270 Sale of land for overdue rates

(1) This section applies to rateable land that, on the commencement day—

(a) is the subject of a housing Act s 24 contract; or

(b) is land in which a person has a share that the person bought under a housing Act s 24 contract.

(2) A reference in section 1039 to an overdue rate does not include an overdue rate that was levied on the land before the commencement day.

(3) In this section—

commencement day means the day that the *State Housing and Other Acts Amendment Act 2002*, part 3, commences.[55]

55 *State Housing and Other Acts Amendment Act 2002*, part 3 commenced 1 July 2002.

Part 8 Transitional provision for Local Government Legislation Amendment Act 2003

1271 Continuation of general charges and former register of general charges

(1) A general charge relating to a matter mentioned in section 1071A(1)(a) to (d) (a ***prescribed general charge***) is taken to be a regulatory fee fixed under section 1071A.

(2) A general charge that is not a prescribed general charge is taken to be a charge made under section 36.

(3) A local government's register of general charges is taken to be a register of regulatory fees for section 1071E to the extent it contains a record of a prescribed general charge.

(4) On or before 31 December 2003, a local government must—

(a) identify each fee or charge that is—

(i) not a prescribed general charge; and

(ii) recorded in its register of regulatory fees; and

(b) remove the records of the identified fees or charges from the register.

(5) Subsections (3) and (4) apply to the Brisbane City Council.

(6) In this section—

general charge means—

(a) for the Brisbane City Council—a charge fixed by the council under the *City of Brisbane Act 1924*, section 59, before the commencement of the *Local Government Legislation Amendment Act 2003*, section 4; or

(b) for another local government—a charge fixed by a local government under section 974, before the commencement of the *Local Government Legislation Amendment Act 2003*, section 43, for services and facilities supplied by the local government.

register of general charges means—

(a) for the Brisbane City Council—the record of general charges kept by the council before the commencement of the *Local Government Legislation Amendment Act 2003*, section 4; or

(b) for any other local government—the register of general charges kept by the local government under section 975, before the commencement of the *Local Government Legislation Amendment Act 2003*, section 43.

Part 9 Validation provision for Local Government and Other Legislation Amendment Act 2003

1272 Validation for particular resolutions limiting increase in rate levied

(1) This section applies if—

(a) after 31 May 2003 but before the commencement of this section, a local government resolved to make and levy a rate for land on which the rate levied for the previous financial year was for a period less than the full year; and

(b) the local government also resolved to limit the amount levied; and

(c) the resolution did not comply with section 1036 as in force when the resolution was made.

(2) The resolution is as valid as it would have been if section 1036, as in force immediately after the commencement, had been in force on the day the resolution was made.

Part 10 Transitional provision for Integrated Planning and Other Legislation Amendment Act 2003

1272A Continuation of former fees fixed by local laws or resolutions

The following fees, relating to a function mentioned in section 1071A(1)(e), are taken to be regulatory fees fixed under section 1071A—

(a) a fee fixed under the *Building Act 1975*, section 46A before the commencement of this section;

(b) a fee fixed under the *Integrated Planning Act 1997*, section 5.3.5(8) before the commencement of this section.

Part 11 Transitional provision for Housing and Other Acts Amendment Act 2005

1273 Validation of levying of rates for certain lands

(1) This section applies to a rate levied—

(a) for the whole or a part of the period from 1 January 2004 to the commencement of this section (the ***validation period***); and

(b) for land of which the owner was, for the whole or part of the validation period, a purchaser of land under a *Housing Act 2003* section 113 contract.

(2) The rate is taken to have been, at all times, validly levied.

Part 12 Transitional provisions for Local Government Reform Act 2007

1274 Review of anti-competitive provisions of local laws and subordinate local laws made in 2007

(1) This section applies to a local law or subordinate local law if—

(a) the local law or subordinate local law is made in 2007; and

(b) the local law or subordinate local law contains an anti-competitive provision.

(2) For applying section 893C to the local law or subordinate local law—

(a) section 893B, definition *expiry date*, paragraph (a), applies as if '2010' were replaced by '2020'; and

(b) section 893B, definition *first review date*, applies as if '2008' were replaced by '2018'; and

(c) section 893B, definition *subsequent review date*, applies as if '2018' were replaced by '2028'.

(3) In this section—

anti-competitive provision has the same meaning as it has under section 885 for a proposed local law or proposed subordinate local law.

1275 Public office for new local government

(1) This section applies despite section 37.

(2) A new local government must decide the premises that is to be its public office as soon as possible after the changeover day for its new local government area, but in any event, within 1 year after the changeover day.

(3) Until its public office is established, the new local government may keep 2 or more premises within the new local government area, each as its public office.

(4) Each premises kept as a public office under subsection (3) must be premises that were the public office of a merging local government before the changeover day.

(5) However, for applying a provision of this Act that refers to the public office of a local government, the reference to the public office may be taken to be a reference to the public office of the new local government that is most closely related to the matter the subject of the provision.

Example—

If under this Act a local government is required to keep a document open for inspection at its public office, the new local government may comply with the provision by keeping the document open for inspection at the public office located in what was the local government area to which the document is most closely related.

Part 13 Transitional provision for Local Government Amendment Act 2007

1276 No prosecution for offence under repealed s 159ZY

A person can not be prosecuted for an offence committed under section 159ZY as in force before the commencement of this section.

Part 14 Transitional provisions for Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007

Division 1 Preliminary

1277 Application of ch 3, pt 1B definitions

Words defined for chapter 3, part 1B have the same meaning in this part.

1278 Definitions for pt 14

In this part—

changeover day for NPARC means the changeover day for the new local government area of NPARC.

changeover day for TSIRC means the changeover day for the new local government area of TSIRC.

NPARC means the new local government known as the Northern Peninsula Area Regional Council.

TSIRC means the new local government known as the Torres Strait Island Regional Council.

Division 2 Torres Strait Island Regional Council

1279 Amounts loaned to individuals

(1) On the changeover day for TSIRC—

(a) any adopted lending policy of a relevant Island council under the relevant provision ceases to have effect; and

(b) all amounts payable, or that would have become payable, to a relevant Island council because of a loan

made to a person under the relevant provision become payable to TSIRC.

(2) In this section—

relevant Island council means each of the Island councils under the repealed Torres Strait Act, as in existence immediately before the changeover day for TSIRC, other than the Island councils for the following council areas under that Act—

(a) Bamaga council area;

(b) Seisia council area.

relevant provision means the repealed Torres Strait Act, section 46, as in force before the changeover day for TSIRC.

1280 Delayed application of ch 7 to TSIRC

(1) Until 1 July 2009, chapter 7, including the Local Government Finance Standards, applies to TSIRC only to the extent a regulation states that it applies.

(2) A regulation—

(a) may provide for the application to TSIRC of particular provisions of chapter 7, including particular provisions of the Local Government Finance Standards, to commence at different times; and

(b) until chapter 7, including the Local Government Finance Standards, applies in full to TSIRC, may provide for either or both of the following—

(i) the application of stated provisions of the repealed Torres Strait Act, part 4, division 2 to TSIRC as if the provisions had not been repealed;

(ii) the application of particular requirements stated in the regulation.

(3) This section does not limit the matters that may be provided for, in relation to the application of chapter 7, in a reform implementation regulation applying to any existing, adjusted or new local government, including TSIRC.

1281 TSIRC becomes trustee for deeds of grant in trust for particular Island council areas

(1) On the changeover day for TSIRC, TSIRC becomes the trustee of each community deed of grant in trust in place of the Island council that was the trustee immediately before the changeover day.

(2) Subsection (1) has effect despite any provision of the *Land Act 1994* that would otherwise apply in relation to the changing of the trustee of a deed of grant in trust.

(3) However, the relevant chief executive may take all necessary action to ensure the registers kept by the relevant chief executive under the *Land Act 1994* are changed to reflect the changing of the trustee.

(4) The change of the trustee of a community deed of grant in trust does not affect any interest in the land the subject of the deed of grant in trust in existence immediately before the changeover day for TSIRC.

(5) In this section—

community deed of grant in trust means a deed of grant in trust under the *Land Act 1994* of which, immediately before the changeover day for TSIRC, a relevant Island council under the repealed Torres Strait Act was the trustee.

Island council means an Island council under the repealed Torres Strait Act.

relevant chief executive means the chief executive under the *Land Act 1994*.

relevant Island council means an Island council other than the Island councils for the following council areas under the repealed Torres Strait Act—

(a) Bamaga council area;

(b) Seisia council area.

1282 Local laws and subordinate local laws for local government area of TSIRC

(1) From the changeover day for TSIRC, a by-law of a relevant Island council as in force immediately before the changeover day—

(a) continues in force; and

(b) is taken to be a local law of TSIRC; and

(c) may be amended or repealed as a local law as provided for under this Act; and

(d) subject to any amendment under this Act, applies only to the area to which the by-law applied immediately before changeover day.

(2) From the changeover day for TSIRC, a subordinate by-law of a relevant Island council as in force immediately before the changeover day—

(a) continues in force; and

(b) is taken to be a subordinate local law of TSIRC; and

(c) may be amended or repealed as a subordinate local law as provided for under this Act; and

(d) subject to any amendment under this Act, applies only to the area to which the subordinate by-law applied immediately before changeover day.

(3) In this section—

relevant Island council means an Island council other than the Island councils for the following council areas under the repealed Torres Strait Act—

(a) Bamaga council area;

(b) Seisia council area.

1283 Continued application of rates and other charges

(1) A rate or charge made and levied under the repealed Torres Strait Act, section 50 (the ***relevant section***), and in force immediately before the changeover day for TSIRC, continues in force after the changeover day in accordance with the terms of its making and levying.

(2) An exemption under the relevant section in force immediately before the changeover day for TSIRC continues in force after the changeover day in accordance with its terms.

(3) Subsections (1) and (2) apply only to a rate or charge, or to an exemption, having effect within an area that, from the changeover day for TSIRC, is included in the new local government area of Torres Strait Island.

Division 3 Northern Peninsula Area Regional Council

1284 Amounts loaned to individuals

(1) On the changeover day for NPARC—

(a) any adopted lending policy of a relevant Island council or relevant community government under a relevant provision ceases to have effect; and

(b) all amounts payable, or that would have become payable, to a relevant Island council or relevant community government because of a loan made to a person under the relevant provision become payable to NPARC.

(2) In this section—

relevant community government means each of the community governments under the *Local Government (Community Government Areas) Act 2004* for the following community government areas under that Act, as in existence immediately before the changeover day for NPARC—

(a) Injinoo;

(b) New Mapoon;

(c) Umagico.

relevant Island council means each of the Island councils under the repealed Torres Strait Act for the following council areas under that Act, as in existence immediately before the changeover day for NPARC—

(a) Bamaga council area;

(b) Seisia council area.

relevant provision means—

(a) the repealed Torres Strait Act, section 46, as in force before the changeover day for NPARC; or

(b) the *Local Government (Community Government Areas) Act 2004*, section 38, as in force before the changeover day for NPARC.

1285 Delayed application of ch 7 to NPARC

(1) Until 1 July 2009, chapter 7, including the Local Government Finance Standards, applies to NPARC only to the extent a regulation states that it applies.

(2) A regulation—

(a) may provide for the application to NPARC of particular provisions of chapter 7, including particular provisions of the Local Government Finance Standards, to commence at different times; and

(b) until chapter 7, including the Local Government Finance Standards, applies in full to NPARC may provide for any of the following—

(i) the application of stated provisions of the repealed Torres Strait Act, part 4, division 2 to NPARC as if the provisions had not been repealed;

(ii) the continuing application of the *Local Government (Community Government Areas) Act 2004*, part 4, division 2 to NPARC as if the provisions still applied to part of NPARC's local government area;

(iii) the application of particular requirements stated in the regulation.

(3) This section does not limit the matters that may be provided for, in relation to the application of chapter 7, in a reform implementation regulation applying to any existing, adjusted or new local government, including NPARC.

1286 NPARC becomes trustee for deeds of grant in trust for particular Island council and community government areas

(1) On the changeover day for NPARC, NPARC becomes the trustee of each community deed of grant in trust in place of the relevant entity that was the trustee immediately before the changeover day.

(2) Subsection (1) has effect despite any provision of the *Land Act 1994* that would otherwise apply in relation to the changing of the trustee of a deed of grant in trust.

(3) However, the relevant chief executive may take all necessary action to ensure the registers kept by the relevant chief executive under the *Land Act 1994* are changed to reflect the changing of the trustee.

(4) The change of the trustee of a community deed of grant in trust does not affect any interest in the land the subject of the deed of grant in trust in existence immediately before the changeover day for NPARC.

(5) In this section—

community deed of grant in trust means a deed of grant in trust under the *Land Act 1994* of which, immediately before the changeover day for NPARC, a relevant entity was the trustee.

relevant chief executive means the chief executive under the *Land Act 1994*.

relevant entity means—

(a) each of the Island councils under the repealed Torres Strait Act for the following council areas under that Act—

(i) Bamaga council area;

(ii) Seisia council area; and

(b) each of the community governments under the *Local Government (Community Government Areas) Act 2004* for the following community government areas under that Act—

(i) Injinoo;

(ii) New Mapoon;

(iii) Umagico.

1287 Local laws and subordinate local laws for local government area of NPARC

(1) From the changeover day for NPARC, a by-law of a relevant Island council as in force immediately before the changeover day—

(a) continues in force; and

(b) is taken to be a local law of NPARC; and

(c) may be amended or repealed as a local law as provided for under this Act; and

(d) subject to any amendment under this Act, applies only to the area to which the by-law applied immediately before changeover day.

(2) From the changeover day for NPARC, a subordinate by-law of a relevant Island council as in force immediately before the changeover day—

(a) continues in force; and

(b) is taken to be a subordinate local law of NPARC; and

(c) may be amended or repealed as a subordinate local law as provided for under this Act; and

(d) subject to any amendment under this Act, applies only to the area to which the subordinate by-law applied immediately before changeover day.

(3) From the changeover day for NPARC, a local law of a relevant community government as in force immediately before the changeover day—

(a) continues in force; and

(b) is taken to be a local law of NPARC; and

(c) may be amended or repealed as a local law as provided for under this Act; and

(d) subject to any amendment under this Act, applies only to the area to which the local law applied immediately before changeover day.

(4) From the changeover day for NPARC, a subordinate local law of a relevant community government as in force immediately before the changeover day—

(a) continues in force; and

(b) is taken to be a subordinate local law of NPARC; and

(c) may be amended or repealed as a subordinate local law as provided for under this Act; and

(d) subject to any amendment under this Act, applies only to the area to which the subordinate local law applied immediately before changeover day.

(5) In this section—

relevant community government means each of the community governments under the *Local Government (Community Government Areas) Act 2004* for the following community government areas under that Act—

(a) Injinoo;

(b) New Mapoon;

(c) Umagico.

relevant Island council means each of the Island councils under the repealed Torres Strait Act for the following council areas under that Act—

(a) Bamaga council area;

(b) Seisia council area.

1288 Continued application of rates and other charges under repealed Torres Strait Act

(1) A rate or charge made and levied under the repealed Torres Strait Act, section 50 (the ***relevant section***), and in force immediately before the changeover day for NPARC, continues in force after the changeover day in accordance with the terms of its making and levying.

(2) An exemption under the relevant section in force immediately before the changeover day for NPARC continues in force after the changeover day in accordance with its terms.

(3) Subsections (1) and (2) apply only to a rate or charge, or to an exemption, having effect within an area that, from the changeover day for NPARC, is included in the new local government area of Northern Peninsula Area.

1289 Continued application of charges under Community Government Areas Act

(1) A charge made and levied under the *Local Government (Community Government Areas) Act 2004*, section 39 (the ***relevant section***), and in force immediately before the changeover day for NPARC, continues in force after the changeover day in accordance with the terms of its making and levying.

(2) An exemption under the relevant section in force immediately before the changeover day for NPARC continues in force after the changeover day in accordance with its terms.

(3) Subsections (1) and (2) apply only to a charge, or to an exemption, having effect within an area that, from the changeover day for NPARC, is included in the new local government area of Northern Peninsula Area.

Division 4 Indigenous regional councils generally

1290 Delayed application of ch 6, pts 3 and 5

Chapter 6, parts 3 and 5 apply to an indigenous regional council only to the extent a regulation states that they apply.

Division 5 Remuneration schedule

1291 Remuneration for 2008

(1) A resolution made under previous section 237 and in force when this section commences ceases to have effect—

(a) for a merging local government that goes out of existence under section 159YHA on 15 March 2008—on 15 March 2008; or

(b) for a local government other than a local government mentioned in paragraph (a)—at the conclusion of the 2008 quadrennial election for councillors of the local government.

(2) The remuneration schedule for councillors of a local government for 2008 applies from the conclusion of the 2008 quadrennial election for councillors of the local government.

(3) Despite section 236A(2)(a) and (b), the resolution in relation to remuneration to a councillor for a local government that applies for 2008—

(a) must be made as soon as practicable after the conclusion of the 2008 quadrennial election for councillors of the local government (the ***poll declaration day***); and

(b) may authorise payment of remuneration on and after the poll declaration day.

(4) In this section—

previous section 237 means section 237 as in force from time to time before the commencement of the *Local Government Reform Implementation Act 2007*.

Division 6 Miscellaneous

1292 Transitional provision for repeal of ch 2A

(1) A regulation may provide for all matters necessary or convenient for the repeal of chapter 2A.

(2) The regulation may include provision for—

(a) the dissolution of the Townsville-Thuringowa Water Supply Joint Board; and

(b) the transfer of all matters coming within the jurisdiction of the joint board to Townsville City Council; and

(c) the assumption by the council of all powers, assets and liabilities, and the staff, of the joint board.

1293 Special provisions for liquor licences and permits

(1) This section applies if immediately before the changeover day for a new or adjusted local government area, an existing local government holds a licence or permit under the *Liquor Act 1992*.

(2) Subsection (3) applies if, on the changeover day for the new or adjusted local government area—

(a) premises the subject of the licence or permit becomes the premises of the local government for the new or adjusted local government area; or

(b) otherwise—the circumstances of the licence or permit are circumstances that would ordinarily be expected to fall within the responsibilities of the local government for the new or adjusted local government area.

(3) From the changeover day for the new or adjusted local government area—

(a) the local government for the new or adjusted local government area is taken to hold the licence or permit; and

(b) the licence or permit is subject to the same conditions that applied to the licence or permit immediately before the changeover day for the new or adjusted local government area.

(4) A reform implementation regulation may, before or after the changeover day for a new or adjusted local government area, identify the new or adjusted local government as the successor to a particular licence or permit mentioned in subsection (1), if doubt arises as to which new or adjusted local government is the successor under subsections (2) and (3).

(5) A person who, under the *Liquor Act 1992*, is the nominee for a licence or permit whose holder is changed under this section continues to be the nominee for the licence or permit until the nominee is changed under that Act.

Part 15 Transitional provisions for Local Government and Industrial Relations Amendment Act 2008

1294 Effect of change of legal status on existing local governments and joint local governments

(1) On the commencement of this section, a local government in existence immediately before the commencement continues in existence as a local government, but not as a corporation.

(2) The change in the local government's constitution effected by section 34 does not, in any way, affect—

(a) the local government's assets or rights and liabilities; or

(b) any matter or thing done by or in relation to the local government.

(3) On the commencement, a joint local government in existence immediately before the commencement continues in existence as a joint local government, but not as a corporation.

(4) The change in the joint local government's constitution effected by section 49 does not, in any way, affect—

(a) the joint local government's assets or rights and liabilities; or

(b) any matter or thing done by or in relation to the joint local government.

1295 Contractual rights etc. are unaffected

(1) Without limiting section 1294 and to remove any doubt, it is declared that the continuation of a local government as constituted under section 34—

(a) does not place the local government in breach of contract or otherwise make it guilty of a civil wrong; and

(b) does not make the local government in breach of any instrument, including, for example, an instrument prohibiting, restricting or regulating the assignment or transfer of any right or liability; and

(c) is not taken to fulfil a condition—

(i) allowing a person to terminate an instrument or liability or modify the operation or effect of an instrument or liability; or

(ii) requiring any amount to be paid before its stated maturity; and

(d) does not release a surety or other obligee, in whole or part, from an obligation; and

(e) does not negate any decision made by the local government.

(2) Without limiting section 1294 and to remove any doubt, it is declared that the continuation of a joint local government as constituted under section 49—

(a) does not place the joint local government in breach of contract or otherwise make it guilty of a civil wrong; and

(b) does not make the joint local government in breach of any instrument, including, for example, an instrument prohibiting, restricting or regulating the assignment or transfer of any right or liability; and

(c) is not taken to fulfil a condition—

(i) allowing a person to terminate an instrument or liability or modify the operation or effect of an instrument or liability; or

(ii) requiring any amount to be paid before its stated maturity; and

(d) does not release a surety or other obligee, in whole or part, from an obligation; and

(e) does not negate any decision made by the joint local government.

1296 Chief executive to make transitional expenses reimbursement policy

(1) The chief executive may make a transitional expenses reimbursement policy for local governments.

(2) The transitional expenses reimbursement policy must provide for—

(a) payment of reasonable expenses incurred by councillors for discharging their duties and responsibilities as councillors; and

(b) the provision of facilities to the councillors for that purpose.

(3) For the transitional period for a local government—

(a) a councillor who incurs expenses in the discharge of duties or responsibilities as a councillor is entitled to the expenses provided for under the transitional expenses reimbursement policy; and

(b) a councillor is entitled to be provided with facilities for discharging duties or responsibilities as a councillor in accordance with the transitional expenses reimbursement policy.

(4) In this section—

transitional period, for a local government, means the period from the conclusion of the 2008 quadrennial election for the local government until the day it adopts an expenses reimbursement policy as provided for under section 250AS.

1297 New local government may defer review of business activities and public benefit assessments

(1) This section applies to a new local government.

(2) The new local government is not required to comply with sections 547 and 555 until 1 July 2009.

(3) In this section—

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.

Schedule 1 Ethics principles for local government councillors

section 250G(1)

1 Integrity of local government

(1) It is vital that the public has confidence in a local government's ability to ensure the good rule and government of its area.

(2) Councillors must conduct themselves in a way that promotes and maintains the public's trust and confidence in the local government and the good rule and government of its area.

2 Primacy of the public interest

(1) Councillors are elected to act in the public interest and to make decisions solely in terms of the public interest.

(2) Councillors must take steps to avoid, resolve or disclose conflicts of interest.

3 Independence of action by councillors

Councillors must not place themselves under any financial obligation that may influence them in discharging their duties and responsibilities as councillors.

4 Appropriate use of information by councillors

Councillors who, in the course of carrying out their duties, receive information that is not available to the general public must not misuse this information, particularly for personal gain.

5 Transparency and scrutiny

(1) It is vital that the public has confidence in the integrity of a local government's decision-making processes.

Schedule 1 (continued)

(2) To ensure transparency and public scrutiny of, and public confidence in, those processes, councillors must disclose their financial interests.

6 Appropriate use of entitlements

Councillors must comply with the requirements about using entitlements provided for under the local government's policies.

Schedule 1A Local government reform implementation

sections 159YG to 159YL

Part 1 New local governments

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)**
Barcaldine	region	LGRB 5	area not divided	7
Blackall Tambo	region	LGRB 8	divided	5
Bundaberg	region	LGRB 11	divided	11
Cairns	region	LGRB 14	divided	11
Cassowary Coast	region	LGRB 16	divided	7
Central Highlands	region	LGRB 25	area not divided	9
Charters Towers	region	LGRB 17	area not divided	7
Dalby	region	LGRB 22	area not divided	9
Fraser Coast	region	LGRB 28	area not divided	11
Gladstone	region	LGRB 29	area not divided	9
Goondiwindi	region	LGRB 31	area not divided	7
Gympie	region	LGRB 32	area not divided	9
Isaac	region	LGRB 36	divided	9
Lockyer Valley	region	LGRB 39	area not divided	7
Longreach	region	LGRB 41	divided	7
Mackay	region	LGRB 42	area not divided	11
Moreton Bay	region	LGRB 50	divided	13
North Burnett	region	LGRB 49	divided	7

Schedule 1A (continued)

Column 1 Local government	Column 2 Class	Column 3 Area map	Column 4 Number of councillors assigned to each division	Column 5 Total number of councillors (including mayor)
Northern Peninsula Area	region	LGRB 51	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1	6
Rockhampton	region	LGRB 58	divided	11
Roma	region	LGRB 59	area not divided	9
Scenic Rim	region	LGRB 7 edition 3	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1	7
Somerset	region	LGRB 60	area not divided	7
South Burnett	region	LGRB 61	divided	7
Southern Downs	region	LGRB 62	area not divided	9
Sunshine Coast	region	LGRB 63	divided	13
Tablelands	region	LGRB 64	divided	9
Toowoomba	region	LGRB 65	area not divided	11
Torres Strait Island	region	LGRB 67	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1 division 7—1 division 8—1 division 9—1 division 10—1 division 11—1 division 12—1 division 13—1 division 14—1 division 15—1	16

Schedule 1A (continued)

Column 1 Local government	Column 2 Class	Column 3 Area map	Column 4 Number of councillors assigned to each division	Column 5 Total number of councillors (including mayor)
Townsville	city	LGRB 68	area not divided	13
Whitsunday	region	LGRB 69	divided	7

Part 2 Adjusted local governments

Column 1 Local government	Column 2 Class	Column 3 Area map	Column 4 Number of councillors assigned to each division	Column 5 Total number of councillors (including mayor)
Banana	shire	LGRB 4	divided	7
Cook	shire	LGRB 20	area not divided	7
Gold Coast	city	LGRB 30	divided	15
Hope Vale	shire	LGRB 34	area not divided	5
Ipswich	city	LGRB 35 edition 3	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1 division 7—1 division 8—1 division 9—1 division 10—1	11
Logan	city	LGRB 40	divided	13
Mornington	shire	LGRB 45	area not divided	5
Torres	shire	LGRB 66	area not divided	5
Wujal Wujal	shire	LGRB 72	area not divided	5

Schedule 1A (continued)

Part 3 Continuing local governments

Column 1 Local government	Column 2 Class	Column 3 Area map	Column 4 Number of councillors assigned to each division	Column 5 Total number of councillors (including mayor)
Aurukun	shire	LGRB 2	area not divided	5
Balonne	shire	LGRB 3	area not divided	5
Barcoo	shire	LGRB 6	area not divided	5
Boulia	shire	LGRB 9	area not divided	5
Bulloo	shire	LGRB 10	area not divided	5
Burdekin	shire	LGRB 12	area not divided	7
Burke	shire	LGRB 13	area not divided	5
Carpentaria	shire	LGRB 15	area not divided	5
Cherbourg	shire	LGRB 18	area not divided	5
Cloncurry	shire	LGRB 19	area not divided	5
Croydon	shire	LGRB 21	area not divided	5
Diamantina	shire	LGRB 23	area not divided	5
Doomadgee	shire	LGRB 24	area not divided	5
Etheridge	shire	LGRB 26	area not divided	5
Flinders	shire	LGRB 27	area not divided	5
Hinchinbrook	shire	LGRB 33	area not divided	7
Kowanyama	shire	LGRB 37	area not divided	5
Lockhart River	shire	LGRB 38	area not divided	5
Mapoon	shire	LGRB 43	area not divided	5
McKinlay	shire	LGRB 44	area not divided	5
Mount Isa	city	LGRB 46	area not divided	7
Murweh	shire	LGRB 47	area not divided	5
Napranum	shire	LGRB 48	area not divided	5

Schedule 1A (continued)

Column 1 Local government	Column 2 Class	Column 3 Area map	Column 4 Number of councillors assigned to each division	Column 5 Total number of councillors (including mayor)
Palm Island	shire	LGRB 52	area not divided	5
Paroo	shire	LGRB 53	area not divided	5
Pormpuraaw	shire	LGRB 54	area not divided	5
Quilpie	shire	LGRB 55	area not divided	5
Redland	city	LGRB 56	divided	11
Richmond	shire	LGRB 57	area not divided	5
Winton	shire	LGRB 70	area not divided	5
Woorabinda	shire	LGRB 71	area not divided	5
Yarrabah	shire	LGRB 73	area not divided	5

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

section 159YR

Cassowary Coast Regional Council

- 2 councillors from Cardwell Shire Council
- the administrator of Johnstone Shire Council, who is eligible to be chosen as the chairperson of the local transition committee, and the member of the community reference group established for Johnstone Shire Council chosen by the administrator
- union representatives as provided for in chapter 3, part 1B, division 4, subdivision 1
- the interim chief executive officer for the new local government area as provided for in chapter 3, part 1B, division 4, subdivision 1

Torres Strait Island Regional Council

- 1 representative from each island council whose council area is included in Torres Strait Island Regional Council, who must be the chairperson of the island council, or a councillor who is the delegate of the chairperson
- union representatives as provided for in chapter 3, part 1B, division 4, subdivision 1
- the interim chief executive officer for the new local government area as provided for in chapter 3, part 1B, division 4, subdivision 1

Schedule 1C Composition of transferring area local transition committees

section 159YY

Transferring area local transition committee for transferring area A (Logan/Beaudesert)

- 2 councillors each from Logan City Council and Beaudesert Shire Council
- union representatives as provided for a local transition committee in chapter 3, part 1B, division 4, subdivision 1
- the chief executive officer of each of Logan City Council and Beaudesert Shire Council

Transferring area local transition committee for transferring area D (Logan/Gold Coast)

- 2 councillors each from Logan City Council and Gold Coast City Council
- union representatives as provided for a local transition committee in chapter 3, part 1B, division 4, subdivision 1
- the chief executive officer of each of Logan City Council and Gold Coast City Council

Transferring area local transition committee for transferring area E (Banana/Taroom)

- 2 councillors each from Banana Shire Council and Taroom Shire Council
- union representatives as provided for a local transition committee in chapter 3, part 1B, division 4, subdivision 1

Schedule 1C (continued)

- the chief executive officer of each of Banana Shire Council and Taroom Shire Council

Schedule 2 Dictionary

section 3

additional territorial unit, of a local government, has the meaning given by section 23.

administrative action, for chapter 6, part 5, see section 501C.

affected area, for a reviewable local government matter, means an area, or part of an area, prescribed under a regulation for the matter.

affected elector means—

(a) for an affected area (that is not divided into voting areas) for a reviewable local government matter for which a referendum is to be held in relation to an electoral and boundaries review commission's proposed determination of the matter—a person who, on the referendum roll cut off day, is, under the *Electoral Act 1992*, an elector for an electoral district, or part of an electoral district, included in the affected area; or

(b) for a voting area of an affected area for a reviewable local government matter for which a referendum is to be held for an electoral and boundaries review commission's proposed determination of the matter—a person who, on the referendum roll cut off day, is, under the *Electoral Act 1992*, an elector for an electoral district, or part of an electoral district, included in the voting area.

affected person, for chapter 6, part 5, see section 501B.

appeal tribunal means an appeal tribunal established under this Act to hear an appeal about the decision about which the expression is used.

appointer, of a local government employee, means—

(a) for the chief executive officer—the local government; or

(b) for a senior executive officer appointed by the local government—the local government; or

Schedule 2 (continued)

(c) for another employee—the chief executive officer.

approved form see section 1202.

approved inspection program see section 1098.

approves, a referendum question, see section 124(2) to (4).

area means—

(a) for a local government—its basic territorial unit; or

(b) for a joint local government—its territorial unit.

asset disposal plan, for a local government, means its most recent asset disposal plan under section 483I, as amended from time to time under section 483M.

auditor-general means the Queensland Auditor-General under the *Auditor-General Act 2009*.

authorised person—

(a) in chapter 3, part 2—means a person who is appointed under section 167; and

(b) in chapter 14, part 3, division 2—has the meaning given by section 980; and

(c) in chapter 15, part 5—has the meaning given by section 1082.

basic territorial unit, of a local government, has the meaning given by section 22.

budget meeting, of a local government, means a meeting of the local government at which it adopts its budget for a financial year.

category of local government, for chapter 4, part 3, division 3, means each category of local government established under section 250AH.

certified copy, of a local government's local law or subordinate local law, means a copy of the local law or subordinate local law certified by the local government's chief executive officer to be the local law or subordinate local law as made by the local government.

Schedule 2 (continued)

chairperson, of an expanded commission, means—

(a) if the commission is a special commission—the member mentioned in section 67(1)(a); or

(b) if paragraph (a) does not apply—the commission member who is the commissioner or deputy commissioner.

cleansing services includes services for the removal of nightsoil, refuse or recyclable material.

CMC means the Crime and Misconduct Commission under the *Crime and Misconduct Act 2001*.

code of conduct, for a local government, means the code of conduct for councillors adopted, or taken to have been adopted, by the local government under chapter 4, part 3A.

combined form means a form that—

(a) gives information required by this Act and other Acts about a change of ownership of land; and

(b) may be given to the registrar of titles.

commercial business unit, of a local government, see section 578.

commission means the Local Government Grants Commission.

commissioner means the electoral commissioner under the *Electoral Act 1992*.

committee, for chapter 4, part 3A, see section 250B.

common effluent drainage means a sewerage system for carrying off effluent from premises after treatment in an on-site sewerage facility for the premises.

Commonwealth Superannuation Act means the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

community deed of grant in trust see sections 1281(5) and 1286(5).

community forum see section 159ZZJ.

Schedule 2 (continued)

community titles Act means—

- the *Building Units and Group Titles Act 1980*
- the *Integrated Resort Development Act 1987*
- the *Mixed Use Development Act 1993*
- another Act prescribed by regulation.

company limited by shares has the same meaning as in the Corporations Act.

complaint, for chapter 6, part 5, see section 501B.

component local government means a local government entitled to be represented on a joint local government, either in its own right or as a member of a group of local governments.

compulsory referendum see section 92.

conclusion, of a local government election, has the meaning given by section 5.

conduct review panel, for a local government, means the conduct review panel convened by the local government as required under chapter 4, part 3A.

consolidated version, of a local law or subordinate local law, means a document that accurately combines a local government's local law or subordinate local law, as originally made, with all amendments made to the local law or subordinate local law since the local law or subordinate local law was originally made.

consultation period—

(a) for a proposed local law—means the period mentioned in section 868; and

(b) for a subordinate local law—means the period mentioned in section 878.

continuing candidate, for a counting of votes, means a candidate who has not been excluded at a previous count of votes.

Schedule 2 (continued)

conviction includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

councillor, of a local government, includes the local government's mayor.

cut off day, for the voters roll for an election, means the day to which the voters roll for the election must be compiled under section 277.

declaration envelope means an envelope on which there is a declaration that has been, or a form of declaration that is to be, made by an elector.

declaration form means a form on which there is a declaration to be made by an elector.

declaration vote means a vote for which a declaration envelope must be completed.

declaration voter means a person mentioned in section 343, 344, or 345.

delayed implementation determination, for a reviewable local government matter, means a determination, under section 93(2) or (3) or section 102(2) or (3), for the matter.

delayed implementation issues, for a reviewable local government matter mentioned in section 64(1)(c), means—

(a) the likely cost of conducting fresh elections that may be held because of the implementation of the matter; and

(b) the period since the conduct of the last elections of all councillors for the local governments affected by the matter; and

(c) the period before the conduct of the next quadrennial elections for the local governments.

delayed implementation reference, for a reviewable local government matter, means a reference of a matter mentioned in section 64(1)(c), for a local government whose area is divided, that—

Schedule 2 (continued)

(a) does not include a matter mentioned in section 64(1)(g), (h), (i) or (k); and

(b) the Minister states in the reference is a delayed implementation reference.

deputy commissioner means the deputy electoral commissioner under the *Electoral Act 1992*.

designated disposal activities, of a local government, see section 481B.

designated election offence see section 1077A.

detached house does not include—

(a) a caravan, trailer or vehicle; or

(b) a duplex; or

(c) a manufactured home.

differential general rate means a rate (other than a special rate) made and levied equally on the unimproved value of all rateable land in a local government area included in a category decided by the local government in levying the rate.

discount date, for a rate, means a date, decided by the local government, by which the rate must be paid for a discount to be allowed.

discount period, for a rate, means a period of time, decided by the local government, during which the rate must be paid for a discount to be allowed.

dispose of land or goods includes sell the land or goods.

distribute a how-to-vote card—

(a) includes make the card available to other persons; but

(b) does not include merely display the card.

Examples—

1 A person *distributes* how-to-vote cards if the person hands the cards to other persons or leaves them at a place for other persons to take away.

2 A person does not *distribute* how-to-vote cards if the person attaches the cards to walls and other structures, merely for display.

Schedule 2 (continued)

division, of a local government area, means a division of the area established for the election of councillors or a councillor.

drafting certificate, for a proposed interim local law, proposed local law or subordinate local law, means a certificate signed by the relevant local government's chief executive officer stating the law is drafted in sufficient accordance with drafting standards prescribed under a regulation for the law.

effective value of land for a financial year (the ***relevant financial year***), for the purpose of calculating the land's unimproved value to make and levy rates for a financial year (the ***current financial year***), means—

(a) if the relevant financial year is a financial year other than the current financial year—the unimproved value of the land decided under the *Valuation of Land Act 1944* effective on the last day of the financial year; or

(b) if the relevant financial year is the current financial year—the unimproved value of the land decided under the *Valuation of Land Act 1944*.

elect includes re-elect.

election means an election of councillors, or a councillor, of a local government.

election matter means anything able to, or intended to—

(a) influence an elector about voting at an election; or

(b) affect the result of an election.

election period, for an election, means the period—

(a) starting on the day when public notice of the holding of the election is given under section 301(1); and

(b) ending on the close of the poll in the election.

elector means a person entitled to vote under this Act.

electoral and boundaries review commission means a Local Government Electoral and Boundaries Review Commission established under section 66.

Schedule 2 (continued)

electoral commission means the Electoral Commission of Queensland under the *Electoral Act 1992*.

electoral officer, for an election, means the returning officer, an assistant returning officer or a presiding or issuing officer.

electoral paper means a ballot paper or declaration envelope or form.

electoral roll means a roll kept under the *Electoral Act 1992*.

encumbrance includes any of the following that affects land—

(a) a mortgage, lien or charge;

(b) a caveat;

(c) an agreement;

(d) a judgment, writ or process;

(e) an interest adverse to the interest of the land's owner;

but does not include an easement.

enterprise includes any business, undertaking and activity.

enterprise power has the meaning given by section 496(2).

exhausted ballot paper, for a count of votes, means a ballot paper on which there is not recorded a vote for a continuing candidate.

expanded commission means an electoral and boundaries review commission constituted by more than 1 commission member.

expenses reimbursement policy means a policy providing for the following—

(a) payment of reasonable expenses incurred, or to be incurred, by councillors of a local government for discharging their duties and responsibilities as councillors;

(b) provision of facilities to the councillors for that purpose.

explanatory statement see section 131.

Schedule 2 (continued)

facility includes work.

ferry includes a punt and floating pontoon.

financial controller, for a local government, means a person appointed under chapter 3, part 2, division 5 as a financial controller for the local government.

foreshore means the land lying between high-water mark and low-water mark at ordinary spring tides.

fresh election means an election under chapter 5, part 7.

general complaints process see section 501D(1).

general rate means a rate (other than a separate rate) made and levied by a local government equally on the unimproved value of all rateable land in its area.

government entity has the same meaning as in the *Government Owned Corporations Act 1993*.

guardian means a person who is recognised in law as having all the duties, powers, responsibilities and authority that, by law, parents have for their children.

holding means land held from the State for a leasehold interest.

Housing Act 2003 section 113 contract means a contract of sale entered into under the *Housing Act 2003*, section 113, under which—

(a) the purchasing price, other than any deposit, is payable in 2 or more instalments; or

(b) the sale is of a share in a house and land.

housing Act contract means—

(a) a housing Act s 24 contract; or

(b) a *Housing Act 2003* section 113 contract.

housing Act s 24 contract means a contract of sale entered into under the *State Housing Act 1945*, section 24, before the repeal of that Act, under which—

Schedule 2 (continued)

(a) the purchasing price, other than any deposit, is payable in 2 or more instalments; or

(b) the sale is of a share in a house and land.

how-to-vote card means—

(a) a card, handbill or pamphlet, relating to an election for which optional-preferential voting applies, that—

(i) is or includes—

(A) a representation of a ballot paper or part of a ballot paper; or

(B) something apparently intended to represent a ballot paper or part of a ballot paper; or

(ii) lists the names of any or all of the candidates for the election with a number indicating an order of voting preference against the names of any or all of the candidates; or

(iii) otherwise directs or encourages the casting of preference votes, other than first preference votes, in a particular way; or

(b) a card, handbill or pamphlet, relating to an election for which first-past-the-post voting applies, that—

(i) is or includes—

(A) a representation of a ballot paper or part of a ballot paper; or

(B) something apparently intended to represent a ballot paper or part of a ballot paper; or

(ii) directs or encourages the casting of a vote for a number of particular candidates equal to the number of candidates to be elected.

implementation issues, for a reviewable local government matter mentioned in section 64(1)(a), (c), (e) or (f), means—

(a) the apportionment of assets and liabilities between the local governments concerned; and

Schedule 2 (continued)

(b) the application of existing local laws, planning schemes and interim development control provisions; and

(c) the preservation of—

(i) valuations of, and rates levied on, rateable land that would be affected by the matter if it were implemented; and

(ii) any existing debentures issued by the local governments; and

(d) the rationalisation of staff of the local governments; and

(e) anything else prescribed under a regulation.

improved land means land, or the part of land, that is—

(a) the site or curtilage of a building; or

(b) a garden, lawn, yard or court; or

(c) a park, plantation, planted walk or avenue; or

(d) a nursery for trees; or

(e) land under cultivation.

improved value, for land, means the amount the land and fixed improvements on the land would be worth if—

(a) there were an exchange between a willing buyer and a willing seller in an arms-length transaction after proper marketing; and

(b) the parties had acted knowledgeably, prudently and without compulsion.

indigenous regional council means the Torres Strait Island Regional Council or the Northern Peninsula Area Regional Council.

information date, for chapter 5, part 5, see section 284A.

information notice, about a decision, means a written notice stating—

(a) the decision and the reasons for it; and

Schedule 2 (continued)

(b) that the person to whom the notice is given may appeal against the decision to a Magistrates Court within 14 days after the person receives the notice; and

(c) how to appeal.

infringement notice, for an infringement notice offence, means an infringement notice under the *State Penalties Enforcement Act 1999*.

infringement notice offence means an offence prescribed under the *State Penalties Enforcement Act 1999* to be an infringement notice offence.

institution means any of the following—

(a) a hospital;

(b) a convalescent home;

(c) a nursing home;

(d) a home for the aged;

(e) a hostel for the aged or infirm;

(f) another place prescribed by regulation as an institution.

interim development control provision means an interim development control provision that continues to have effect under the *Integrated Planning Act 1997*, section 6.1.12.

interim local law has the meaning given by section 852.

issuing officer means a person appointed to issue ballot papers, declaration envelopes or declaration forms to electors, and includes a returning officer, assistant returning officer and presiding officer when carrying out any of those functions.

joint board means the Townsville-Thuringowa Water Supply Joint Board established under chapter 2A.

joint local government means a joint local government established under this Act.

joint local government area means a part of the State that is established as a joint local government area under this Act.

Schedule 2 (continued)

jurisdiction of local government has the meaning given by section 25.

keeper of the register has the meaning given by section 1140.

land includes—

(a) freehold land; and

(b) a holding; and

(c) a mining claim.

land panel means a community forum separately constituted as a land panel under section 159ZZS.

land record, of a local government, means the record of rateable land in its area it is required to keep under section 994.

levee bank means an embankment or structure by which—

(a) water is prevented or reduced from flowing into or from land; or

(b) the flooding of land is prevented or reduced.

LGOC see section 592.

LG Super scheme see section 1180(1).

limited partner has the same meaning as in the *Partnership Act 1891*, chapter 3.

limited reviewable local government matter see section 65.

local governing body has the meaning given by the *Local Government (Financial Assistance) Act 1995* (Cwlth).

local government means a local government established under this Act.

local government Act means an Act under which a local government may exercise the jurisdiction of local government, and includes, for example—

(a) this Act; and

(b) the *Integrated Planning Act 1997*; and

(c) the *Plumbing and Drainage Act 2002*; and

Schedule 2 (continued)

(d) the *Water Act 2000*, chapter 2A; and

(e) the *Water Supply (Safety and Reliability) Act 2008*, chapter 2; and

(f) an interim development control provision; and

(g) a local law; and

(h) a planning scheme.

local government area means a part of the State that is established as a local government area under this Act.

Local Government Association means the Local Government Association of Queensland (Incorporated).

Local Government Finance Standards means the standards in force under section 502.

local government matter means a matter about local government.

local government owned corporation see section 592.

local law has the meaning given by section 850.

majority, of commission members of an expanded commission constituted by an even number of members, means at least one-half the members plus 1.

major reference, for a reviewable local government matter, means—

(a) a reference of, or reference including, a reviewable local government matter mentioned in section 64(1)(g) or (h) that, if implemented, would affect the City of Brisbane; or

(b) a reference of another reviewable local government matter that—

(i) the Minister states in the reference of the matter is a major reference; or

Schedule 2 (continued)

(ii) the commissioner or an electoral and boundaries review commission declares under section 81 or 83 is a major reference.[56]

manufactured home see the *Manufactured Homes (Residential Parks) Act 2003*, section 10.

market value, of land for chapter 14, means the improved value of the land obtained by the local government from a valuer registered under the *Valuers Registration Act 1992* who is not an employee of the local government.

material personal interest of a person has the meaning given by section 6.

meeting breach, for chapter 4, part 3A, see section 250M(1).

member for—

(a) a joint local government—includes the president and deputy president of the joint local government; or

(b) for the joint board—see section 60A; or

(c) a local government committee—includes the chairperson and deputy chairperson of the committee; or

(d) the Local Government Grants Commission—includes the chairperson and deputy chairperson of the commission; or

(e) an electoral and boundaries review commission—means a member of the commission.

merit, of an applicant, includes the applicant's abilities, knowledge and skills relevant to the position concerned.

minimum general rate levy means an amount fixed as the minimum amount payable as a general rate or differential general rate for all or any rateable land in a local government area.

mining claim means a mining claim to which the *Mineral Resources Act 1989* applies.

56 A special reference is a major reference under paragraph (a)—see definition *special reference*.

Schedule 2 (continued)

mining lease means a mining lease to which the *Mineral Resources Act 1989* applies.

minor amendment, of a local law, means an amendment correcting or changing—

(a) the format or presentation of the local law; or

(b) a grammatical error in the local law; or

(c) a factual matter incorrectly stated in the local law; or

(d) redundant or outdated terms.

minor breach, for chapter 4, part 3A and chapter 6, part 5, see section 250M(2).

minor reference, for a reviewable local government matter, means a reference the commissioner declares, under section 81, is a minor reference, but does not include a reference an electoral and boundaries review commission declares, under section 83, to be a major reference.

misconduct, of a local government employee, means—

(a) disgraceful or improper conduct that shows unfitness to be or to continue as a local government employee; or

(b) behaviour that does not satisfy a standard of behaviour generally expected of local government employees; or

(c) a contravention of a provision of this or another Act setting out what the employee must or must not do (whether or not the Act provides for a penalty for contravening the provision).

mobile polling booth means a place declared by a returning officer as a mobile polling booth for a ballot in a poll.

model local law has the meaning given by section 851.

nomination day means the day specified as the nomination day for an election—

(a) in a notice under section 301; or

(b) in a gazette notice under section 316.

non-compulsory referendum see section 92.

Schedule 2 (continued)

non-current assets, of a local government, means any of its assets that are not current assets.

notice of realignment means a notice under section 902(3).

notional GST means amounts a local government may pay under the *GST and Related Matters Act 2000*, section 5.

on-site sewage treatment plant see *Plumbing and Drainage Act 2002*, schedule.

on-site sewerage facility see *Plumbing and Drainage Act 2002*, schedule.

open to inspection has the meaning given by section 7.

opposes, a referendum question, see section 124(5).

ordinary polling booth means a place, or part of a place, a returning officer arranges to be used on polling day to enable electors in general to vote.

ordinary voting hours means the hours between 8a.m. and 6p.m.

overdue rate for—

(a) Brisbane City Council—means the unpaid amount of a rate under the *City of Brisbane Act 1924*, section 67(1); or

(b) another local government—see section 1016.

owner, of land—

(a) generally—see section 4; and

(b) for chapter 3, part 1—see also section 63.

pensioner means a person receiving a pension, allowance or benefit prescribed by regulation.

perform work includes take action to comply with a local government Act.

permissible company has the meaning given by section 497.

place includes a vehicle.

Schedule 2 (continued)

planning scheme has the meaning given by the *Integrated Planning Act 1997*, section 2.1.1.

political party means an organisation registered as a political party under the *Electoral Act 1992*.

polling booth means—

(a) an ordinary polling booth; or

(b) a mobile polling booth; or

(c) the place declared as a polling booth to enable an elector to cast a declaration vote under section 352.

polling day, for an election, means the day—

(a) specified in a notice under section 311; or

(b) fixed by notice under section 313; or

(c) fixed by a notice under section 316; or

(d) fixed by a notice under section 342.

postal ballot election means an election for a local government area, a division of a local government area or a part of a local government area for which the Governor in Council has directed that the poll be conducted by postal ballot.

premises group means the land comprised in 2 or more premises all the owners of which have mutual rights and obligations under the *Body Corporate and Community Management Act 1997* or *Building Units and Group Titles Act 1980*, but only to the extent of its continued application for a specified Act, for the purpose of their respective ownerships, and includes the common property forming part of—

(a) if the premises are lots included in a community titles scheme under the *Body Corporate and Community Management Act 1997*—the scheme land under that Act for the scheme; or

(b) if the premises are lots under the *Building Units and Group Titles Act 1980*, but only to the extent of its continued application for a specified Act—the parcel of which the premises form part.

Schedule 2 (continued)

prescribed offices see section 7.

prescribed regulatory fee see section 1071B(1).

procurement activities, of a local government, see section 481A.

procurement plan, for a local government, means its most recent made procurement plan made under section 483D, as amended from time to time under section 483E.

procurement principles see section 481(2).

prohibited substance means—

(a) a solid or viscous substance in a quantity, or of a size, that can obstruct, or interfere with the operation of, stormwater drainage; or

Examples for paragraph (a)—

- ash, cinders, sand, mud, straw and shavings
- metal, glass and plastics
- paper and plastic dishes, cups and milk containers
- rags, feathers, tar and wood
- whole blood, paunch manure, hair and entrails
- oil and grease
- cement laden waste water, including, wash down from exposed aggregate concrete surfaces

(b) a flammable or explosive solid, liquid or gaseous substance; or

(c) sewage; or

(d) a substance that, given its quantity, is capable alone, or by interaction with another substance discharged into stormwater drainage, of—

(i) inhibiting or interfering with the stormwater drainage; or

(ii) causing damage or a hazard to the stormwater drainage; or

(iii) causing a hazard for humans or animals; or

Schedule 2 (continued)

(iv) creating a public nuisance; or

(v) creating a hazard in waters into which it is discharged; or

(vi) contaminating the environment in places where stormwater is discharged or reused; or

Example for paragraph (d)—

a substance with a pH lower than 6.0 or greater than 10.0, or having another corrosive property

(e) a substance having a temperature of more than—

(i) if the local government has approved a maximum temperature for the substance—the approved maximum temperature; or

(ii) if paragraph (a) does not apply—38ºC.

property sewer means a sewer for premises or a premises group.

public office, of a local government, means the premises kept as its public office under section 37.

public place means any place that the public is entitled to use, is open to the public, or used by the public, whether or not on payment of money.

public thoroughfare easement means a public thoroughfare easement under either of the following provisions, if the easement is in favour of a local government—

(a) the *Land Act 1994*, chapter 6, part 4, division 8;

(b) the *Land Title Act 1994*, part 6, division 4.

question, for a referendum, means the question asked at the referendum.

rate means a rate or charge mentioned in section 963(1), and includes any interest accrued, or premium owing, on a rate or charge mentioned in the section.

rateable land has the meaning given by section 957.

rating category has the meaning given by section 983(3)(a).

Schedule 2 (continued)

referendum means a referendum under chapter 3, part 1, division 7, for an electoral and boundaries review commission's proposed determination of a reviewable local government matter.

referendum day see section 127.

referendum notice, for a referendum, see section 128.

referendum roll cut off day, for a referendum, means the day stated in the referendum notice for the referendum as the referendum roll cut off day.

reform commission see section 159D.

registrar of titles means a public official or authority responsible for registering title to land and dealings affecting land.

regulatory fee see section 1071A(1).

remuneration schedule see section 250AK(3).

remuneration tribunal means the Local Government Remuneration Tribunal established under section 250AA.

repealed Torres Strait Act means the *Community Services (Torres Strait) Act 1984* as in force before its repeal under the *Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007*.

repeat breach, for chapter 4, part 3A, see section 250M(3).

required number, in chapter 12, means the number decided by the Minister.

returning officer, for a referendum, means the person appointed under section 126 as the returning officer for the referendum.

reviewable local government matter has the meaning given by section 64.

review commissioner means a review commissioner appointed under chapter 3, part 1, division 8, subdivision 2.

road means—

(a) an area of land dedicated to public use as a road; or

Schedule 2 (continued)

(b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or

(c) a bridge, culvert, ferry, ford, tunnel or viaduct; or

(d) a pedestrian or bicycle path; or

(e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d);

but does not include a State-controlled road under the *Transport Infrastructure Act 1994*, or a public thoroughfare easement.

sanitary drain means a drain (not including a pipe that is a part of common effluent drainage) that is immediately connected to, and used to carry discharges from, a soil or waste pipe for premises.

sanitary drainage means apparatus, fittings and pipes for collecting and carrying discharges from sanitary plumbing, or from fixtures directly connected to a sanitary drain, to a sewerage system or on-site sewerage facility, including the following apparatus, fittings and pipes—

(a) disconnector gullies;

(b) bends at the foot of stacks or below ground level;

(c) for an on-site sewerage facility—a pipe (other than a soil or waste pipe) used to carry sewage to or from the facility;

(d) pipes above ground level, installed using drainage principles.

sanitary plumbing means apparatus, fittings, fixtures and pipes that carry sewage to a sanitary drain.

senior executive officer, of a local government, means an employee of the local government—

(a) who reports directly to the chief executive officer; and

(b) whose position ordinarily would be considered to be a senior position in the local government's corporate structure.

Schedule 2 (continued)

separate charge means a charge made and levied by a local government equally on all rateable land in its area.

separate rate means a rate made and levied by a local government equally on the unimproved value of all rateable land in its area.

septic tank means a tank in which solid organic matter in sewage is decomposed by anaerobic bacteria.

sewage treatment plant means equipment for the biological, physical or chemical treatment of sewage.

sewerage system means infrastructure used to receive, transport and treat sewage or effluent, including, for example, sewers, access chambers, vents, engines, pumps, structures, machinery and outfalls.

sign a thing includes the making of a mark on the thing before someone else who signs the thing as witness.

significant business activity, of a local government, means a significant business activity of the local government under chapter 8.

significant designated disposal activity see section 483J(1)(e).

significant procurement activity see section 483D(4)(g).

significant procurement activity plan see section 483G(1).

special charge means a charge made and levied by a local government on some, but not all, rateable land in its area.

special commission means an electoral and boundaries review commission established for a special reference of a reviewable local government matter.

special rate means a rate made and levied by a local government on the unimproved value of some, but not all, rateable land in its area.

special reference, for a reviewable local government matter, means a reference under section 288 of a reviewable local government matter mentioned in section 64(1)(g) or (h) that, if implemented, would affect the City of Brisbane.

Schedule 2 (continued)

spent conviction means a conviction—

(a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

(b) that is not revived as prescribed by section 11 of that Act.

State-controlled road means a State-controlled road under the *Transport Infrastructure Act 1994*.

State interest, for a local law or subordinate local law, a provision of a local law or subordinate local law, or a provision of a proposed local law, is—

(a) an interest that, in the Governor in Council or Minister's opinion, affects an economic, social or environmental interest of the State or a region; or

(b) an interest in ensuring there is an efficient, effective and accountable system of local government; or

(c) an interest prescribed by regulation.

State land means unallocated State land within the meaning of the *Land Act 1994*.

State office, of the department, means the department's address prescribed by regulation.

statutory breach, for chapter 4, part 3A, see section 250M(4).

statutory obligation, for chapter 4, part 3A, see section 250B.

stormwater drainage means a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.

stormwater installation, for premises, means roof gutters, downpipes, subsoil drains and stormwater drainage for the premises, but does not include any part of a local government's stormwater drainage.

structure means anything built or constructed, whether or not attached to land.

subordinate local law see section 853.

Schedule 2 (continued)

tax component see section 1071B(1).

territorial unit—

(a) for a local government—has the meaning given by section 24; or

(b) for a joint local government—means its joint local government area.

threshold amount, for value of non-current assets of a local government, means the amount it sets under the Local Government Finance Standards below which the value of a non-current asset must be treated as an expense.[57]

time share scheme, for a structure, means a scheme or arrangement that is to operate for at least 3 years during which time the participants in the scheme or arrangement are, or may become, entitled to use, occupy or possess the structure, or part of the structure, for 2 or more periods.

trade waste means water-borne waste from business, trade or manufacturing premises, other than—

(a) a prohibited substance; and

(b) human waste.

trustee decision see section 159ZZV.

trust land means land that is the subject of a community deed of grant in trust.

unimproved value of land for a financial year—

(a) if the relevant local government has made a resolution under section 959 for the financial year—means the averaged value of the land calculated under chapter 14, part 1, division 2; or

(b) for a mining claim—is the amount specified under section 970; or

57 See the Local Government Finance Standards, sections 42 (Register of non-current assets) and 43 (Setting amount for treating non-current asset as an expense).

Schedule 2 (continued)

(c) in any other case—has the meaning given by the *Valuation of Land Act 1944*.

utility charge means a charge for the supply by a local government of water, gas, sewerage or cleansing services to any land or structure.

valuation authority means the chief executive within the meaning of the *Valuation of Land Act 1944*.

veterinary surgeon means a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1936*.

voters roll, for an election, is the roll compiled by the returning officer of persons entitled to vote at the election.

voting areas, of an affected area, mean the parts into which an affected area is divided, under a regulation, for a referendum.

voting hours, for voting at a mobile polling booth or declaration voting at a place under section 352, means the hours when electors may enter the booth or place to vote at an election.

watercourse means a river, creek or channel where water flows naturally.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2009. Future amendments of the Local Government Act 1993 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key		Explanation	Key		Explanation
AIA	=	**Acts Interpretation Act 1954**	**(prev)**	=	**previously**
amd	=	**amended**	**proc**	=	**proclamation**
amdt	=	**amendment**	**prov**	=	**provision**
ch	=	**chapter**	**pt**	=	**part**
def	=	**definition**	**pubd**	=	**published**
div	=	**division**	**R[X]**	=	**Reprint No.[X]**
exp	=	**expires/expired**	**RA**	=	**Reprints Act 1992**
gaz	=	**gazette**	**reloc**	=	**relocated**
hdg	=	**heading**	**renum**	=	**renumbered**
ins	=	**inserted**	**rep**	=	**repealed**
lap	=	**lapsed**	**(retro)**	=	**retrospectively**
notfd	=	**notified**	**rv**	=	**revised edition**
num	=	**numbered**	**s**	=	**section**
o in c	=	**order in council**	**sch**	=	**schedule**
om	=	**omitted**	**sdiv**	=	**subdivision**
orig	=	**original**	**SIA**	=	**Statutory Instruments Act 1992**
p	=	**page**	**SIR**	=	**Statutory Instruments Regulation 2002**
para	=	**paragraph**	**SL**	=	**subordinate legislation**
prec	=	**preceding**	**sub**	=	**substituted**
pres	=	**present**	**unnum**	=	**unnumbered**
prev	=	**previous**			

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1994 Act No. 1	26 March 1994	26 March 1994
2	1994 Act No. 77	10 March 1995	3 April 1995
3	1995 Act No. 32	1 July 1995	7 July 1995
3A	1996 Act No. 81	1 February 1997	7 April 1997
3B	1997 Act No. 42	24 October 1997	31 October 1997
3C	1997 Act No. 78	1 January 1998	12 January 1998
3D	1998 Act No. 21	30 March 1998	5 June 1998
4	1998 Act No. 21	30 June 1998	1 July 1998
4A	1998 Act No. 31	20 July 1998	17 September 1998
4B	1998 Act No. 31	12 October 1998	14 October 1998
4C	1999 Act No. 11	30 March 1999	9 April 1999
4D	1999 Act No. 42	1 July 1999	13 September 1999
4E	1999 Act No. 70	1 December 1999	7 March 2000
5	2000 Act No. 5	16 March 2000	2 June 2000
5A	2000 Act No. 26	1 July 2000	18 August 2000
5B	2000 Act No. 34	1 October 2000	3 November 2000

Reprint No.	Amendments to	Effective	Reprint date
5C	2000 Act No. 34	27 November 2000	28 November 2000
6	2001 Act No. 45	30 June 2001	6 July 2001
6A	2001 Act No. 45	15 July 2001	27 July 2001
6B	2001 Act No. 73	3 December 2001	14 December 2001
6C	2001 Act No. 98	1 January 2002	4 January 2002
6D	2001 Act No. 98	1 January 2002	11 January 2002
6E	2001 Act No. 98	1 February 2002	15 February 2002
6F	2001 Act No. 98	1 March 2002	1 March 2002
6G	2002 Act No. 8	19 April 2002	26 April 2002
6H	2002 Act No. 8	1 June 2002	1 June 2002
7	2002 Act No. 20	6 June 2002	7 June 2002

Reprint No.	Amendments included	Effective	Notes
7A rv	2002 Act No. 7 2002 Act No. 20	1 July 2002	provs exp 30 June 2002
7B rv	2002 Act No. 34	16 August 2002	
7C rv	2002 Act No. 37	29 August 2002	
7D rv	2002 Act No. 68	1 January 2003	
7E rv	—	2 March 2003	provs exp 1 March 2003
7F rv	2003 Act No. 2	4 March 2003	R7F rv withdrawn, see R8 rv
8 rv	—	4 March 2003	Revision notice issued for R8
8A rv	—	2 July 2003	provs exp 1 July 2003
8B rv	2003 Act No. 64	16 October 2003	
8C rv	2001 Act No. 93	20 October 2003	
8D rv	2002 Act No. 77	1 November 2003	
8E rv	2003 Act No. 85	6 November 2003	
8F rv	2002 Act No. 77 2003 Act No. 64	14 November 2003	
8G rv	1994 Act No. 8 (amd 2003 Act No. 54)	1 December 2003	
8H rv	2003 Act No. 52 2005 Act No. 33	1 January 2004	R8H rv withdrawn, see R9 rv
9 rv	—	1 January 2004	Revision notice issued for R9
9A rv	2003 Act No. 74	1 March 2004	
9B rv	2003 Act No. 85	29 March 2004	
9C rv	2004 Act No. 1	21 May 2004	
9D rv	—	2 July 2004	provs exp 1 July 2004
9E rv	2004 Act No. 20	5 October 2004	
9F rv	2004 Act No. 29	22 November 2004	
9G rv	2004 Act No. 53	29 November 2004	
9H rv	2004 Act No. 25	31 December 2004	
9I rv	2004 Act No. 37	1 January 2005	
9J rv	2005 Act No. 26	31 May 2005	
9K	2005 Act No. 33	18 August 2005	
9L	2005 Act No. 54	18 November 2005	

Reprint No.	Amendments included	Effective	Notes
9M	2005 Act No. 68	6 February 2006	
9N	2005 Act No. 39	1 March 2006	R9N withdrawn, see R10
10	—	1 March 2006	
10A	2006 Act No. 36	10 August 2006	
10B	2006 Act No. 41	11 August 2006	
10C	1975 Act No. 11 (amd 2006 No. 36) 2006 Act No. 36	1 September 2006	
10D	2006 Act No. 59	7 December 2006	
10E rv	2007 Act No. 21	26 April 2007	R10E rv withdrawn, see R11 rv
11 rv	—	26 April 2007	Revision notice issued for R11
11A	2007 Act No. 31	10 August 2007	
11B	—	12 August 2007	prov exp 11 August 2007
11C	2005 SL No. 81 (amd 2007 SL No. 219)	1 September 2007	prov exp 31 August 2007
11D	2007 Act No. 57 2007 Act No. 58	16 November 2007	
11E	2007 Act No. 59 2007 Act No. 60	22 November 2007	
11F	2008 Act No. 5	13 March 2008	
11G	2007 Act No. 59	15 March 2008	
12	2008 Act No. 13	23 April 2008	
12A	2008 Act No. 36	20 June 2008	
12B	2008 Act No. 30 2008 Act No. 34	1 July 2008	
12C	2008 Act No. 46	12 September 2008	
12D	2008 Act No. 74	11 December 2008	
12E	—	1 January 2009	provs exp 31 December 2008
12F	2009 Act No. 3	23 February 2009	
12G	2009 Act No. 17	12 June 2009	
12H	2008 Act No. 73 2008 Act No. 74 2009 Act No. 9 2009 Act No. 13	1 July 2009	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	3
Corrected minor errors	2, 3, 4, 12
Obsolete and redundant provisions	2, 3
Renumbered provisions	2, 3, 4

6 List of legislation

Local Government Act 1993 No. 70
date of assent 7 December 1993
ss 1–4, ch 4 pt 1, ch 5, ch 6 pt 2, s 689, ch 13 pt 2, ch 14 pt 1 (ss 764–5, div 5, s 800) commenced on date of assent
ch 13 pt 3 commenced 24 February 1994 (see s 2(1A))
s 395 commenced 1 July 1994 (see s 2(2))
remaining provisions commenced on 26 March 1994 (see s 2(5))

amending legislation—

Local Government Legislation Amendment Act 1994 No. 1 pts 1, 3
date of assent 24 February 1994
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 2
date of assent 10 May 1994
ss 1–2 commenced on date of assent
sch 2 amdts 4–8 commenced 26 March 1994 (see s 3 sch 2)
remaining provisions commenced on date of assent

Transport Infrastructure Amendment Act (No. 2) 1994 No. 49 ss 1–2, 6 sch 2
date of assent 14 September 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 18 November 1994 (1994 SL No. 399)

Building Units and Group Titles Act 1994 No. 69 ss 1–2, 229 sch 2
date of assent 1 December 1994
ss 1–2 commenced on date of assent
never proclaimed into force and rep 1995 No. 58 s 5(1) sch 7

Fire Service Legislation Amendment Act 1994 No. 71 pts 1, 3
date of assent 1 December 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 26 March 1994 (see s 2)

Local Government Amendment Act 1994 No. 77
date of assent 1 December 1994
ss 1–2, 3 sch 2 commenced on date of assent (see s 2)
remaining provisions commenced 10 March 1995 (1995 SL No. 54)

Land Act 1994 No. 81 ss 1–2, 527 sch 5 (this Act is amended, see amending legislation below)
date of assent 1 December 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1995 (1995 SL No. 185)

amending legislation—

Statute Law Revision Act 1995 No. 57 s 4 sch 1 (amends 1994 No. 81 above)
date of assent 28 November 1995
s 4 sch 1 amdts 21 and 22 commenced 1 July 1995 (see s 2(1) sch 1)
remaining provisions commenced on date of assent

Local Government Legislation Amendment Act 1995 No. 11 pts 1, 4
date of assent 5 April 1995
ss 1–2, 8–9, 11, 13, 15 commenced on date of assent
remaining provisions commenced 1 July 1995 (see s 2)

Transport Infrastructure Amendment (Rail) Act 1995 No. 32 pt 1, s 23 sch
date of assent 14 June 1995
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1995 (see s 2(2) and 1995 SL No. 162 ss 2(3), 19)

Local Government Amendment Act 1995 No. 39
date of assent 15 September 1995
commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1
date of assent 28 November 1995
commenced on date of assent

Local Government Amendment Act 1996 No. 6
date of assent 9 May 1996
commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2
date of assent 22 October 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch
date of assent 20 November 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 June 1997 (1997 SL No. 128)

WorkCover Queensland Act 1996 No. 75 ss 1–2, 535 sch 2
date of assent 12 December 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 February 1997 (1996 SL No. 442)

Local Government Legislation Amendment Act 1996 No. 81 pts 1, 3 s 15 sch
date of assent 16 December 1996
commenced on date of assent

Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch
date of assent 15 May 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1997 (1997 SL No. 163)

Local Government Legislation Amendment Act 1997 No. 23 pts 1, 3, s 13 sch (this Act is amended, see amending legislation below)
date of assent 22 May 1997

ss 5(1), 17(1), 39 (so far as it inserts chs 7B–7C), 40–50, 53 (so far as it inserts orig s 793C), 54 (so far as it inserts ss 803G–803N and 803P) commenced 24 October 1997 (see s 2 and 1997 SL No. 358)
remaining provisions commenced on date of assent

amending legislation—

Local Government Legislation Amendment Act (No. 2) 1997 No. 42 pts 1–2, s 19 sch (amends 1997 No. 23 above)
date of assent 25 August 1997
commenced on date of assent

Body Corporate and Community Management Act 1997 No. 28 ss 1–2, 295 sch 3
date of assent 22 May 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 13 July 1997 (1997 SL No. 210)

Local Government Legislation Amendment Act (No. 2) 1997 No. 42 pts 1–2, s 19 sch
date of assent 25 August 1997
commenced on date of assent

Integrated Planning Act 1997 No. 69 ss 1.1.1–1.1.2, 6.3.1 sch 9 (this Act is amended, see amending legislation below)
date of assent 1 December 1997
ss 1.1.1–1.1.2 commenced on date of assent
remaining provisions commenced 30 March 1998 (1998 SL No. 56)

amending legislation—

Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 179 (amends 1997 No. 69 above)
date of assent 23 March 1998
ss 1–2 commenced on date of assent
remaining provisions commenced 30 March 1998 (1998 SL No. 56)

Local Government Legislation Amendment Act (No. 3) 1997 No. 76 pts 1, 3 s 8 sch
date of assent 1 December 1997
commenced on date of assent

Natural Resources and Other Legislation Amendment Act 1997 No. 78 ss 1, 2(2), pt 8
date of assent 5 December 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 1998 (1997 SL No. 479)

Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch (this Act is amended, see amending legislation below)
date of assent 23 March 1998
ss 1–2 commenced on date of assent
remaining provisions commenced 30 March 1998 (1998 SL No. 55)

amending legislation—

Integrated Planning and Other Legislation Amendment Act 1998 No. 31 ss 1, 2(5), 67–68 (amends 1998 No. 13 above)
date of assent 3 September 1998

1–2 commenced on date of assent
remaining provisions commenced 12 October 1998 (1998 SL No. 270)

Government Owned Corporations and Other Legislation Amendment Act 1998 No. 21 ss 1, 2(3) pt 3
date of assent 1 May 1998
ss 1–2 commenced on date of assent
remaining provisions commenced 20 July 1998 (1998 SL No. 200)

Integrated Planning and Other Legislation Amendment Act 1998 No. 31 ss 1, 2(5) pt 7
date of assent 3 September 1998
ss 1–2 commenced on date of assent
remaining provisions commenced 12 October 1998 (1998 SL No. 270)

Integrated Planning and Other Legislation Amendment Act 1999 No. 11 ss 1, 2(2) pt 3
date of assent 30 March 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 30 March 1999 (see s 2(2))

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch
date of assent 30 April 1999
commenced on date of assent

Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch
date of assent 16 June 1999
ss 1–2, 50 commenced on date of assent
remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999 SL No. 119, 1999 SL No. 70 s 2(3))

Local Government and Other Legislation Amendment Act 1999 No. 30 ss 1–2, pt 6, s 35 sch 2 (this Act is amended, see amending legislation below)
date of assent 16 June 1999
pt 6, div 4, sch 2 pt 2 commenced 1 January 2000 (see s 2(2))
s 81 commenced 1 July 1999 (see s 2(1))
s 82 commenced 1 July 2000 (see s 2(3))
remaining provisions commenced on date of assent (see s 2(4))

amending legislation—

Local Government and Other Legislation Amendment Act (No. 2) 1999 No. 59 ss 1, 2(7) s 60 sch (amends 1999 No. 30 above)
date of assent 29 November 1999
commenced on date of assent

Industrial Relations Act 1999 No. 33 ss 1, 2(2), 747 sch 3
date of assent 18 June 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1999 (1999 SL No. 159)

Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3), sch pt 3
date of assent 2 September 1999

ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1999 (see s 2(1))

Local Government and Other Legislation Amendment Act (No. 2) 1999 No. 59 ss 1, 2(1), (3), (5), (7) pt 2 s 60 sch
date of assent 29 November 1999
ss 3, 14 commenced 16 June 1999 (see s 2(1))
s 4 commenced 25 March 2000 (see s 2(3))
s 12 commenced 1 June 2000 (see s 2(5))
remaining provisions commenced on date of assent

State Penalties Enforcement Act 1999 No. 70 ss 1–2, 166 sch 1
date of assent 6 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 27 November 2000 (2000 SL No. 274)

Vegetation Management Act 1999 No. 90 ss 1–2 pt 9 (this Act is amended, see amending legislation below)
date of assent 21 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 15 September 2000 (2000 SL No. 242)

amending legislation—

Vegetation Management Amendment Act 2000 No. 35 ss 1, 24 (amends 1999 No. 90 above)
date of assent 13 September 2000
commenced on date of assent

Land Court Act 2000 No. 1 ss 1–2, 86 sch 1
date of assent 8 March 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (2000 SL No. 165)

Local Government and Other Legislation Amendment Act 2000 No. 4 ss 1, 2(5) pt 2 s 94 sch
date of assent 16 March 2000
commenced on date of assent (see s 2(5))

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3
date of assent 23 March 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3
date of assent 23 June 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2(4))

Primary Industries and Natural Resources Legislation Amendment Act 2000 No. 26 ss 1, 12 sch 1
date of assent 27 June 2000
commenced on date of assent

Water Act 2000 No. 34 ss 1–2, 1144 sch 2
date of assent 13 September 2000
ss 1–2 commenced on date of assent
sch 2 amdt 1 commenced 1 October 2000 (2000 SL No. 257)
sch 2 amdt 2 commenced 1 July 2000 (see s 2(1)(b))
remaining provisions commenced 19 April 2002 (2002 SL No. 69)

Electoral and Other Acts Amendment Act 2001 No. 25 pts 1, 3
date of assent 25 May 2001
commenced on date of assent

Local Government and Other Legislation Amendment Act 2001 No. 29 ss 1, 2(2)–(3), pt 2 sch
date of assent 25 May 2001
ss 5, 10 commenced 30 June 2001 (see s 2(2))
s 9 commenced 18 June 2001 (2001 SL No. 74)
remaining provisions commenced on date of assent

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3
date of assent 28 June 2001
ss 1–2 commenced on date of assent
sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)
remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

Crime and Misconduct Act 2001 No. 69 ss 1–2, 378 sch 1
date of assent 8 November 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2002 (2001 SL No. 221)

Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1
date of assent 13 November 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 1 March 2002 (2002 SL No. 10)

Ombudsman Act 2001 No. 73 ss 1–2, 96 sch 1
date of assent 13 November 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 3 December 2001 (2001 SL No. 224)

Constitution of Queensland 2001 No. 80 ss 1–2, 94 sch 2
date of assent 3 December 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 6 June 2002 (see s 2)

Parliament of Queensland Act 2001 No. 81 ss 1–2, ch 9 pt 9
date of assent 3 December 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 6 June 2002 (see s 2)

Natural Resources and Other Legislation Amendment Act 2001 No. 92 ss 1, 2(2), pt 6
date of assent 10 December 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 1 February 2002 (2002 SL No. 4)

Coastal Protection and Management and Other Legislation Amendment Act 2001 No. 93 pts 1, 4
date of assent 10 December 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 20 October 2003 (2003 SL No. 202)

Local Government and Other Legislation Amendment Act (No. 2) 2001 No. 98 pts 1–2
date of assent 19 December 2001
ss 1–2 commenced on date of assent
ss 4–8, 13, 16–18 commenced 1 June 2002 (2002 SL No. 5)
s 19 commenced 1 February 2002 (2002 SL No. 5)
remaining provisions commenced on date of assent

Building and Other Legislation Amendment Act 2002 No. 7 pts 1, 4
date of assent 19 April 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2002 (2002 SL No. 171)

Electoral and Other Acts Amendment Act 2002 No. 8 pts 1, 6
date of assent 19 April 2002
ss 1–2 commenced on date of assent
s 58 commenced 6 June 2002 (see s 2(1))
remaining provisions commenced 6 June 2002 (2002 SL No. 119)

State Housing and Other Acts Amendment Act 2002 No. 20 ss 1–2(1), pt 3
date of assent 17 May 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2002 (see s 2(1))

Justice and Other Legislation (Miscellaneous Provisions) Act 2002 No. 34 ss 1, 74 sch 6
date of assent 16 August 2002
commenced on date of assent

Local Government Amendment Act 2002 No. 37
date of assent 29 August 2002
commenced on date of assent

Criminal Proceeds Confiscation Act 2002 No. 68 ss 1–2(1), 339 sch 4
date of assent 29 November 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2003 (see s 2(1))

Plumbing and Drainage Act 2002 No. 77 ss 1–2, pt 14
date of assent 13 December 2002
ss 1–2 commenced on date of assent
pt 14 divs 1–2 commenced 1 November 2003 (2003 SL No. 264)
remaining provisions commenced 14 November 2003 (2003 SL No. 272)

Local Government Legislation Amendment Act 2003 No. 2 s 1, pt 4, s 22(2) sch
date of assent 4 March 2003
commenced on date of assent

Housing Act 2003 No. 52 ss 1–2, 153 sch 2
date of assent 15 September 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2004 (2003 SL No. 332)

Transport Infrastructure Act 1994 No. 8 s 491(3) sch 5 (this Act is amended, see amending legislation below)

amending legislation—

Transport Infrastructure and Another Act Amendment Act 2003 No. 54 ss 1–2, 34, 39 (amends 1994 No. 8 above)
date of assent 18 September 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2003 (2003 SL No. 294)

Integrated Planning and Other Legislation Amendment Act 2003 No. 64 ss 1, 2(3)(d), (4), pt 7
date of assent 16 October 2003
ss 1–2, 126–128 commenced on date of assent (see s 2(3)(d))
remaining provisions commenced 14 November 2003 (2003 SL No. 271)

Manufactured Homes (Residential Parks) Act 2003 No. 74 ss 1–2, 155 sch 1
date of assent 22 October 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 1 March 2004 (2003 SL No. 336)

Local Government and Other Legislation Amendment Act 2003 No. 85 pts 1, 4, s 28 sch
date of assent 6 November 2003
ss 1–2 commenced on date of assent
s 17 commenced 29 March 2004 (2004 SL No. 23)
remaining provisions commenced on date of assent

Vegetation Management and Other Legislation Amendment Act 2004 No. 1 ss 1–2, 44(1) sch 1
date of assent 29 April 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 21 May 2004 (2004 SL No. 62)

Integrated Planning and Other Legislation Amendment Act 2004 No. 20 pts 1, 4
date of assent 3 September 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 5 October 2004 (2004 SL No. 192)

Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), 1007–1008 (prev ss 947–948)
date of assent 12 October 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 31 December 2004 (2004 SL No. 308)

Partnership and Other Acts Amendment Act 2004 No. 29 ss 1, 2(2), 62–63
date of assent 12 October 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 22 November 2004 (2004 SL No. 250)

Local Government (Community Government Areas) Act 2004 No. 37 ss 1–2, 86 sch 1
date of assent 27 October 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2005 (2004 SL No. 266)

Statute Law (Miscellaneous Provisions) Act 2004 No. 53
date of assent 29 November 2004
commenced on date of assent

Local Government Legislation Amendment Act 2005 No. 26 pts 1, 3
date of assent 31 May 2005
commenced on date of assent

Housing and Other Acts Amendment Act 2005 No. 33 ss 1, 2(2), pt 4
date of assent 18 August 2005
ss 1–2, 18 commenced on date of assent
remaining provisions commenced 1 January 2004 (see s 2(2))

Plumbing and Drainage and Other Legislation Amendment Act 2005 No. 39 pts 1, 3
date of assent 1 September 2005
ss 1–2 commenced on date of assent
remaining provisions commenced 1 March 2006 (see s 2)

Local Government and Other Legislation Amendment Act 2005 No. 54 s 1, pt 4, s 13(2) sch
date of assent 18 November 2005
commenced on date of assent

Natural Resources and Other Legislation Amendment Act 2005 No. 68 pts 1, 6
date of assent 8 December 2005
ss 1–2 commenced on date of assent
remaining provisions commenced 6 February 2006 (2006 SL No. 6)

Building Act 1975 No. 11 s 283(3)(c) (prev s 69(3)(c)) (this Act is amended, see amending legislation below)

amending legislation—

Building and Other Legislation Amendment Act 2006 No. 36 ss 1–2, 69 (amends 1975 No. 11 above)
date of assent 10 August 2006
ss 1–2 commenced on date of assent
remaining provision commenced 1 September 2006 (2006 SL No. 226)

Building and Other Legislation Amendment Act 2006 No. 36 pts 1, 3B, s 101 sch
date of assent 10 August 2006
ss 95G and 101 sch commenced 1 September 2006 (2006 SL No. 226)
remaining provisions commenced on date of assent (see s 2)

Crime and Misconduct and Other Legislation Amendment Act 2006 No. 41 pts 1, 2C
date of assent 11 August 2006
commenced on date of assent (see s 2)

Wild Rivers and Other Legislation Amendment Act 2006 No. 59 ss 1, 85 sch
date of assent 7 December 2006
commenced on date of assent

Local Government and Other Legislation Amendment Act 2007 No. 21 pts 1–2
date of assent 26 April 2007
commenced on date of assent

Local Government Reform Implementation Act 2007 No. 31 pts 1–2, s 2 sch
date of assent 10 August 2007
commenced on date of assent

Local Government Regulation 2005 SL No. 81 s 93

amending legislation—

Local Government Amendment Regulation (No. 2) 2007 SL No. 219 ss 1–2, 4 (amends 2005 SL No. 81 above)
notfd gaz 31 August 2007 pp 2326–7
commenced on date of notification

Water and Other Legislation Amendment Act 2007 No. 57 s 1, pt 7
date of assent 16 November 2007
commenced on date of assent

South East Queensland Water (Restructuring) Act 2007 No. 58 ss 1, 117 sch 2
date of assent 16 November 2007
commenced on date of assent

Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007 No. 59 pts 1, 11
date of assent 22 November 2007
ss 1–2 commenced on date of assent
ss 93, 95–97, 108–109, 113–114, 120, 122–125 commenced 15 March 2008 (2007 SL No. 336)
remaining provisions commenced on date of assent

Local Government Amendment Act 2007 No. 60
date of assent 22 November 2007
commenced on date of assent

Local Government and Industrial Relations Amendment Act 2008 No. 5 ss 1, 2(2), pt 3
date of assent 6 March 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 13 March 2008 (see s 2(2))

Building and Other Legislation Amendment Act 2008 No. 13 pts 1, 4, s 20 sch
date of assent 23 April 2008
commenced on date of assent

Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) and Other Acts Amendment Act 2008 No. 30 ss 1–2(1), pt 5
date of assent 21 May 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2008 (see s 2(1))

Water Supply (Safety and Reliability) Act 2008 No. 34 ss 1, 2(2), 751 sch 2
date of assent 21 May 2008
ss 1–2, 751 commenced on date of assent
remaining provisions commenced 1 July 2008 (2008 SL No. 202)

Motor Racing Events (Townsville) Amendment Act 2008 No. 36 ss 1–1A, 8 sch
date of assent 21 May 2008
ss 1–1A commenced on date of assent
remaining provision commenced 20 June 2008 (2008 SL No. 166)

Airport Assets (Restructuring and Disposal) Act 2008 No. 46 ss 1, 127–128
date of assent 12 September 2008
commenced on date of assent

Residential Tenancies and Rooming Accommodation Act 2008 No. 73 ss 1–2, 554 sch 1
date of assent 11 December 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2009 (2009 SL No. 40)

Animal Management (Cats and Dogs) Act 2008 No. 74 ss 1–2(1), ch 11 pt 2
date of assent 11 December 2008
ss 1–2, 227 commenced on date of assent (see s 2(1))
remaining provisions commenced 1 July 2009 (see s 2(1))

Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 16
date of assent 23 February 2009
commenced on date of assent

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1
date of assent 28 May 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2009 (2009 SL No. 80)

Right to Information Act 2009 No. 13 ss 1–2, 213 sch 5
date of assent 12 June 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2009 (2009 SL No. 132)

Local Government Act 2009 No. 17 ss 1, 2(1), (2)(b), 331 sch 1
date of assent 12 June 2009
ss 1–2, sch 1 amdts 20–21 commenced on date of assent (see s 2(1))
remaining provisions commence immediately before the repeal of the Local Government Act 1993 (see ss 2(2)(b), 288)

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 8 pt 3
date of assent 26 June 2009

ss 1–2 commenced on date of assent
remaining provisions not yet proclaimed into force (see s 2)

7 List of annotations

This reprint has been renumbered—see schedule of renumbering in endnote 9.

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s 2 prev s 2 amd 1994 No. 1 s 6
om R3 (see RA s 37)

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s 3 amd 2001 No. 98 s 4(1); 2005 No. 54 s 13(2) sch
Note—s 3 contained definitions for this Act. Definitions are now located in schedule 2 (Dictionary).

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s 4 amd 1994 No. 81 s 527 sch 5; 1995 No. 57 s 4 sch 1; 1996 No. 81 s 15 sch; 2000 No. 26 s 12 sch 1; 2002 No. 20 s 11; 2004 No. 25 s 1008; 2005 No. 33 s 15 (retro); 2008 No. 13 s 20 sch; 2009 No. 3 s 508

Meaning of "conclusion" of local government election
s 5 amd 1996 No. 81 s 17; 1999 No. 59 s 60 sch

Meaning of "material personal interest"
s 6 amd 1997 No. 23 ss 15, 13 sch; 1997 No. 42 s 19 sch; 2003 No. 2 s 22(2) sch

Meaning of "open to inspection"
s 7 amd 1996 No. 81 s 18; 1997 No. 23 s 16; 1997 No. 76 s 9

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s 8 ins 1997 No. 78 s 91

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s 9 amd 1996 No. 81 s 19; 1997 No. 23 s 17; 1997 No. 76 s 10; 1999 No. 30 s 35 sch 2 pt 1; 2000 No. 4 s 94 sch; 2001 No. 98 s 5; 2002 No. 20 s 12; 2003 No. 2 s 22(2) sch; 2003 No. 85 s 12; 2005 No. 26 s 10; 2007 No. 21 s 3; 2008 No. 74 s 225

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s 10 amd 1996 No. 81 s 20; 1997 No. 23 s 18; 1999 No. 59 s 60 sch; 2003 No. 2 s 23

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s 11 amd 1996 No. 81 s 15 sch; 1999 No. 30 s 35 sch 2 pt 1

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pt hdg amd 2004 No. 37 s 86 sch 1
om 2007 No. 59 s 93

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s 13 amd 1999 No. 30 s 35 sch 2 pt 1; 2001 No. 98 s 6; 2004 No. 37 s 86 sch 1
om 2007 No. 59 s 93

How Act applies to Torres Strait Islander local governments
prov hdg amd 2004 No. 37 s 86 sch 1
s 14 amd 2001 No. 98 s 7; 2004 No. 37 s 86 sch 1
om 2007 No. 59 s 93

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s 18 amd 2007 No. 21 s 4; 2007 No. 31 s 3; 2007 No. 59 s 94

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Local laws and policies apply to additional territorial units only if expressly applied
s 29 amd 1999 No. 30 s 35 sch 2 pt 2

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s 31 amd 1996 No. 54 s 9 sch; 2001 No. 98 s 8; 2008 No. 74 s 226

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s 33 (prev s 34) amd 2007 No. 31 s 4
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s 35 sub 2008 No. 5 s 10

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s 36 amd 2003 No. 2 s 24; 2008 No. 5 s 11

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s 40 amd 2004 No. 37 s 86 sch 1
om 2007 No. 59 s 95

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s 44 prov hdg sub 1999 No. 59 s 60 sch

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s 49 sub 2008 No. 5 s 13

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s 49A ins 2008 No. 5 s 13

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s 50 amd 2003 No. 2 s 25; 2008 No. 5 s 14

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s 53 sub 2008 No. 5 s 15

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s 56 amd 2004 No. 37 s 86 sch 1
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s 60A ins 2001 No. 29 s 5
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om 2007 No. 59 s 97

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om 2007 No. 59 s 97

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s 60D ins 2001 No. 29 s 5
om 2007 No. 59 s 97

Division 2—Jurisdiction and powers of joint board
div hdg ins 2001 No. 29 s 5
om 2007 No. 59 s 97

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div hdg ins 2001 No. 29 s 5
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s 60P ins 2001 No. 29 s 5
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om 2007 No. 59 s 97

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s 60R ins 2001 No. 29 s 5
amd 2003 No. 2 s 22(2) sch; 2004 No. 53 s 2 sch
om 2007 No. 59 s 97

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s 60S ins 2001 No. 29 s 5
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s 60T ins 2001 No. 29 s 5
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s 60W ins 2001 No. 29 s 5
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s 60X ins 2001 No. 29 s 5
amd 2001 No. 69 s 378 sch 1; 2001 No. 73 s 96 sch 1
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s 60Y ins 2001 No. 29 s 5
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s 60ZB ins 2001 No. 29 s 5
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s 63 sub 1996 No. 81 s 22
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s 64 amd 1996 No. 81 s 23

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s 138 ins 1996 No. 81 s 27

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s 159 amd 1996 No. 81 s 15 sch; 2001 No. 71 s 551 sch 1

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exp at the end of 31 December 2008 (see s 159Y)

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s 159A ins 2007 No. 21 s 4A
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s 159B ins 2007 No. 21 s 4A
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s 159E ins 2007 No. 21 s 4A
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Application of pt 1B
s 159YA ins 2007 No. 31 s 5
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Operation of sch 1A
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Subdivision 2—New local government areas
sdiv hdg ins 2007 No. 31 s 5
exp at the end of 31 December 2011, or at an earlier time fixed under a regulation (see s 159ZZA)

Establishment of new local government areas (sch 1A, pt 1)
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Operation of sch 1A, pt 2
s 159YJ ins 2007 No. 31 s 5
amd 2007 No. 59 s 101A
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Subdivision 4—Continuing local government areas
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Changes applying to continuing local government areas
s 159YK ins 2007 No. 31 s 5
exp at the end of 31 December 2011, or at an earlier time fixed under a regulation (see s 159ZZA)

Operation of sch 1A, pt 3
s 159YL ins 2007 No. 31 s 5
exp at the end of 31 December 2011, or at an earlier time fixed under a regulation (see s 159ZZA)

Subdivision 5—Regulations supporting divisions 2 to 4
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Functions of local transition committee
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s 159ZK ins 2007 No. 31 s 5
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s 159ZL ins 2007 No. 31 s 5
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s 163 amd 1999 No. 30 s 35 sch 2 pt 2

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renum 1997 No. 23 s 26
amd 1997 No. 23 s 36; 1999 No. 30 s 94

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s 556 ins 1997 No. 23 s 37

Local government to resolve on assessment and report process
s 557 (prev s 458K) ins 1996 No. 81 s 64
renum 1997 No. 23 s 26
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s 558 (prev s 458L) ins 1996 No. 81 s 64
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s 559 (prev s 458M) ins 1996 No. 81 s 64
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s 590 ins 1997 No. 23 s 39

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s 591 ins 1997 No. 23 s 39

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def **"Commonwealth tax"** om 1997 No. 42 s 19 sch
def **"share"** amd 1997 No. 42 s 19 sch
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s 593 ins 1997 No. 23 s 39

References to local governments etc.
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sdiv 4 (s 595) ins 1997 No. 23 s 39

Subdivision 5—Operation of part and application of laws
sdiv hdg ins 1997 No. 23 s 39

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s 596 ins 1997 No. 23 s 39

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s 597 ins 1997 No. 23 s 39
amd 1998 No. 21 s 30

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s 598 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch; 1999 No. 30 s 95
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s 599 ins 1997 No. 23 s 39
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sdiv 3 (ss 604–607) ins 1997 No. 23 s 39

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s 611 ins 1997 No. 23 s 39

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s 613 ins 1997 No. 23 s 39
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sdiv 6 (s 614) ins 1997 No. 23 s 39

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s 618 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch; 2001 No. 29 s 3 sch
(2)(a), (3)–(4) exp 1 July 2003 (see s 618(11))

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s 619 ins 1997 No. 23 s 39
amd 2001 No. 29 s 3 sch

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s 620 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch; 2001 No. 29 s 3 sch

Prohibition on councillors being employees
s 621 ins 1997 No. 23 s 39

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sdiv hdg ins 1997 No. 23 s 39

Interim board of directors for significant business entity
s 622 ins 1997 No. 23 s 39

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s 623 ins 1997 No. 23 s 39
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sdiv hdg ins 1997 No. 23 s 39

Assistance to significant business entities
s 624 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

Share capital and issue of shares
s 625 ins 1997 No. 23 s 39

Variation of share capital
s 626 ins 1997 No. 23 s 39

Division does not affect existing legal relationships
prov hdg amd 1997 No. 76 s 8 sch
s 627 ins 1997 No. 23 s 39
amd 1997 No. 76 s 8 sch

Local government may deal with other matters
s 628 ins 1997 No. 23 s 39

Subdivision 11—Acting chief executive officer of significant business entity on corporatisation
sdiv 11 (s 629) ins 1997 No. 23 s 39

Division 3—Local government owned corporations and subsidiaries
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sdiv hdg ins 1997 No. 23 s 39

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s 630 ins 1997 No. 23 s 39

Requirements for LGOCs
s 631 ins 1997 No. 23 s 39
amd 2001 No. 45 s 29 sch 3

Declaration of entity as subsidiary
s 632 ins 1997 No. 23 s 39

Requirements for subsidiaries
s 633 ins 1997 No. 23 s 39
amd 2001 No. 45 s 29 sch 3

Declaration does not affect legal personality etc.
s 634 ins 1997 No. 23 s 39

Subdivision 2—Application of Corporations Act
sdiv hdg ins 1997 No. 23 s 39
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prov hdg amd 2001 No. 45 s 29 sch 3
s 635 ins 1997 No. 23 s 39
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amd 2001 No. 45 s 29 sch 3

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s 636 ins 1997 No. 23 s 39
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Subdivision 3—Shares of corporatised corporations
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Local governments to be shareholders of LGOCs
prov hdg amd 1997 No. 42 s 19 sch
s 637 ins 1997 No. 23 s 39
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s 638 ins 1997 No. 23 s 39

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s 639 ins 1997 No. 23 s 39

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s 640 ins 1997 No. 23 s 39

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s 641 ins 1997 No. 23 s 39

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s 642 ins 1997 No. 23 s 39

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sdiv hdg ins 1997 No. 23 s 39

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sdiv hdg ins 1997 No. 23 s 39

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s 644 ins 1997 No. 23 s 39

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s 645 ins 1997 No. 23 s 39

Delegation by board
s 646 ins 1997 No. 23 s 39
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s 648 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

First board of LGOC subsidiary
s 649 ins 1997 No. 23 s 39
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sdiv hdg ins 1997 No. 23 s 39

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s 650 ins 1997 No. 23 s 39

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s 652 ins 1997 No. 23 s 39

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s 653 ins 1997 No. 23 s 39
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sdiv hdg ins 1997 No. 23 s 39

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s 669 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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sdiv hdg ins 1997 No. 23 s 39

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s 670 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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s 671 ins 1997 No. 23 s 39

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s 672 ins 1997 No. 23 s 39

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s 673 ins 1997 No. 23 s 39

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s 674 ins 1997 No. 23 s 39

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s 675 ins 1997 No. 23 s 39

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s 676 ins 1997 No. 23 s 39

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sdiv 13 (s 679) ins 1997 No. 23 s 39

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sdiv 14 (s 680) ins 1997 No. 23 s 39

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sdiv 15 (s 681) ins 1997 No. 23 s 39

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sdiv hdg ins 1997 No. 23 s 39

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prov hdg amd 2009 No. 9 s 136 sch 1
s 682 ins 1997 No. 23 s 39
amd 1998 No. 21 s 36; 2009 No. 9 s 136 sch 1

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s 683 ins 1997 No. 23 s 39

Annual reports
s 684 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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s 685 ins 1997 No. 23 s 39

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s 686 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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s 687 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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sdiv hdg ins 1997 No. 23 s 39

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s 688 ins 1997 No. 23 s 39

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s 689 ins 1997 No. 23 s 39

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s 690 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch; 2002 No. 68 s 339 sch 4

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s 691 ins 1997 No. 23 s 39

When corporatised corporation not to indemnify officers
s 692 ins 1997 No. 23 s 39

Corporatised corporation not to pay premiums for certain liabilities of officers
s 693 ins 1997 No. 23 s 39

Director's duty to prevent insolvent trading
s 694 ins 1997 No. 23 s 39

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s 695 ins 1997 No. 23 s 39
amd 1999 No. 19 s 3 sch

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s 696 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch; 1999 No. 19 s 3 sch

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s 697 ins 1997 No. 23 s 39
amd 1999 No. 19 s 3 sch

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s 698 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

Notice of suspected insolvency otherwise than because of direction
s 699 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch; 2001 No. 45 s 29 sch 3

Subdivision 18—Legal capacity and powers
sdiv 18 (ss 700–706) ins 1997 No. 23 s 39

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sdiv hdg ins 1997 No. 23 s 39

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s 708 ins 1997 No. 23 s 39

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s 708A ins 2001 No. 98 s 15

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s 709 ins 1997 No. 23 s 39

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s 710 ins 1997 No. 23 s 39

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sdiv hdg ins 1997 No. 23 s 39

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s 711 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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s 712 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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s 713 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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sdiv hdg ins 1997 No. 23 s 39

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s 714 ins 1997 No. 23 s 39

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s 715 ins 1997 No. 23 s 39

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s 716 ins 1997 No. 23 s 39
amd 2001 No. 45 s 29 sch 3

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s 717 ins 1997 No. 23 s 39

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s 718 ins 1997 No. 23 s 39

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s 719 ins 1997 No. 23 s 39

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s 720 ins 1997 No. 23 s 39
amd 2008 No. 13 s 20 sch

Superannuation for officers and employees of corporatised corporation who were previously officers of a local government
s 721 ins 1997 No. 23 s 39
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Preservation of leave and other entitlements of certain former employees of local government
s 722 ins 1997 No. 23 s 39
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sdiv hdg ins 1997 No. 23 s 39

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s 723 ins 1997 No. 23 s 39

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s 724 ins 1997 No. 23 s 39

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s 725 ins 1997 No. 23 s 39

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s 726 ins 1997 No. 23 s 39

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s 727 ins 1997 No. 23 s 39
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prov hdg amd 2001 No. 73 s 96 sch 1
s 728 ins 1997 No. 23 s 39
amd 2001 No. 73 s 96 sch 1; 2008 No. 13 s 21

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div hdg ins 1997 No. 23 s 39

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s 729 ins 1997 No. 23 s 39
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s 730 ins 1997 No. 23 s 39

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s 731 ins 1997 No. 23 s 39

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s 732 ins 1997 No. 23 s 39

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s 733 ins 1997 No. 23 s 39
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div hdg ins 1997 No. 23 s 39

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sdiv hdg ins 1997 No. 23 s 39

Composition of board
s 734 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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s 735 ins 1997 No. 23 s 39

Subdivision 2—Meetings and other business of board
sdiv hdg ins 1997 No. 23 s 39

Meaning of "required minimum number" of directors
s 736 ins 1997 No. 23 s 39

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s 737 ins 1997 No. 23 s 39

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s 738 ins 1997 No. 23 s 39

Presiding at meetings
s 739 (prev s 459LE) ins 1997 No. 23 s 39
renum 1997 No. 76 s 8 sch

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s 740 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

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s 741 ins 1997 No. 23 s 39

Resolutions without meetings
s 742 ins 1997 No. 23 s 39

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s 743 ins 1997 No. 23 s 39

Subdivision 3—Provisions relating to directors
sdiv hdg ins 1997 No. 23 s 39

Appointment of directors
s 744 ins 1997 No. 23 s 39
amd 2001 No. 45 s 29 sch 3

LGOC director not to be chief executive officer or other employee of LGOC's subsidiary
s 745 ins 1997 No. 23 s 39

Procedure for appointment of directors
s 746 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

Terms of appointment not provided for under divs 1–4
s 747 ins 1997 No. 23 s 39

Appointment of acting director
s 748 ins 1997 No. 23 s 39

Resignation
s 749 ins 1997 No. 23 s 39

Termination of appointment as director
s 750 ins 1997 No. 23 s 39

Division 6—Additional provisions relating to chief executive officers
div hdg ins 1997 No. 23 s 39

Appointment of chief executive officer
s 751 ins 1997 No. 23 s 39

Local government employees can not be chief executive officers of corporatised corporations
s 752 ins 1997 No. 23 s 39

Definitions
s 752A orig s 752A (incl in R1 ch 13 pt 3) ins 1994 No. 1 s 7
exp 24 February 1995 (see s 752F)

Postponement of affected local governments' elections
s 752B orig s 752B (incl in R1 ch 13 pt 3) ins 1994 No. 1 s 7
exp 24 February 1995 (see s 752F)

Effect of postponement of elections
s 752C orig s 752C (incl in R1 ch 13 pt 3) ins 1994 No. 1 s 7
exp 24 February 1995 (see s 752F)

Cut-off day for voters rolls for postponed elections
s 752D orig s 752D (incl in R1 ch 13 pt 3) ins 1994 No. 1 s 7
exp 24 February 1995 (see s 752F)

Regulation making power
s 752E orig s 752E (incl in R1 ch 13 pt 3) ins 1994 No. 1 s 7
exp 24 February 1995 (see s 752F)

Expiry of part
s 752F orig s 752F (incl in R1 ch 13 pt 3) ins 1994 No. 1 s 7
exp 24 February 1995 (see s 752F)

Director may be chief executive officer
s 753 ins 1997 No. 23 s 39

Appointment of acting chief executive officer
s 754 ins 1997 No. 23 s 39
amd 1997 No. 42 s 19 sch

Terms of appointment not provided for under divs 1–4
s 755 ins 1997 No. 23 s 39

Resignation
s 756 orig s 756 (incl in orig ch 14 pt 1 div 2) exp 26 March 1995 (see orig s 761(1))
pres s 756 ins 1997 No. 23 s 39

Termination of appointment
s 757 orig s 757 (incl in orig ch 14 pt 1 div 2) exp 26 March 1995 (see orig s 761(1))
pres s 757 ins 1997 No. 23 s 39

CHAPTER 9—CONDUCT OF COMPETITIVE BUSINESS ACTIVITIES
ch hdg ins 1997 No. 23 s 39

PART 1—OBJECT AND APPLICATION
pt hdg ins 1997 No. 23 s 39

Object of ch 9
s 758 orig s 758 (incl in orig ch 14 pt 1 div 2) exp 26 March 1995 (see orig s 761(1))
pres s 758 ins 1997 No. 23 s 39
amd 2002 No. 77 s 231

Competitive neutrality principles
s 759 orig s 759 (incl in orig ch 14 pt 1 div 2) exp 26 March 1995 (see orig s 761(1))
pres s 759 ins 1997 No. 23 s 39 (amd 1997 No. 42 s 19 sch)
amd 2002 No. 77 s 232

Application to Brisbane City Council
s 760 orig s 760 (incl in orig ch 14 pt 1 div 2) exp 26 March 1995 (see orig s 761(1))
pres s 760 ins 1997 No. 23 s 39

PART 2—DEFINITIONS
pt hdg ins 1997 No. 23 s 39

Definitions for ch 9
s 761 orig s 761 (incl in orig ch 14 pt 1 div 2) exp 26 March 1995 (see orig s 761(1))
pres s 761 ins 1997 No. 23 s 39 (amd 1997 No. 42 s 19 sch)
def **"building certification business activity"** ins 2002 No. 77 s 233
def **"building certifying function"** ins 2002 No. 77 s 233
amd 2006 No. 36 s 101 sch; 1975 No. 11 s 283 (amd 2006 No. 36 s 69)

Meaning of "business activity"
s 762 orig s 762 (incl in orig ch 14 pt 1 div 3 sdiv A) exp 26 March 1995 (see orig s 768)
pres s 762 ins 1997 No. 23 s 39
amd 2002 No. 77 s 234

PART 3—CODE OF COMPETITIVE CONDUCT
pt hdg ins 1997 No. 23 s 39

Code must be applied to roads business activities
s 763 orig s 763 (incl in orig ch 14 pt 1 div 3 sdiv A) exp 26 March 1995 (see orig s 768)
pres s 763 ins 1997 No. 23 s 39

Code must be applied to building certification business activities
s 763A ins 2002 No. 77 s 235

When code must be applied to other business activities
s 764 orig s 764 (incl in orig ch 14 pt 1 div 3 sdiv A) exp 26 March 1995 (see orig s 768)
pres s 764 ins 1997 No. 23 s 39

PART 4—ANNUAL REVIEW OF BUSINESS ACTIVITIES
pt hdg ins 1997 No. 23 s 39

Annual review of business activities
s 765 orig s 765 (incl in orig ch 14 pt 1 div 3 sdiv A) exp 26 March 1995 (see orig s 768)
pres s 765 ins 1997 No. 23 s 39

Local government to resolve whether to apply code of competitive conduct to business activities
s 766 orig s 766 (incl in orig ch 14 pt 1 div 3 sdiv A) exp 26 March 1995 (see orig s 768)
pres s 766 ins 1997 No. 23 s 39 (amd 1997 No. 42 s 19 sch)

Application of code of competitive conduct to other activities
s 767 orig s 767 (incl in orig ch 14 pt 1 div 3 sdiv B) exp 26 March 1995 (see orig s 768)
pres s 767 ins 1997 No. 23 s 39

Information to be included in annual report
s 768 orig s 768 (incl in orig ch 14 pt 1 div 3 sdiv C) exp 26 March 1995 (see orig s 768)
pres s 768 ins 1997 No. 23 s 39
(2)–(4) exp 1 July 2000 (see s 768(4))

CHAPTER 10—REFORM OF CERTAIN WATER AND SEWERAGE SERVICES
ch hdg ins 1997 No. 23 s 39

PART 1—OBJECT AND APPLICATION
pt hdg ins 1997 No. 23 s 39

Object of ch 10
s 769 orig s 769 (incl in orig ch 14 pt 1 div 4) exp 26 October 1994 (see orig s 769(3))
pres s 769 ins 1997 No. 23 s 39

Application to Brisbane City Council
s 770 orig s 770 (incl in orig ch 14 pt 1 div 5) exp 7 December 1994 (see orig s 772)
pres s 770 ins 1997 No. 23 s 39

Meaning of relevant business activity
s 771 orig s 771 (incl in orig ch 14 pt 1 div 5) exp 7 December 1994 (see orig s 772)
new s 771 ins 1997 No. 23 s 39
om 2000 No. 4 s 4

PART 2—INTERPRETATION
pt hdg ins 1998 No. 23 s 39
sub 2000 No. 4 s 94 sch

Definitions for ch 10
s 772 orig s 772 (incl in orig ch 14 pt 1 div 5) exp 7 December 1994 (see orig s 772)
pres s 772 ins 1997 No. 23 s 39
def **"access component"** ins 2000 No. 4 s 5
def **"consumption component"** ins 2000 No. 4 s 5
def **"cost effective"** ins 2000 No. 4 s 5
def **"relevant business activity"** ins 2000 No. 4 s 5

Consumption as the basis for utility charges for water services
s 772A ins 2000 No. 4 s 6

PART 3—ASSESSMENT OF COST EFFECTIVENESS OF TWO-PART TARIFFS FOR WATER SUPPLY
pt hdg ins 1997 No. 23 s 39

Assessment of cost effectiveness of two-part tariffs to be carried out
s 773 orig s 773 (incl in orig ch 14 pt 1 div 6) sub 1995 No. 11 s 13
AIA s 20A applies (see s 773(4))
exp 1 July 1995 (see s 773(5))
pres s 773 ins 1997 No. 23 s 39

Local government to decide on assessment and report process
prov hdg amd 2000 No. 4 s 94 sch
s 774 orig s 774 (incl in orig ch 14 pt 1 div 6) exp 30 June 1994 (see orig s 774(2))
pres s 774 ins 1997 No. 23 s 39

Timing for assessments and reports
s 775 ins 1997 No. 23 s 39

Fresh assessment within 3 years if recommendation on two-part tariffs not applied
prov hdg amd 2000 No. 4 s 94 sch
s 776 ins 1997 No. 23 s 39

Regulation about assessments and reports
s 777 ins 1997 No. 23 s 39

PART 4—DECISION ON TWO-PART TARIFF REPORTS
pt hdg ins 1997 No. 23 s 39

Object of pt 4
s 778 ins 1997 No. 23 s 39

Public access to two-part tariff reports
s 779 ins 1997 No. 23 s 39

Local government to resolve whether to apply two-part tariff
s 780 ins 1997 No. 23 s 39

Timing for resolution
s 781 ins 1997 No. 23 s 39

Notice to Minister of resolution
s 782 orig s 782 (incl in orig ch 14 pt 1 div 8) exp 26 March 1995 (see orig s 786)
pres s 782 ins 1997 No. 23 s 39

PART 5—IMPLEMENTATION OF CERTAIN CHARGING ARRANGEMENTS AND REPORTING PROCEDURES
pt hdg ins 1997 No. 23 s 39

Local governments to implement charging and operational arrangements for relevant business activities
s 783 orig s 783 (incl in orig ch 14 pt 1 div 8) exp 26 March 1995 (see orig s 786)
pres s 783 ins 1997 No. 23 s 39

Implementing resolution under s 780 to apply two-part tariff
s 783A ins 2000 No. 4 s 7

Start of work to apply two-part tariffs
s 784 orig s 784 (incl in orig ch 14 pt 1 div 8) exp 26 March 1995 (see orig s 786)
pres s 784 ins 1997 No. 23 s 39 (amd 1997 No. 42 s 19 sch)

Timetable for implementing arrangements
s 785 orig s 785 (incl in orig ch 14 pt 1 div 8) exp 26 March 1995 (see orig s 786)
pres s 785 ins 1997 No. 23 s 39 (amd 1997 No. 42 s 19 sch)

Strategies for applying s 783(b) to (e)
s 786 orig s 786 (incl in orig ch 14 pt 1 div 8) exp 26 March 1995 (see orig s 786)
prev s 786 (incl in R3 ch 14 pt 1) ins 1994 No. 71 s 12 (retro)
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def **"competitive advantage"** amd 2002 No. 77 s 236

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s 793 orig s 793 (incl in orig ch 14 pt 1 div 10) om R2 (see RA s 38)
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s 798D ins 1995 No. 11 s 14 (incl in orig ch 14 pt 1 div 11A)
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s 798F ins 1995 No. 11 s 14 (incl in orig ch 14 pt 1 div 11A)
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pres s 804 ins 1997 No. 76 s 11

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pres s 805 ins 1997 No. 76 s 11

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def **"building certifier"** amd 2006 No. 36 s 101 sch; 1975 No. 11 s 283 (amd 2006 No. 36 s 69)

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div hdg ins 1997 No. 76 s 11

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s 810 prev s 810 (incl in R3 ch 15 pt 1 div 5) exp 26 March 1996 (see s 814 (as renum in R3))
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s 811 prev s 811 (incl in R3 ch 14 pt 1 div 5) exp 26 March 1996 (see s 814 (as renum in R3))
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s 812 prev s 812 (incl in R3 ch 14 pt 1 div 5) exp 26 March 1996 (see s 814 (as renum in R3))
prev s 812 ins 1996 No. 81 s 84
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s 813 ins 1997 No. 76 s 11

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prev s 814 ins 1996 No. 81 s 84
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s 854 ins 1997 No. 69 s 6.3.1 sch 9 (amd by 1998 No. 13 s 179)
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s 854AA ins 2003 No. 85 s 19

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def **"anti-competitive provision"** amd 1999 No. 30 s 35 sch 2 pt 2
def **"existing local law policy"** om 1999 No. 30 s 35 sch 2 pt 2
def **"existing subordinate local law"** ins 1999 No. 30 s 35 sch 2 pt 2
def **"public interest test"** amd 1999 No. 30 s 35 sch 2 pt 2

Subdivision 2—Anti-competitive provisions of existing local laws and existing subordinate local laws
sdiv hdg ins 1997 No. 23 s 54
amd 1999 No. 30 s 35 sch 2 pt 2
om 2007 No. 31 s 17

Preliminary review of existing local laws and existing subordinate local laws to identify likely anti-competitive provisions

prov hdg amd 1999 No. 30 s 35 sch 2 pt 2
s 1220 ins 1997 No. 23 s 54
amd 1999 No. 30 s 35 sch 2 pt 2
om 2007 No. 31 s 17

Timing of preliminary review and advice to Minister

s 1221 ins 1997 No. 23 s 54
amd 1999 No. 30 s 35 sch 2 pt 2
om 2007 No. 31 s 17

Local government may decide likely anti-competitive provision is not an anti-competitive provision

s 1222 ins 1997 No. 23 s 54
om 2007 No. 31 s 17

Public interest test of possible anti-competitive provisions

s 1223 ins 1997 No. 23 s 54
amd 1999 No. 30 s 35 sch 2 pt 2
om 2007 No. 31 s 17

Local government to decide on test and report process

s 1224 ins 1997 No. 23 s 54
om 2007 No. 31 s 17

Public interest test report to be presented to local government meeting

s 1225 ins 1997 No. 23 s 54
om 2007 No. 31 s 17

Local government to resolve whether to implement recommendations of public interest test

s 1226 ins 1997 No. 23 s 54
amd 1999 No. 30 s 35 sch 2 pt 2
om 2007 No. 31 s 17

Public interest test reports open to inspection

s 1227 ins 1997 No. 23 s 54
om 2007 No. 31 s 17

Repeal or amendment of anti-competitive provision

s 1228 ins 1997 No. 23 s 54
amd 1999 No. 30 ss 67, 35 sch 2 pt 2
om 2007 No. 31 s 17

Timing for resolution and implementation

s 1229 ins 1997 No. 23 s 54 (amd 1997 No. 42 s 19 sch)
amd 1999 No. 30 s 35 sch 2 pt 2
om 2007 No. 31 s 17

Simultaneous action under div 3 and other provisions

s 1230 ins 1997 No. 23 s 54
om 2007 No. 31 s 17

Transitional regulation-making power about implementation of this division
s 1231 ins 1997 No. 23 s 54
amd 1999 No. 30 s 35 sch 2 pt 2
om 2007 No. 31 s 17

Future identification and assessment of anti-competitive provisions
s 1232 ins 1997 No. 23 s 54 (amd 1997 No. 42 s 19 sch)
amd 1999 No. 30 s 35 sch 2 pt 2
om 2007 No. 31 s 17

Division 5—Transitional and savings provisions for amendments under Local Government Legislation Amendment Act 1996
div hdg ins 1996 No. 81 s 84
om 1999 No. 30 s 87

PART 2—TRANSITIONAL PROVISION FOR LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT ACT 1999
pt hdg ins 1999 No. 30 s 87
exp 1 July 2000 (see s 1235)

Transitional arrangement for special rates and charges
s 1233 orig s 1233 exp 26 March 1996 (see s 814 (as renum in R3))
pres s 1233 ins 1996 No. 81 s 84
sub 1999 No. 30 s 87
amd 1999 No. 59 s 14 (retro)
exp 1 July 2000 (see s 1235)

Transitional provisions for local law policies
s 1234 ins 1999 No. 30 s 76
exp 1 July 2000 (see s 1235)

Expiry of pt 2
s 1235 ins 1999 No. 59 s 15
exp 1 July 2000 (see s 1235)

PART 3—TRANSITIONAL PROVISIONS FOR LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT ACT (No. 2) 1999
pt hdg ins 1999 No. 59 s 16
exp 1 March 2003 (see s 1241)

Division 1—Transitional provisions about elections
div hdg ins 1999 No. 59 s 16
exp 1 August 2000 (see s 1239)

Definition for div 1
s 1236 ins 1999 No. 59 s 16
exp 1 August 2000 (see s 1239)

Transitional provisions for councillors' terms of office
s 1237 ins 1999 No. 59 s 16
exp 1 August 2000 (see s 1239)

Transitional provision for disclosure periods
s 1238 ins 1999 No. 59 s 16
exp 1 August 2000 (see s 1239)

Expiry of div 1
s 1239 ins 1999 No. 59 s 16
exp 1 August 2000 (see s 1239)

Division 2—Other transitional provisions
div hdg ins 1999 No. 59 s 16
exp 1 March 2003 (see s 1241)

Transitional provision for records and returns
s 1240 ins 1999 No. 59 s 16
exp 1 March 2003 (see s 1241)

Division 3—Expiry
div hdg ins 1999 No. 59 s 16
exp 1 March 2003 (see s 1241)

Expiry of pt 3
s 1241 ins 1999 No. 59 s 16
exp 1 March 2003 (see s 1241)

PART 4—VALIDATION PROVISION FOR LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT ACT 1999
pt hdg ins 2000 No. 4 s 9

Validation for particular rates
s 1242 ins 2000 No. 4 s 9

PART 5—VALIDATION PROVISION FOR LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT ACT 2000
pt hdg ins 2000 No. 4 s 9

Application to Brisbane City Council
s 1243 ins 2000 No. 4 s 9

Validation for particular utility charges
s 1244 ins 2000 No. 4 s 9

PART 6—TRANSITIONAL PROVISIONS FOR LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT ACT 2001
pt hdg ins 2001 No. 29 s 10

Division 1—Preliminary
div hdg ins 2001 No. 29 s 10

Interpretation for pt 6
s 1245 ins 2001 No. 29 s 10

Division 2—Transitional provisions for Townsville-Thuringowa Water Supply Joint Board
div hdg ins 2001 No. 29 s 10

Former board
s 1246 ins 2001 No. 29 s 10

Assets
s 1247 ins 2001 No. 29 s 10

Exemption from State tax
s 1248 ins 2001 No. 29 s 10

Rights and liabilities
s 1249 ins 2001 No. 29 s 10

Existing entitlement to take water
s 1250 ins 2001 No. 29 s 10

Existing contracts
s 1251 ins 2001 No. 29 s 10

Contracts and tendering—application of ch 6, pt 3
s 1252 ins 2001 No. 29 s 10

Guarantees, undertakings and securities
s 1253 ins 2001 No. 29 s 10

Proceedings
s 1254 ins 2001 No. 29 s 10

Discontinuance or lessening of supply of water
s 1255 ins 2001 No. 29 s 10

Former board's manager
s 1256 ins 2001 No. 29 s 10

Employees
s 1257 ins 2001 No. 29 s 10

Superannuation options for continuing employees
s 1258 ins 2001 No. 29 s 10

Transfer of property
s 1259 ins 2001 No. 29 s 10

Corporate and operational plans
s 1260 ins 2001 No. 29 s 10

Corporate and operational plans
s 1261 ins 2001 No. 29 s 10

Annual report
s 1262 ins 2001 No. 29 s 10

Remuneration of members
s 1263 ins 2001 No. 29 s 10

Appointment of chairperson
s 1264 ins 2001 No. 29 s 10

Appointment of other members
s 1265 ins 2001 No. 29 s 10

References to former board
s 1266 ins 2001 No. 29 s 10

Transitional regulation-making power
s 1267 ins 2001 No. 29 s 10
exp 30 June 2002 (see ss 1267(3) and 1245(1), def "commencing day")

Division 3—Repeal
div hdg ins 2001 No. 29 s 10

Repeal
s 1268 ins 2001 No. 29 s 10

PART 7—TRANSITIONAL PROVISION FOR STATE HOUSING AND OTHER ACTS AMENDMENT ACT 2002
pt hdg prev pt hdg ins 2001 No. 98 s 19
exp 1 June 2002 (see s 1271)
pres pt hdg ins 2002 No. 20 s 14

Application to Brisbane City Council
s 1269 prev s 1269 ins 2001 No. 98 s 19
exp 1 June 2002 (see s 1271)
pres s 1269 ins 2002 No. 20 s 14

Sale of land for overdue rates
s 1270 prev s 1270 ins 2001 No. 98 s 19
exp 1 June 2002 (see s 1271)
pres s 1270 ins 2002 No. 20 s 14

PART 8—TRANSITIONAL PROVISION FOR LOCAL GOVERNMENT LEGISLATION AMENDMENT ACT 2003
pt hdg ins 2003 No. 2 s 68

Continuation of general charges and former register of general charges
s 1271 prev s 1271 ins 2001 No. 98 s 19
exp 1 June 2002 (see s 1271)
pres s 1271 ins 2003 No. 2 s 68

PART 9—VALIDATION PROVISION FOR LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT ACT 2003
pt hdg ins 2003 No. 85 s 22

Validation for particular resolutions limiting increase in rate levied
s 1272 ins 2003 No. 85 s 22

PART 10—TRANSITIONAL PROVISION FOR INTEGRATED PLANNING AND OTHER LEGISLATION AMENDMENT ACT 2003
pt hdg pres ch 19 pt 10 (prev ch 19, pt 9) ins 2003 No. 64 s 131
renum 2004 No. 53 s 2 sch

Continuation of former fees fixed by local laws or resolutions
s 1272A ins (prev 2nd s 1272) 2003 No. 64 s 131
renum 2005 No. 54 s 13(2) sch

PART 11—TRANSITIONAL PROVISION FOR HOUSING AND OTHER ACTS AMENDMENT ACT 2005
pt hdg ins 2005 No. 33 s 18

Validation of levying of rates for certain lands
s 1273 ins 2005 No. 33 s 18

PART 12—TRANSITIONAL PROVISIONS FOR LOCAL GOVERNMENT REFORM ACT 2007
pt 12 (ss 1274–1275) ins 2007 No. 31 s 18

PART 13—TRANSITIONAL PROVISION FOR LOCAL GOVERNMENT AMENDMENT ACT 2007
pt 13 (s 1276) ins 2007 No. 60 s 6

PART 14—TRANSITIONAL PROVISIONS FOR LOCAL GOVERNMENT AND OTHER LEGISLATION (INDIGENOUS REGIONAL COUNCILS) AMENDMENT ACT 2007
pt hdg ins 2007 No. 59 s 126

Division 1—Preliminary
div 1 (ss 1277–1278) ins 2007 No. 59 s 126

Division 2—Torres Strait Island Regional Council
div 2 (ss 1279–1283) ins 2007 No. 59 s 126

Division 3—Northern Peninsula Area Regional Council
div 3 (ss 1284–1289) ins 2007 No. 59 s 126

Division 4—Indigenous regional councils generally
div 4 (s 1290) ins 2007 No. 59 s 126

Division 5—Remuneration schedule
div hdg ins 2007 No. 59 s 126

Remuneration for 2008
s 1291 ins 2007 No. 59 s 126
sub 2008 No. 5 s 27

Division 6—Miscellaneous
div 6 (ss 1292–1293) ins 2007 No. 59 s 126

PART 15—TRANSITIONAL PROVISIONS FOR LOCAL GOVERNMENT AND INDUSTRIAL RELATIONS AMENDMENT ACT 2008
pt 15 (ss 1294–1298) ins 2008 No. 5 s 28

SCHEDULE 1—ETHICS PRINCIPLES FOR LOCAL GOVERNMENT COUNCILLORS
sch hdg ins 2005 No. 26 s 22

Integrity of local government
s 1 ins 2005 No. 26 s 22

Primacy of the public interest
s 2 ins 2005 No. 26 s 22

Independence of action by councillors
s 3 ins 2005 No. 26 s 22

Appropriate use of information by councillors
s 4 ins 2005 No. 26 s 22

Transparency and scrutiny
s 5 ins 2005 No. 26 s 22

Appropriate use of entitlements
s 6 ins 2005 No. 26 s 22
amd 2008 No. 5 s 29

SCHEDULE 1A—LOCAL GOVERNMENT REFORM IMPLEMENTATION
ins 2007 No. 31 s 19
amd 2007 No. 59 s 127

SCHEDULE 1B—COMPOSITION OF NEW LOCAL TRANSITION COMMITTEES FOR PARTICULAR NEW LOCAL GOVERNMENTS
ins 2007 No. 31 s 19

SCHEDULE 1C—COMPOSITION OF TRANSFERRING AREA LOCAL TRANSITION COMMITTEES
ins 2007 No. 31 s 19

SCHEDULE 2—DICTIONARY
Note—definitions for this Act were originally located in s 3.
prev sch amd 1994 No. 1 s 8; 1994 No. 15 s 3 sch 2 (retro)
om R1 (see RA s 40)
pres sch 2 (prev sch) ins 2001 No. 98 s 19
renum 2005 No. 54 s 13(2) sch
def **"Aboriginal local government"** reloc 2001 No. 98 s 4(5)
om 2004 No. 37 s 86 sch 1
def **"additional territorial unit"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"administrative action"** ins 2005 No. 26 s 23
def **"affected area"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"affected elector"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"affected person"** ins 2005 No. 26 s 23
def **"appeal tribunal**" reloc 2001 No. 98 s 4(5)
def **"appointer"** reloc 2001 No. 98 s 4(5)
def **"approve"** ins 1996 No. 81 s 16(2)
om from s 3 2001 No. 29 s 3 sch
def **"approved form"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"approved inspection program"** ins 1994 No. 77 s 3 sch 1
reloc 2001 No. 98 s 4(5)
def **"approves"** ins 2001 No. 29 s 3 sch
reloc 2001 No. 98 s 4(5)
def **"area"** reloc 2001 No. 98 s 4(5)
def **"asset disposal plan"** ins 2005 No. 54 s 31
def **"auditor-general"** ins 2007 No. 31 s 20(1)
amd 2009 No. 9 s 136 sch 1
def **"authorised person"** amd 1994 No. 77 s 3 sch 1; 1999 No. 30 s 97; 2001 No. 98 s 4(4)

reloc 2001 No. 98 s 4(5)
amd 2008 No. 74 s 230(1)
def **"basic territorial unit**" amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"budget meeting"** reloc 2001 No. 98 s 4(5)
def **"category of local government"** ins 2007 No. 31 s 20(1)
def **"certified copy"** amd 1999 No. 30 s 35 sch 2 pt 2
reloc 2001 No. 98 s 4(5)
def **"chairperson"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"cleansing services"** reloc 2001 No. 98 s 4(5)
def **"CMC"** ins 2005 No. 26 s 23
def **"code of conduct"** ins 2005 No. 26 s 23
def **"combined form"** reloc 2001 No. 98 s 4(5)
def **"commercial business unit"** ins 1997 No. 23 s 14
reloc 2001 No. 98 s 4(5)
def **"commission"** reloc 2001 No. 98 s 4(5)
def **"commissioner"** sub 1996 No. 81 s 16
reloc 2001 No. 98 s 4(5)
def **"committee"** ins 2005 No. 26 s 23
def **"common effluent drainage"** ins 2002 No. 77 s 229(2)
def **"Commonwealth Superannuation Act"** ins 2008 No. 13 s 20 sch
def **"community deed of grant in trust"** ins 2007 No. 59 s 128(2)
def **"community forum"** ins 2007 No. 59 s 128(2)
def **"community titles Act"** reloc 2001 No. 98 s 4(5)
def **"company limited by shares"** amd 2001 No. 45 s 29 sch 3
reloc 2001 No. 98 s 4(5)
def **"complaint"** ins 2005 No. 26 s 23
def **"compliance notice"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"component local government"** reloc 2001 No. 98 s 4(5)
def **"compulsory referendum"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"conclusion"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"conduct review panel"** ins 2005 No. 26 s 23
def **"consolidated version"** ins 2007 No. 31 s 20(1)
def **"consultation period"** amd 1999 No. 30 ss 97, 35 sch 2 pt 2
reloc 2001 No. 98 s 4(5)
def **"continuing candidate"** reloc 2001 No. 98 s 4(5)
def **"conviction"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
def **"councillor"** reloc 2001 No. 98 s 4(5)
def **"cut off day"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"decision maker"** amd 1999 No. 30 s 97
om from s 3 2001 No. 92 s 23
def **"declaration envelope"** sub 1996 No. 81 s 16
reloc 2001 No. 98 s 4(5)

def **"declaration form"** reloc 2001 No. 98 s 4(5)
def **"declaration vote"** reloc 2001 No. 98 s 4(5)
def **"declaration voter"** sub 1999 No. 30 s 35 sch 2 pt 1
reloc 2001 No. 98 s 4(5)
def **"delayed implementation determination"** ins 1997 No. 42 s 3
reloc 2001 No. 98 s 4(5)
def **"delayed implementation issues"** ins 1997 No. 42 s 3
amd 1999 No. 59 s 60 sch
reloc 2001 No. 98 s 4(5)
def **"delayed implementation reference"** ins 1997 No. 42 s 3
reloc 2001 No. 98 s 4(5)
def **"deputy commissioner"** sub 1996 No. 81 s 16
reloc 2001 No. 98 s 4(5)
def **"designated disposal activities"** ins 2005 No. 54 s 31
def **"designated election offence"** ins 2007 No. 21 s 55
def **"destroy"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"destruction order"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"detached house"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
amd 2003 No. 74 s 155 sch 1
def **"differential general rate"** reloc 2001 No. 98 s 4(5)
def **"discount date"** ins 1999 No. 30 s 77(2)
reloc 2001 No. 98 s 4(5)
def **"discount period"** ins 1999 No. 30 s 77(2)
reloc 2001 No. 98 s 4(5)
def **"dispose"** reloc 2001 No. 98 s 4(5)
def **"distribute"** ins 2001 No. 25 s 12
reloc 2001 No. 98 s 4(5)
def **"division"** reloc 2001 No. 98 s 4(5)
def **"drafting certificate"** ins 1999 No. 30 s 68 (amd 1999 No. 59 s 60 sch)
reloc 2001 No. 98 s 4(5)
amd 2007 No. 31 s 20(2)
def **"effective control"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"effective value"** reloc 2001 No. 98 s 4(5)
def **"elect"** reloc 2001 No. 98 s 4(5)
def **"election"** reloc 2001 No. 98 s 4(5)
def **"election matter"** reloc 2001 No. 98 s 4(5)
def **"election period"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"elector"** reloc 2001 No. 98 s 4(5)
def **"electoral and boundaries review commission"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"electoral commission"** ins 2007 No. 31 s 20(1)

def **"electoral officer"** sub 1996 No. 81 s 16
reloc 2001 No. 98 s 4(5)
def **"electoral paper"** reloc 2001 No. 98 s 4(5)
def **"electoral roll"** reloc 2001 No. 98 s 4(5)
def **"encumbrance"** reloc 2001 No. 98 s 4(5)
def **"enterprise"** reloc 2001 No. 98 s 4(5)
def **"enterprise power"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"exhausted ballot paper"** reloc 2001 No. 98 s 4(5)
def **"expanded commission"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"expenses reimbursement policy"** ins 2007 No. 31 s 20(1)
sub 2008 No. 5 s 30
def **"explanatory statement"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"facility"** reloc 2001 No. 98 s 4(5)
def **"ferry"** reloc 2001 No. 98 s 4(5)
def **"financial controller"** ins 2007 No. 21 s 55
def **"foreshore"** reloc 2001 No. 98 s 4(5)
def **"fresh election"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"general charge"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
om 2003 No. 2 s 22(2) sch
def **"general complaints process"** ins 2005 No. 26 s 23
def **"general rate"** reloc 2001 No. 98 s 4(5)
def **"government entity"** reloc 2001 No. 98 s 4(5)
def **"guardian"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
def **"holding"** reloc 2001 No. 98 s 4(5)
def **"Housing Act 2003 section 113 contract"** ins 2005 No. 33 s 19 (retro)
def **"housing Act contract"** ins 2005 No. 33 s 19 (retro)
def **"housing Act s 24 contract"** ins 2002 No. 20 s 15
amd 2003 No. 52 s 153 sch 2
def **"how-to-vote card"** ins 2001 No. 25 s 12
reloc 2001 No. 98 s 4(5)
def **"implementation issues"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"improved land"** reloc 2001 No. 98 s 4(5)
def **"improved value"** ins 2003 No. 2 s 22(2) sch
def **"indigenous regional council"** ins 2007 No. 59 s 128(2)
def **"information date"** ins 2002 No. 37 s 2 sch
def **"information notice"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
def **"infringement notice"** sub 1999 No. 70 s 166 sch 1
reloc 2001 No. 98 s 4(5)
def **"infringement notice offence"** sub 1999 No. 70 s 166 sch 1
reloc 2001 No. 98 s 4(5)
def **"institution"** reloc 2001 No. 98 s 4(5)
amd 2006 No. 41 s 35S

def **"interim development control provision"** sub 1998 No. 13 s 191 sch
reloc 2001 No. 98 s 4(5)
def **"interim local law"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"issuing officer"** sub 1996 No. 81 s 16
reloc 2001 No. 98 s 4(5)
def **"joint board"** ins 2001 No. 29 s 4(1)
reloc 2001 No. 98 s 4(5)
def **"joint local government"** reloc 2001 No. 98 s 4(5)
def **"joint local government area"** reloc 2001 No. 98 s 4(5)
def **"jurisdiction of local government"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"keeper of the register"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"land"** reloc 2001 No. 98 s 4(5)
def **"land panel"** ins 2007 No. 59 s 128(2)
def **"land record"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"levee bank"** reloc 2001 No. 98 s 4(5)
def **"LGOC"** ins 1997 No. 23 s 14
reloc 2001 No. 98 s 4(5)
def **"LG Super scheme"** ins 2008 No. 13 s 20 sch
def **"limited partner"** reloc 2001 No. 98 s 4(5)
amd 2004 No. 29 s 63
def **"limited reviewable local government matter"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"lives"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"local governing body"** reloc 2001 No. 98 s 4(5)
amd 2008 No. 13 s 20 sch
def **"local government"** reloc 2001 No. 98 s 4(5)
def **"local government Act"** amd 1997 No. 69 s 6.3.1 sch 9; 2000 No. 34 s 1144 sch 2
reloc 2001 No. 98 s 4(5)
sub 2002 No. 77 s 229(1)–(2)
amd 2006 No. 59 s 85 sch; 2008 No. 34 s 751 sch 2
def **"local government area"** reloc 2001 No. 98 s 4(5)
def "**Local Government Association"** reloc 2001 No. 98 s 4(5)
def **"Local Government Finance Standards"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"local government matter"** reloc 2001 No. 98 s 4(5)
def **"local government owned corporation"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
def **"local law"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"local law policy"** amd 1999 No. 30 s 97
om from s 3 1999 No. 30 s 35 sch 2 pt 2
def **"majority"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)

def **"major reference"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"manufactured home"** ins 2003 No. 74 s 155 sch 1
def **"market value"** ins 2003 No. 2 s 22(2) sch
def **"material personal interest"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"meeting breach"** ins 2005 No. 26 s 23
def **"member"** sub 1996 No. 81 s 16
amd 2001 No. 29 s 4(2)–(3)
reloc 2001 No. 98 s 4(5)
def **"merit"** reloc 2001 No. 98 s 4(5)
def **"minimum general rate levy"** reloc 2001 No. 98 s 4(5)
def **"mining claim"** reloc 2001 No. 98 s 4(5)
def **"mining lease"** reloc 2001 No. 98 s 4(5)
def **"minor amendment"** ins 2007 No. 31 s 20(1)
def **"minor breach"** ins 2005 No. 26 s 23
def **"minor reference"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"misconduct"** reloc 2001 No. 98 s 4(5)
def **"mobile polling booth"** reloc 2001 No. 98 s 4(5)
def **"model local law"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"nomination day"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"non-compulsory referendum"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"non-current assets"** ins 2005 No. 54 s 31
def **"notice of realignment"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"notional GST"** ins 2000 No. 20 s 29 sch 3
reloc 2001 No. 98 s 4(5)
def **"on-site sewage treatment plant"** ins 2002 No. 77 s 229(2)
sub 2005 No. 39 s 7
def **"on-site sewerage facility"** ins 2002 No. 77 s 229(2)
sub 2005 No. 39 s 7
def **"open to inspection"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"oppose"** ins 1996 No. 81 s 16(2)
om from s 3 2001 No. 29 s 3 sch
def **"opposes"** ins 2001 No. 29 s 3 sch
reloc 2001 No. 98 s 4(5)
def **"ordinary polling booth"** reloc 2001 No. 98 s 4(5)
def **"ordinary voting hours"** reloc 2001 No. 98 s 4(5)
def **"overdue rate"** sub 1999 No. 30 s 77(1)–(2)
reloc 2001 No. 98 s 4(5)
def **"owner"** sub 1996 No. 81 s 16; 2001 No. 98 s 4(2)–(3)
reloc 2001 No. 98 s 4(5)
sub 2008 No. 74 s 230
def **"pensioner"** reloc 2001 No. 98 s 4(5)
def **"perform work"** reloc 2001 No. 98 s 4(5)

def **"permissible company"** amd 1994 No. 77 s 3 sch 2; 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"permit application"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"permit condition"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"place"** reloc 2001 No. 98 s 4(5)
def **"planning scheme"** amd 1998 No. 13 s 191 sch
reloc 2001 No. 98 s 4(5)
def **"political party"** reloc 2001 No. 98 s 4(5)
def **"polling booth"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"polling day"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"postal ballot election"** reloc 2001 No. 98 s 4(5)
def **"premises group"** ins 2002 No. 77 s 229(2)
def **"prescribed offices"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"prescribed regulatory fee"** ins 2003 No. 2 s 22(2) sch
def **"procurement activities"** ins 2005 No. 54 s 31
def **"procurement plan"** ins 2005 No. 54 s 31
def **"procurement principles"** ins 2005 No. 54 s 31
def **"prohibited substance"** ins 2002 No. 77 s 229(2)
def **"property sewer"** ins 2002 No. 77 s 229(2)
def **"proposed declaration notice"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"public office"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"public place"** reloc from s 1082 2001 No. 98 s 16(2)
def **"public thoroughfare easement"** ins 2005 No. 68 s 117(1)
def **"question"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"rate"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"rateable land"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"rating category"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
amd 2003 No. 2 s 22(2) sch
def **"referable local government matter"** om 1996 No. 81 s 16(1)
def **"referendum"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"referendum day"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"referendum notice"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)

def **"referendum roll cut off day"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"reform commission"** ins 2007 No. 31 s 20(1)
def **"registered owner"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"registrar of titles"** reloc 2001 No. 98 s 4(5)
def **"regulatory fee"** ins 2003 No. 2 s 22(2) sch
def **"relevant local government"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"remuneration"** reloc 2001 No. 98 s 4(5)
amd 2007 No. 31 s 20(3)
om 2008 No. 5 s 30(1)
def **"remuneration schedule"** ins 2007 No. 31 s 20(1)
def **"remuneration tribunal"** ins 2007 No. 31 s 20(1)
def **"renewal application"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"repealed Torres Strait Act"** ins 2007 No. 59 s 128(2)
def **"repeat breach"** ins 2005 No. 26 s 23
def **"required number"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"responsible person"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"restricted dog"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"restricted dog declaration"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"restricted dog permit"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"restricted dog register"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
om 2008 No. 74 s 230(1)
def **"returning officer"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"reviewable local government matter"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"review commissioner"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"road"** amd 1994 No. 77 s 3 sch 2
reloc 2001 No. 98 s 4(5)
amd 2005 No. 68 s 117(2)
def **"sanitary drain"** ins 2002 No. 77 s 229(2)
def **"sanitary drainage"** ins 2002 No. 77 s 229(2)
def **"sanitary plumbing"** ins 2002 No. 77 s 229(2)

def **"senior executive officer"** reloc 2001 No. 98 s 4(5)
def **"separate charge"** reloc 2001 No. 98 s 4(5)
def **"separate rate"** reloc 2001 No. 98 (2)
def **"septic tank"** ins 2002 No. 77 s 229(2)
def **"sewage treatment plant"** ins 2002 No. 77 s 229(2)
def **"sewerage system"** ins 2002 No. 77 s 229(2)
def **"sign"** reloc 2001 No. 98 s 4(5)
def **"significant business activity"** ins 1997 No. 23 s 14
reloc 2001 No. 98 s 4(5)
def **"significant designated disposal activity"** ins 2005 No. 54 s 31
def **"significant procurement activity"** ins 2005 No. 54 s 31
def **"significant procurement activity plan"** ins 2005 No. 54 s 31
def **"special change"** reloc 2001 No. 98 s 4(5)
def **"special commission"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"special rate"** reloc 2001 No. 98 s 4(5)
def **"special reference"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"spent conviction"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)
def **"State-controlled road"** ins 1997 No. 23 s 14
reloc 2001 No. 98 s 4(5)
def **"State interest"** amd 1994 No. 77 s 3 sch 2; 1999 No. 30 s 35 sch 2 pt 2
reloc 2001 No. 98 s 4(5)
def **"State land"** sub 1994 No. 81 s 527 sch 5
reloc 2001 No. 98 s 4(5)
def **"State office"** reloc 2001 No. 98 s 4(5)
def **"statutory breach"** ins 2005 No. 26 s 23
def **"statutory obligation"** ins 2005 No. 26 s 23
def **"stormwater drainage"** ins 2002 No. 77 s 229(2)
def **"stormwater installation"** ins 2002 No. 77 s 229(2)
def **"structure"** reloc 2001 No. 98 s 4(5)
def **"subordinate local law"** ins 1999 No. 30 s 35 sch 2 pt 2
reloc 2001 No. 98 s 4(5)
def **"tax component"** ins 2003 No. 2 s 22(2) sch
def **"territorial unit"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"threshold amount"** ins 2005 No. 54 s 31
def **"time share scheme"** reloc 2001 No. 98 s 4(5)
def **"Torres Strait Islander local government"** reloc 2001 No. 98 s 4(5)
om 2007 No. 59 s 128(1)
def **"trade waste"** ins 2002 No. 77 s 229(2)
def **"trustee decision"** ins 2007 No. 59 s 128(2)
def **"trust land"** ins 2007 No. 59 s 128(2)
def **"unimproved value"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"utility charge"** reloc 2001 No. 98 s 4(5)
def **"valuation authority"** reloc 2001 No. 98 s 4(5)
def **"veterinary surgeon"** ins 2001 No. 98 s 4(3)
reloc 2001 No. 98 s 4(5)

def **"voters roll"** reloc 2001 No. 98 s 4(5)
def **"voting areas"** ins 1996 No. 81 s 16(2)
reloc 2001 No. 98 s 4(5)
def **"voting hours"** amd 1999 No. 30 s 97
reloc 2001 No. 98 s 4(5)
def **"watercourse"** reloc 2001 No. 98 s 4(5)

8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

Form 1 Version 1—Candidate Disclosure of Election Gifts and Loans Return
pubd gaz 9 November 2007 p 1354

Form 1 Version 1—Councillor Statement of Interests
pubd gaz 14 March 2008 p 1467

Form 1—Restricted Dog—to be used for applications to keep restricted dogs and to apply for the renewal of restricted dog permits
pubd gaz 12 April 2002 p 1383

Form 1 Version 1—Statement of Interests of a Councillor
pubd gaz 25 March 1994 p 1151

Form 2 Version 1—Group of Candidates' Disclosure of Election Gifts and Loans Return
pubd gaz 9 November 2007 p 1354

Form 2—Restricted Dog—to be used for issuing restricted dog permits and renewing restricted dog permits
pubd gaz 12 April 2002 p 1383

Form 2 Version 1—Statement of Interest of Councillors' Related Person
pubd gaz 14 March 2008 p 1467

Form 3 Version 1—Notice of Correct Particulars for a Statement of Interests of a Councillor or Councillor's Related Person
pubd gaz 14 March 2008 p 1467

Form 3 Version 1—Third Party Disclosure of Election Gifts and Expenditure Return
pubd gaz 9 November 2007 p 1354

Form 4 Version 1—Donor Disclosure of Election Gifts Return
pubd gaz 9 November 2007 p 1354

Form 4 Version 1—Statement of Interests of a Relevant Employee
pubd gaz 14 March 2008 p 1467

Form 5 Version 1—Statement of Interests of a Relevant Employee's Related Person
pubd gaz 14 March 2008 p 1467

Form 6 Version 1—Notice of Correct Particulars for a Statement of Interests of a Relevant Employee's Related Person
pubd gaz 14 March 2008 p 1467

Form 7 Version 1—Transfer (for the purposes of section 32 of the Local Government Regulation 1994)
pubd gaz 31 March 1994 p 1267

Form 8 Version 1—General Request (for the purposes of sections 33 and 35 of the Local Government Regulation 1994)
pubd gaz 31 March 1994 p 1267

Form 9 Version 2—Application—Order to Enter (Section 1063)
pubd gaz 17 April 2003 p 1385

Form 10 Version 2—Application—Warrant to Enter (Section 1094)
pubd gaz 17 April 2003 p 1385

Form 24 Version 4—Property Information (Transfer)
pubd gaz 23 March 2007 p 1250

Form 24A Version 1—Property Information (Transmission Application)
pubd gaz 23 March 2007 p 1249

Forms for Local Government Elections

Form LGPF1 Version 1—Appointment of Returning Officer (Other than the Chief Executive Officer)
pubd gaz 24 April 2006 p 1553

Form LGPF2 Version 1—Appointment of Assistant Returning Officer(s)
pubd gaz 24 April 2006 p 1553

Form LGPF3 Version 1—Appointment of Presiding Officers
pubd gaz 24 April 2006 p 1553

Form LGPF4 Version 2—Appointment of Other Issuing Officers
pubd gaz 12 May 2006 pp 156–7

Form LGPF5 Version 1—Declaration by Returning Officer, Assistant Returning Officer, Presiding Officer or Other Issuing Officer
pubd gaz 12 May 2006 pp 156–7

Form LGPF6 Version 1—Certification of Voters Roll (Issuing Officer's Copy)
pubd gaz 12 May 2006 pp 156–7

Form LGPF7 Version 1—Notice of Poll
pubd gaz 12 May 2006 pp 156–7

Form LGPF8 Version 1—Notice of Declaration of Mobile Polling Booths
pubd gaz 12 May 2006 pp 156–7

Form LGPF9 Version 1—Ballot Paper–Question
pubd gaz 12 May 2006 pp 156–7

Form LGPF10 Version 1—Delivery Note–Ballot Papers
pubd gaz 12 May 2006 pp 156–7

Form LGPF11 Version 1—Appointment of and Declaration by Scrutineer
pubd gaz 12 May 2006 pp 156–7

Form LGPF12 Version 1—Record of Declaration Envelopes and Ballot Papers Returned at Polling Booth
pubd gaz 12 May 2006 pp 156–7

Form LGPF13 Version 1—Application for Electoral Visitor Vote
pubd gaz 12 May 2006 pp 156–7

Form LGPF14 Version 1—Application for Declaration Vote
pubd gaz 12 May 2006 pp 156–7

Form LGPF15 Version 1—Declaration by Person who must Cast Declaration Vote
pubd gaz 12 May 2006 pp 156–7

Form LGPF16 Version 1—Declaration Envelope–No. 1
pubd gaz 12 May 2006 pp 156–7

Form LGPF17 Version 1—Declaration Envelope–No. 2
pubd gaz 12 May 2006 pp 156–7

Form LGPF18 Version 1—Declaration Envelope–No. 3 (Postal Ballot)
pubd gaz 12 May 2006 pp 156–7

Form LGPF19 Version 1—Declaration Envelope–No. 4 (Postal Ballot)
pubd gaz 12 May 2006 pp 156–7

Form LGPF20 Version 1—Instructions on Casting a Declaration Vote
pubd gaz 12 May 2006 pp 156–7

Form LGPF21 Version 1—Declaration by Person Requesting Replacement Ballot Paper at Polling Booth, Voting Place or Electoral Visit
pubd gaz 12 May 2006 pp 156–7

Form LGPF22 Version 1—Declaration by Person Requesting Replacement Ballot Paper be Posted
pubd gaz 12 May 2006 pp 156–7

Form LGPF23 Version 1—Record of Replacement Ballot Papers Issued
pubd gaz 12 May 2006 pp 156–7

Form LGPF24 Version 1—Statement by Presiding Officer after Preliminary Count
pubd gaz 12 May 2006 pp 156–7

Form LGPF25 Version 1—Statement of Reconciliation of Ballot Papers–Preliminary Count
pubd gaz 12 May 2006 pp 156–7

Form LGPF26 Version 1—List of Electors Who Appear to have Voted More than Once
pubd gaz 12 May 2006 pp 156–7

Form LGPF27 Version 1—Declaration of Poll
pubd gaz 12 May 2006 pp 156–7

Form LGPF28 Version 1—Notice of Final Result of Poll
pubd gaz 12 May 2006 pp 156–7

Form LGPF29 Version 1—Certification of List of Electors Who Appear to have Failed to Vote
pubd gaz 12 May 2006 pp 156–7

Form LGPF30 Version 1—Notice to Elector of Failure to Vote
pubd gaz 12 May 2006 pp 156–7

Form LGPF31 Version 1—Notice to Declaration Voter of Ballot Paper Not Counted
pubd gaz 12 May 2006 pp 156–7

Forms for Local Government Election Gifts

Form 1 Version 2—Return of Gifts by an elected candidate at a local government election
pubd gaz 14 November 2003 p 867

Form 2 Version 2—Return of Gifts by an unsuccessful candidate at a local government election
pubd gaz 14 November 2003 p 867

Form 3 Version 2—Return of Gifts by a person (or organisation) other than a registered political party of candidate for a local government election
pubd gaz 14 November 2003 p 867

Forms for Statement of Interests

Form 1—Statement of Interests of a Councillor
pubd gaz 3 March 2000 p 808

Form 2—Statement of Interests of a Councillor's Related Person
pubd gaz 3 March 2000 p 808

Form 3—Notice of Correct Particulars for a Statement of Interests of a Councillor or a Councillor's Related Person
pubd gaz 3 March 2000 p 808

Form 4—Statement of Interests of a Relevant Employee
pubd gaz 3 March 2000 p 808

Form 5—Statement of Interests of a Relevant Employee's Related Person
pubd gaz 3 March 2000 p 808

Form 6—Notice of Correct Particulars for a Statement of Interests of a Relevant Employee or a Relevant Employee's Related Person
pubd gaz 3 March 2000 p 808

9 Schedule of renumbering

Reprint No. 2 was renumbered under the Reprints Act 1992 s 43 as required by the Local Government Act 1993 s 802

Reprint No. 3 was renumbered under the Reprints Act 1992 s 43

Reprint No. 4 was renumbered under the Reprints Act 1992 s 43 as required by the Local Government Act 1993 s 793

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
ch 1 hdg	ch 1 hdg	–	ch 1 hdg	–	ch 1 hdg	–	ch 1 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
1	1	–	1	–	1	–	1
2	2	–	2	–	om	–	–
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
3	3	–	3	–	3	–	2
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
4	4	–	4	–	4	–	3
5	5	–	5	–	5	–	4
6	6	–	6	–	6	–	5
7	7	–	7	–	7	–	6
8	8	–	8	–	8	–	7
–	–	–	–	–	–	8(1)(aa)	7(1)(a)
8(1)(a)	8(1)(a)	–	8(1)(a)	–	8(1)(a)	–	7(1)(b)
8(1)(b)	8(1)(b)	–	8(1)(b)	–	8(1)(b)	–	7(1)(c)
–	–	–	–	–	–	8(1)(c)	7(1)(d)
–	–	–	–	–	–	8A	8
pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
9	9	–	9	–	9	–	9
10	10	–	10	–	10	–	10
pt 5 hdg	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
11	11	–	11	–	11	–	11

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
12	12	–	12	–	12	–	12
pt 6 hdg	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg
13	13	–	13	–	13	–	13
14	14	–	14	–	14	–	14
ch 2 hdg	ch 2 hdg	–	ch 2 hdg	–	ch 2 hdg	–	ch 2 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
15	15	–	15	–	15	–	15
16	16	–	16	–	16	–	16
17	17	–	17	–	17	–	17
18	18	–	18	–	18	–	18
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
19	19	–	19	–	19	–	19
20	20	–	20	–	20	–	20
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
21	21	–	21	–	21	–	21
22	22	–	22	–	22	–	22
23	23	–	23	–	23	–	23
24	24	–	24	–	24	–	24
25	25	–	25	–	25	–	25
26	26	–	26	–	26	–	26
27	27	–	27	–	27	–	27
28	28	–	28	–	28	–	28
29	29	–	29	–	29	–	29
30	30	–	30	–	30	–	30
31	31	–	31	–	31	–	31
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
32	32	–	32	–	32	–	32
33	33	–	33	–	33	–	33

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	–	div 5 hdg
34	34	–	34	–	34	–	34
35	35	–	35	–	35	–	35
36	36	–	36	–	36	–	36
div 6 hdg	div 6 hdg	–	div 6 hdg	–	div 6 hdg	–	div 6 hdg
37	37	–	37	–	37	–	37
38	38	–	38	–	38	–	38
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
39	39	–	39	–	39	–	39
40	40	–	40	–	40	–	40
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
41	41	–	41	–	41	–	41
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
42	42	–	42	–	42	–	42
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
43	43	–	43	–	43	–	43
44	44	–	44	–	44	–	44
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	–	div 5 hdg
45	45	–	45	–	45	–	45
46	46	–	46	–	46	–	46
div 6 hdg	div 6 hdg	–	div 6 hdg	–	div 6 hdg	–	div 6 hdg
47	47	–	47	–	47	–	47
48	48	–	48	–	48	–	48
div 7 hdg	div 7 hdg	–	div 7 hdg	–	div 7 hdg	–	div 7 hdg
49	49	–	49	–	49	–	49
50	50	–	50	–	50	–	50
51	51	–	51	–	51	–	51
52	52	–	52	–	52	–	52

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div 8 hdg	div 8 hdg	–	div 8 hdg	–	div 8 hdg	–	div 8 hdg
53	53	–	53	–	53	–	53
54	54	–	54	–	54	–	54
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
55	55	–	55	–	55	–	55
56	56	–	56	–	56	–	56
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
57	57	–	57	–	57	–	57
58	58	–	58	–	58	–	58
59	59	–	59	–	59	–	59
60	60	–	60	–	60	–	60
ch 3 hdg	ch 3 hdg	–	ch 3 hdg	–	ch 3 hdg	–	ch 3 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
61	61	–	61	–	61	–	61
62	62	–	62	–	62	–	62
63	63	–	63	–	63	–	63
64	64	–	64	–	64	–	64
–	–	–	–	–	–	64(1A)	64(2)
–	–	–	–	–	–	64(1B)	64(3)
–	–	–	–	–	–	64(1C)	64(4)
64(2)	64(2)	–	64(2)	–	64(2)	–	64(5)
–	–	–	–	–	–	64(2A)	64(6)
64(3)	64(3)	–	64(3)	–	64(3)	–	64(7)
64(4)	64(4)	–	64(4)	–	64(4)	–	64(8)
64(5)	64(5)	–	64(5)	–	64(5)	–	64(9)
64(6)	64(6)	–	64(6)	–	64(6)	–	61(10)
65	65	–	65	–	65	–	65

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
sdiv A hdg	sdiv A hdg	–	sdiv 1 hdg	–	sdiv 1 hdg	–	sdiv 1 hdg
66	66	–	66	–	66	–	66
–	–	–	–	–	–	66A	67
–	–	–	–	–	–	66B	68
sdiv B hdg	sdiv B hdg	–	sdiv 2 hdg	–	sdiv 2 hdg	–	sdiv 2 hdg
67	67	–	67	–	67	–	69
–	–	–	–	–	–	67A	70
–	–	–	–	–	–	67B	71
–	–	–	–	–	–	67C	72
–	–	–	–	–	–	67D	73
–	–	–	–	–	–	67E	74
–	–	–	–	–	–	67F	75
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
68	68	–	68	–	68	–	76
sdiv C hdg	sdiv C hdg	–	sdiv 3 hdg	–	sdiv 3 hdg	om	–
–	–	–	–	–	–	div 3 hdg	div 3 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
69	69	–	69	–	69	–	77
–	–	–	–	–	–	69A	78
–	–	–	–	–	–	69B	79
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
70	70	–	70	–	70	–	80
–	–	–	–	–	–	div 3A hdg	div 4 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv hdg 1

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
71	71	–	71	–	71	–	81
–	–	–	–	–	–	71A	82
–	–	–	–	–	–	71B	83
–	–	–	–	–	–	71C	84
–	–	–	–	–	–	71D	85
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
72	72	–	72	–	72	–	86
–	–	–	–	–	–	72A	87
–	–	–	–	–	–	72B	88
–	–	–	–	–	–	72C	89
–	–	–	–	–	–	72D	90
–	–	–	–	–	–	72D(4A)	90(5)
–	–	–	–	–	–	72D(4B)	90(6)
–	–	–	–	–	–	72D(5)	90(7)
–	–	–	–	–	–	72D(6)	90(8)
–	–	–	–	–	–	72E	91
–	–	–	–	–	–	72F	92
–	–	–	–	–	–	72G	93
–	–	–	–	–	–	72G(1A)	93(2)
–	–	–	–	–	–	72G(1B)	93(3)
–	–	–	–	–	–	72G(1C)	93(4)
–	–	–	–	–	–	72G(1D)	93(5)
–	–	–	–	–	–	72G(1E)	93(6)
–	–	–	–	–	–	72G(2)	93(7)
–	–	–	–	–	–	72G(3)	93(8)
–	–	–	–	–	–	72G(4)	93(9)
–	–	–	–	–	–	72G(5)	93(10)
–	–	–	–	–	–	72H	94

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	72I	95
–	–	–	–	–	–	72I(1A)	95(2)
–	–	–	–	–	–	72I(2)	95(3)
–	–	–	–	–	–	72I(3)	95(4)
–	–	–	–	–	–	72J	96
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
73	73	–	73	–	73	–	97
–	–	–	–	–	–	73A	98
–	–	–	–	–	–	73B	99
–	–	–	–	–	–	73C	100
–	–	–	–	–	–	73C(2A)	100(3)
–	–	–	–	–	–	73C(2B)	100(4)
–	–	–	–	–	–	73C(3)	100(5)
–	–	–	–	–	–	73C(4)	100(6)
–	–	–	–	–	–	73C(5)	100(7)
–	–	–	–	–	–	73D	101
–	–	–	–	–	–	73E	102
–	–	–	–	–	–	73E(1A)	102(2)
–	–	–	–	–	–	73E(1B)	102(3)
–	–	–	–	–	–	73E(1C)	102(4)
–	–	–	–	–	–	73E(1D)	102(5)
–	–	–	–	–	–	73E(1E)	102(6)
–	–	–	–	–	–	73E(2)	102(7)
–	–	–	–	–	–	73F	103
–	–	–	–	–	–	73G	104
–	–	–	–	–	–	73G(1A)	104(2)
–	–	–	–	–	–	73G(2)	104(3)
–	–	–	–	–	–	73G(3)	104(4)

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div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	om	–
sdiv A hdg	sdiv A hdg	–	sdiv 1 hdg	–	sdiv 1 hdg	om	–
–	–	–	–	–	–	div 3B hdg	div 5 hdg
74	74	–	74	–	74	–	105
sdiv B hdg	sdiv B hdg	–	sdiv 2 hdg	–	sdiv 2 hdg	om	–
75	75	–	75	–	75	–	106
76	76	–	76	–	76	–	107
77	77	–	77	–	77	–	108
78	78	–	78	–	78	–	109
–	–	–	–	–	–	78A	110
79	79	–	79	–	79	–	111
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 6 hdg
sdiv A hdg	sdiv A hdg	–	sdiv 1 hdg	–	sdiv 1 hdg	–	sdiv 1 hdg
80	80	–	80	–	80	–	112
81	81	–	81	–	81	–	113
sdiv B hdg	sdiv B hdg	–	sdiv 2 hdg	–	sdiv 2 hdg	–	sdiv 2 hdg
82	82	–	82	–	82	–	114
83	83	–	83	–	83	–	115
84	84	–	84	–	84	–	116
85	85	–	85	–	85	–	117
86	86	–	86	–	86	–	118
87	87	–	87	–	87	–	119
88	88	–	88	–	88	–	120
89	89	–	89	–	89	–	121
90	90	–	90	–	90	–	122
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	om	–

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	div 4A hdg	div 7 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
91	91	–	91	–	91	–	123
–	–	–	–	–	–	91A	124
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
92	92	–	92	–	92	–	125
–	–	–	–	–	–	92A	126
–	–	–	–	–	–	92B	127
–	–	–	–	–	–	92C	128
–	–	–	–	–	–	92D	129
–	–	–	–	–	–	92E	130
–	–	–	–	–	–	92F	131
–	–	–	–	–	–	92G	132
–	–	–	–	–	–	92H	133
–	–	–	–	–	–	92I	134
–	–	–	–	–	–	92J	135
–	–	–	–	–	–	92K	136
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
93	93	–	93	–	93	–	137
–	–	–	–	–	–	93A	138
–	–	–	–	–	–	93B	139
–	–	–	–	–	–	93C	140
–	–	–	–	–	–	93D	141
–	–	–	–	–	–	93E	142
–	–	–	–	–	–	sdiv 4 hdg	sdiv 4 hdg
94	94	–	94	–	94	–	143

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	94A	144
–	–	–	–	–	–	div 5 hdg	div 8 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
95	95	–	95	–	95	–	145
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
96	96	–	96	–	96	–	146
–	–	–	–	–	–	96A	147
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
97	97	–	97	–	97	–	148
98	98	–	98	–	98	–	149
99	99	–	99	–	99	–	150
100	100	–	100	–	100	–	151
–	–	–	–	–	–	div 6 hdg	div 9 hdg
101	101	–	101	–	101	–	152
div 6 hdg	div 6 hdg	–	div 6 hdg	–	div 6 hdg	om	–
102	102	–	102	–	102	–	153
103	103	–	103	–	103	–	154
104	104	–	104	–	104	–	155
105	105	–	105	–	105	–	156
div 7 hdg	div 7 hdg	–	div 7 hdg	–	div 7 hdg	–	div 10 hdg
106	106	–	106	–	106	–	157
–	–	–	–	–	–	106(2A)	157(3)
106(3)	106(3)	–	106(3)	–	106(3)	–	157(4)
106(4)	106(4)	–	106(4)	–	106(4)	–	157(5)
106(5)	106(5)	–	106(5)	–	106(5)	–	157(6)
107	107	–	107	–	107	–	158
108	108	–	108	–	108	–	159

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
109	109	–	109	–	109	–	160
110	110	–	110	–	110	–	161
111	111	–	111	–	111	–	162
112	112	–	112	–	112	–	163
113	113	–	113	–	113	–	164
114	114	–	114	–	114	–	165
115	115	–	115	–	115	–	166
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
116	116	–	116	–	116	–	167
117	117	–	117	–	117	–	168
118	118	–	118	–	118	–	169
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
119	119	–	119	–	119	–	170
120	120	–	120	–	120	–	171
121	121	–	121	–	121	–	172
122	122	–	122	–	122	–	173
123	123	–	123	–	123	–	174
124	124	–	124	–	124	–	175
125	125	–	125	–	125	–	176
126	126	–	126	–	126	–	177
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
127	127	–	127	–	127	–	178
128	128	–	128	–	128	–	179
129	129	–	129	–	129	–	180
130	130	–	130	–	130	–	181
131	131	–	131	–	131	–	182
132	132	–	132	–	132	–	183

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
133	133	–	133	–	133	–	184
134	134	–	134	–	134	–	185
135	135	–	135	–	135	–	186
136	136	–	136	–	136	–	187
137	137	–	137	–	137	–	188
–	–	–	–	–	–	pt 2A hdg	exp
–	–	–	–	–	–	div 1 hdg	exp
–	–	–	–	–	–	137A	exp
–	–	–	–	–	–	137B	exp
–	–	–	–	–	–	137C	exp
–	–	–	–	–	–	137D	exp
–	–	–	–	–	–	137E	exp
–	–	–	–	–	–	div 2 hdg	exp
–	–	–	–	–	–	137F	exp
–	–	–	–	–	–	137G	exp
–	–	–	–	–	–	137H	exp
–	–	–	–	–	–	137I	exp
–	–	–	–	–	–	137J	exp
–	–	–	–	–	–	137K	exp
–	–	–	–	–	–	137L	exp
–	–	–	–	–	–	div 3 hdg	exp
–	–	–	–	–	–	137M	exp
–	–	–	–	–	–	137N	exp
–	–	–	–	–	–	137O	exp
–	–	–	–	–	–	137P	exp
–	–	–	–	–	–	div 4 hdg	exp
–	–	–	–	–	–	sdiv 1 hdg	exp
–	–	–	–	–	–	137Q	exp

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–	–	–	–	–	–	sdiv 2 hdg	exp
–	–	–	–	–	–	137R	exp
–	–	–	–	–	–	137S	exp
–	–	–	–	–	–	137T	exp
–	–	–	–	–	–	137U	exp
–	–	–	–	–	–	137V	exp
–	–	–	–	–	–	137W	exp
–	–	–	–	–	–	137X	exp
–	–	–	–	–	–	137Y	exp
–	–	–	–	–	–	137Z	exp
–	–	–	–	–	–	137ZA	exp
–	–	–	–	–	–	137ZB	exp
–	–	–	–	–	–	137ZC	exp
–	–	–	–	–	–	137ZD	exp
–	–	–	–	–	–	137ZE	exp
–	–	–	–	–	–	137ZF	exp
–	–	–	–	–	–	137ZG	exp
–	–	–	–	–	–	137ZH	exp
–	–	–	–	–	–	137ZI	exp
–	–	–	–	–	–	137ZJ	exp
–	–	–	–	–	–	137ZK	exp
–	–	–	–	–	–	137ZL	exp
–	–	–	–	–	–	137ZM	exp
–	–	–	–	–	–	sdiv 3 hdg	exp
–	–	–	–	–	–	137ZN	exp
–	–	–	–	–	–	137ZO	exp
–	–	–	–	–	–	137ZP	exp
–	–	–	–	–	–	137ZQ	exp

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	137ZR	exp
–	–	–	–	–	–	137ZS	exp
–	–	–	–	–	–	137ZT	exp
–	–	–	–	–	–	div 5 hdg	exp
–	–	–	–	–	–	137ZU	exp
–	–	–	–	–	–	137ZV	exp
–	–	–	–	–	–	137ZW	exp
–	–	–	–	–	–	137ZX	exp
–	–	–	–	–	–	137ZY	exp
–	–	–	–	–	–	137ZZ	exp
–	–	–	–	–	–	div 6 hdg	exp
–	–	–	–	–	–	137ZZA	exp
–	–	–	–	–	–	137ZZB	exp
–	–	–	–	–	–	div 7 hdg	exp
–	–	–	–	–	–	137ZZC	exp
–	–	–	–	–	–	137ZZD	exp
–	–	–	–	–	–	137ZZE	exp
–	–	–	–	–	–	div 8 hdg	exp
–	–	–	–	–	–	137ZZF	exp
–	–	–	–	–	–	137ZZG	exp
–	–	–	–	–	–	137ZZH	exp
–	–	–	–	–	–	137ZZI	exp
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
138	138	–	138	–	138	–	189
139	139	–	139	–	139	–	190
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
140	140	–	140	–	140	–	191
141	141	–	141	–	141	–	192

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
142	142	–	142	–	142	–	193
143	143	–	143	–	143	–	194
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
144	144	–	144	–	144	–	195
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
145	145	–	145	–	145	–	196
146	146	–	146	–	146	–	197
147	147	–	147	–	147	–	198
148	148	–	148	–	148	–	199
149	149	–	149	–	149	–	200
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	–	div 5 hdg
sdiv A hdg	sdiv A hdg	–	sdiv1 hdg	–	sdiv1 hdg	–	sdiv 1 hdg
150	150	–	150	–	150	–	201
151	151	–	151	–	151	–	202
sdiv B hdg	sdiv B hdg	–	sdiv 2 hdg	–	sdiv 2 hdg	–	sdiv 2 hdg
152	152	–	152	–	152	–	203
153	153	–	153	–	153	–	204
154	154	–	154	–	154	–	205
155	155	–	155	–	155	–	206
156	156	–	156	–	156	–	207
157	157	–	157	–	157	–	208
158	158	–	158	–	158	–	209
159	159	–	159	–	159	–	210
160	160	–	160	–	160	–	211
div 6 hdg	div 6 hdg	–	div 6 hdg	–	div 6 hdg	–	div 6 hdg
161	161	–	161	–	161	–	212
162	162	–	162	–	162	–	213
163	163	–	163	–	163	–	214

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164	164	–	164	–	164	–	215
165	165	–	165	–	165	–	216
div 7 hdg	div 7 hdg	–	div 7 hdg	–	div 7 hdg	–	div 7 hdg
166	166	–	166	–	166	–	217
167	167	–	167	–	167	–	218
ch 4 hdg	ch 4 hdg	–	ch 4 hdg	–	ch 4 hdg	–	ch 4 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
168	168	–	168	–	168	–	219
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
169	169	–	169	–	169	–	220
–	–	–	–	–	–	169(1A)	220(2)
169(2)	169(2)	–	169(2)	–	169(2)	–	220(3)
170	170	–	170	–	170	–	221
171	171	–	171	–	171	–	222
172	172	–	172	–	172	–	223
173	173	–	173	–	173	–	224
–	–	–	–	–	–	173A	225
174	174	–	174	–	174	–	226
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
175	175	–	175	–	175	–	227
176	176	–	176	–	176	–	228
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
177	177	–	177	–	177	–	229
178	178	–	178	–	178	–	230
179	179	–	179	–	179	–	231
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
180	180	–	180	–	180	–	232

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181	181	–	181	–	181	–	233
182	182	–	182	–	182	–	234
183	183	–	183	–	183	–	235
184	184	–	184	–	184	–	236
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
185	185	–	185	–	185	–	237
186	186	–	186	–	186	–	238
187	187	–	187	–	187	–	239
187(2)	187(2)	–	187(2)	–	187(2)	om	–
187(3)	187(3)	–	187(3)	–	187(3)	om	–
187(4)	187(4)	–	187(4)	–	187(4)	–	239(2)
188	188	–	188	–	188	–	240
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
189	189	–	189	–	189	–	241
190	190	–	190	–	190	–	242
191	191	–	191	–	191	–	243
192	192	–	192	–	192	–	244
193	193	–	193	–	193	–	245
194	194	–	194	–	194	–	246
195	195	–	195	–	195	–	247
196	196	–	196	–	196	–	248
197	197	–	197	–	197	–	249
198	198	–	198	–	198	–	250
pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
199	199	–	199	–	199	–	251
200	200	–	200	–	200	–	252
201	201	–	201	–	201	–	253
202	202	–	202	–	202	–	254

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–	–	–	–	–	–	202(3A)	254(4)
–	–	–	–	–	–	202(3B)	254(5)
202(4)	202(4)	–	202(4)	–	202(4)	–	254(6)
202(5)	202(5)	–	202(5)	–	202(5)	–	254(7)
–	–	–	–	–	–	202(5A)	254(8)
–	–	–	–	–	–	202(5B)	254(9)
202(6)	202(6)	–	202(6)	–	202(6)	–	254(10)
202(7)	202(7)	–	202(7)	–	202(7)	–	254(11)
202(8)	202(8)	–	202(8)	–	202(8)	–	254(12)
203	203	–	203	–	203	–	255
204	204	–	204	–	204	–	256
pt 5 hdg	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
205	205	–	205	–	205	–	257
206	206	–	206	–	206	–	258
207	207	–	207	–	207	–	259
208	208	–	208	–	208	–	260
209	209	–	209	–	209	–	261
210	210	–	210	–	210	–	262
211	211	–	211	–	211	–	263
212	212	–	212	–	212	–	264
213	213	–	213	–	213	–	265
ch 5 hdg	ch 5 hdg	–	ch 5 hdg	–	ch 5 hdg	–	ch 5 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
214	214	–	214	–	214	–	266
215	215	–	215	–	215	–	267
216	216	–	216	–	216	–	268
217	217	–	217	–	217	–	269
218	218	–	218	–	218	om	–
219	219	–	219	–	219	–	270

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–	–	–	–	–	–	219A	271
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
220	220	–	220	–	220	–	272
221	221	–	221	–	221	–	273
222	222	–	222	–	222	–	274
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
223	223	–	223	–	223	–	275
224	224	–	224	–	224	–	276
225	225	–	225	–	225	–	277
226	226	–	226	–	226	–	278
227	227	–	227	–	227	–	279
228	228	–	228	–	228	–	280
229	229	–	229	–	229	–	281
pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
230	230	–	230	–	230	–	282
231	231	–	231	–	231	–	283
pt 5 hdg	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
–	–	–	–	–	–	231A	284
232	232	–	232	–	232	–	285
233	233	–	233	–	233	–	286
234	234	–	234	–	234	–	287
–	–	–	–	–		234(2A)	287(3)
234(2)	234(2)	–	234(2)	–	234(2)	–	287(4)
235	235	–	235	–	235	–	288
pt 6 hdg	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
236	236	–	236	–	236	–	289
237	237	–	237	–	237	om	–
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg

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238	238	–	238	–	238	–	290
–	–	–	–	–	–	238A	291
239	239	–	239	–	239	–	292
240	240	–	240	–	240	–	293
241	241	–	241	–	241	–	294
242	242	–	242	–	242	–	295
–	–	–	–	–	–	242A	296
243	243	–	243	–	243	–	297
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
244	2444	–	244	–	244	–	298
245	245	–	245	–	245	–	299
246	246	–	246	–	246	–	300
247	247	–	247	–	247	om	–
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
248	248	–	248	–	248	–	301
249	249	–	249	–	249	–	302
250	250	–	250	–	250	–	303
251	251	–	251	–	251	–	304
–	–	–	–	–	–	251A	305
252	252	–	252	–	252	–	306
–	–	–	–	–	–	252(1A)	306(2)
252(2)	252(2)	–	252(2)	–	252(2)	–	306(3)
252(3)	252(3)	–	252(3)	–	252(3)	–	306(4)
252(4)	252(4)	–	252(4)	–	252(4)	–	306(5)
253	253	–	253	–	253	–	307
254	254	–	254	–	254	–	308
255	255	–	255	–	255	–	309
256	256	–	256	–	256	–	310
257	257	–	257	–	257	–	311

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258	258	–	258	–	258	–	312
259	259	–	259	–	259	–	313
260	260	–	260	–	260	–	314
–	–	–	–	–	–	260(1A)	314(2)
260(2)	260(2)	–	260(2)	–	260(2)	–	314(3)
261	261	–	261	–	261	–	315
262	262	–	262	–	262	–	316
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	–	div 5 hdg
263	263	–	263	–	263	–	317
264	264	–	264	–	264	–	318
div 6 hdg	div 6 hdg	–	div 6 hdg	–	div 6 hdg	–	div 6 hdg
265	265	–	265	–	265	–	319
266	266	–	266	–	266	–	320
267	267	–	267	–	267	–	321
268	268	–	268	–	268	–	322
269	269	–	269	–	269	–	323
div 7 hdg	div 7 hdg	–	div 7 hdg	–	div 7 hdg	–	div 7 hdg
270	270	–	270	–	270	–	324
271	271	–	271	–	271	–	325
272	272	–	272	–	272	–	326
273	273	–	273	–	273	–	327
274	274	–	274	–	274	–	328
275	275	–	275	–	275	–	329
div 8 hdg	div 8 hdg	–	div 8 hdg	–	div 8 hdg	–	div 8 hdg
276	276	–	276	–	276	–	330
277	277	–	277	–	277	–	331
278	278	–	278	–	278	–	332
279	279	–	279	–	279	–	333
div 9 hdg	div 9 hdg	–	div 9 hdg	–	div 9 hdg	–	div 9 hdg

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280	280	–	280	–	280	–	334
281	281	–	281	–	281	–	335
282	282	–	282	–	282	–	336
283	283	–	283	–	283	–	337
284	284	–	284	–	284	–	338
285	285	–	285	–	285	–	339
286	286	–	286	–	286	–	340
287	287	–	287	–	287	–	341
288	288	–	288	–	288	–	342
div 10 hdg	div 10 hdg	–	div 10 hdg	–	div 10 hdg	–	div 10 hdg
289	289	–	289	–	289	–	343
290	290	–	290	–	290	–	344
291	291	–	291	–	291	–	345
292	292	–	292	–	292	–	346
293	293	–	293	–	293	–	347
294	294	–	294	–	294	–	348
295	295	–	295	–	295	–	349
296	296	–	296	–	296	–	350
297	297	–	297	–	297	–	351
298	298	–	298	–	298	–	352
–	–	–	–	–	–	298A	353
div 11 hdg	div 11 hdg	–	div 11 hdg	–	div 11 hdg	–	div 11 hdg
299	299	–	299	–	299	–	354
300	300	–	300	–	300	–	355
div 12 hdg	div 12 hdg	–	div 12 hdg	–	div 12 hdg	–	div 12 hdg
301	301	–	301	–	301	–	356
div 13 hdg	div 13 hdg	–	div 13 hdg	–	div 13 hdg	–	div 13 hdg

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302	302	–	302	–	302	–	357
303	303	–	303	–	303	–	358
304	304	–	304	–	304	–	359
305	305	–	305	–	305	–	360
306	306	–	306	–	306	–	361
div 14 hdg	div 14 hdg	–	div 14 hdg	–	div 14 hdg	–	div 14 hdg
307	307	–	307	–	307	–	362
308	308	–	308	–	308	–	363
309	309	–	309	–	309	–	364
310	310	–	310	–	310	–	365
311	311	–	311	–	311	–	366
–	–	–	–	–	–	311(4)(aa)	366(4)(b)
311(4)(b)	311(4)(b)	–	311(4)(b)	–	311(4)(b)	–	366(4)(c)
311(4)(c)	311(4)(c)	–	311(4)(c)	–	311(4)(c)	–	366(4)(d)
312	312	–	312	–	312	–	367
313	313	–	313	–	313	–	368
314	314	–	314	–	314	–	369
315	315	–	315	–	315	–	370
div 15 hdg	div 15 hdg	–	div 15 hdg	–	div 15 hdg	–	div 15 hdg
316	316	–	316	–	316	–	371
317	317	–	317	–	317	–	372
–	–	–	–	–	–	317A	373
318	318	–	318	–	318	–	374
319	319	–	319	–	319	–	375
–	–	–	–	–	–	319A	376
320	320	–	320	–	320	–	377
321	321	–	321	–	321	–	378
322	322	–	322	–	322	–	379

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323	323	–	323	–	323	–	380
–	–	–	–	–	–	323A	381
324	324	–	324	–	324	–	382
div 16 hdg	div 16 hdg	–	div 16 hdg	–	div 16 hdg	–	div 16 hdg
sdiv A hdg	sdiv A hdg	–	sdiv 1 hdg	–	sdiv 1 hdg	–	sdiv 1 hdg
325	325	–	325	–	325	–	383
326	326	–	326	–	326	–	384
327	327	–	327	–	327	–	385
328	328	–	328	–	328	–	386
329	329	–	329	–	329	–	387
330	330	–	330	–	330	–	388
331	331	–	331	–	331	–	389
332	332	–	332	–	332	–	390
333	333	–	333	–	333	–	391
sdiv B hdg	sdiv B hdg	–	sdiv 2 hdg	–	sdiv 2 hdg	–	sdiv 2 hdg
334	334	–	334	–	334	–	392
335	335	–	335	–	335	–	393
336	336	–	336	–	336	–	394
sdiv C hdg	sdiv C hdg	–	sdiv 3 hdg	–	sdiv 3 hdg	–	sdiv 3 hdg
337	337	–	337	–	337	–	395
338	338	–	338	–	338	–	396
339	339	–	339	–	339	–	397
340	340	–	340	–	340	–	398
341	341	–	341	–	341	–	399
342	342	–	342	–	342	–	400
343	343	–	343	–	343	–	401
344	344	–	344	–	344	–	402

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345	345	–	345	–	345	–	403
346	346	–	346	–	346	–	404
347	347	–	347	–	347	–	405
348	348	–	348	–	348	–	406
sdiv D hdg	sdiv D hdg	–	sdiv 4 hdg	–	sdiv 4 hdg	–	sdiv 4 hdg
349	349	–	349	–	349	–	407
–	–	–	–	–	–	349(1A)	407(2)
349(2)	349(2)	–	349(2)	–	349(2)	–	407(3)
349(3)	349(3)	–	349(3)	–	349(3)	–	407(4)
349(4)	349(4)	–	349(4)	–	349(4)	–	407(5)
349(5)	349(5)	–	349(5)	–	349(5)	–	407(6)
349(6)	349(6)	–	349(6)	–	349(6)	–	407(7)
349(7)	349(7)	–	349(7)	–	349(7)	–	407(8)
349(8)	349(8)	–	349(8)	–	349(8)	–	407(9)
349(9)	349(9)	–	349(9)	–	349(9)	–	407(10)
pt 7 hdg	pt 7 hdg	–	pt 7 hdg	–	pt 7 hdg	–	pt 7 hdg
350	350	–	350	–	350	–	408
–	–	–	–	–	–	350(2A)	408(3)
350(3)	350(3)	–	350(3)	–	350(3)	–	408(4)
351	–	–	–	–	–	–	409
352	–	–	–	–	–	–	410
353	–	–	–	–	–	–	411
354	–	–	–	–	–	–	412
355	–	–	–	–	–	–	413
–	–	–	–	–	–	pt 8 hdg	pt 8 hdg
–	–	–	–	–	–	div 1 hdg	div 1 hdg
–	–	–	–	–	–	355A	414
–	–	–	–	–	–	355B	415

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–	–	–	–	–	–	355C	416
–	–	–	–	–	–	355D	417
–	–	–	–	–	–	div 2 hdg	div 2 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
–	–	–	–	–	–	355E	418
–	–	–	–	–	–	355F	419
–	–	–	–	–	–	355G	420
–	–	–	–	–	–	355H	421
–	–	–	–	–	–	355I	422
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
–	–	–	–	–	–	355J	423
–	–	–	–	–	–	355K	424
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
–	–	–	–	–	–	355L	425
–	–	–	–	–	–	div 3 hdg	div 3 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
–	–	–	–	–	–	355M	426
–	–	–	–	–	–	355N	427
–	–	–	–	–	–	355O	428
–	–	–	–	–	–	355P	429
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
–	–	–	–	–	–	355Q	430
–	–	–	–	–	–	355R	431
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
–	–	–	–	–	–	355S	432
–	–	–	–	–	–	div 4 hdg	div 4 hdg

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–	–	–	–	–	–	355T	433
–	–	–	–	–	–	355U	434
–	–	–	–	–	–	355V	435
–	–	–	–	–	–	div 5 hdg	div 5 hdg
–	–	–	–	–	–	355W	436
–	–	–	–	–	–	355X	437
–	–	–	–	–	–	355Y	438
–	–	–	–	–	–	355Z	439
–	–	–	–	–	–	355ZA	440
–	–	–	–	–	–	div 6 hdg	div 6 hdg
–	–	–	–	–	–	355ZB	441
ch 6 hdg	ch 6 hdg	–	ch 6 hdg	–	ch 6 hdg	–	ch 6 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
356	356	–	356	–	356	–	442
357	357	–	357	–	357	–	443
358	358	–	358	–	358	–	444
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
359	359	–	359	–	359	–	445
360	360	–	360	–	360	–	446
361	361	–	361	–	361	–	447
362	362	–	362	–	362	–	448
363	363	–	363	–	363	–	449
364	364	–	364	–	364	–	450
365	365	–	365	–	365	–	451
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
366	366	–	366	–	366	–	452
367	367	–	367	–	367	–	453
368	368	–	368	–	368	–	454

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369	369	–	369	–	369	–	455
370	370	–	370	–	370	–	456
371	371	–	371	–	371	–	457
372	372	–	372	–	372	–	458
373	373	–	373	–	373	–	459
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
374	374	–	374	–	374	–	460
375	375	–	375	–	375	–	461
376	376	–	376	–	376	–	462
377	377	–	377	–	377	–	463
378	378	–	378	–	378	–	464
379	379	–	379	–	379	–	465
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	–	div 5 hdg
380	380	–	380	–	380	–	466
381	381	–	381	–	381	–	467
382	382	–	382	–	382	–	468
383	383	–	383	–	383	–	469
384	384	–	384	–	384	–	470
div 6 hdg	div 6 hdg	–	div 6 hdg	–	div 6 hdg	–	div 6 hdg
385	385	–	385	–	385	–	471
386	386	–	386	–	386	–	472
–	–	–	–	–	–	386(4A)	472(5)
386(5)	386(5)	–	386(5)	–	386(5)	–	472(6)
386(6)	386(6)	–	386(6)	–	386(6)	–	472(7)
–		–	–	–	–	386(7)	472(8)
–		–	–	–	–	386(8)	472(9)
387	387	–	387	–	387	–	473
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
388	388	–	388	–	388	–	474

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389	389	–	389	–	389	–	475
390	390	–	390	–	390	–	476
391	391	–	391	–	391	–	477
392	392	–	392	–	392	–	478
393	393	–	393	–	393	–	479
394	394	–	394	–	394	–	480
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
395	395	–	395	–	395	–	481
396	396	–	396	–	396	–	482
397	397	–	397	–	397	–	483
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
398	398	–	398	–	398	–	484
399	399	–	399	–	399	–	485
400	400	–	400	–	400	–	486
401	401	–	401	–	401	–	487
402	402	–	402	–	402	–	488
403	403	–	403	–	403	–	489
404	404	–	404	–	404	–	490
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
405	405	–	405	–	405	–	491
406	406	–	406	–	406	–	492
–	–	–	–	406(1A)	406(1A)	–	492(2)
406(2)	406(2)	–	406(2)	–	406(2)	–	492(3)
406(3)	406(3)	–	406(3)	–	406(3)	–	492(4)
pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
407	407	–	407	–	407	–	493
408	408	–	408	–	408	–	494

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409	409	–	409	–	409	–	495
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
410	410	–	410	–	410	–	496
411	411	–	411	–	411	–	497
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
412	412	–	412	–	412	–	498
413	413	–	413	–	413	–	499
414	414	–	414	–	414	–	500
415	415	–	415	–	415	–	501
ch 7 hdg	ch 7 hdg	–	ch 7 hdg	–	ch 7 hdg	–	ch 7 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
416	416	–	416	–	416	–	502
417	417	–	417	–	417	–	503
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
418	418	–	418	–	418	–	504
419	419	–	419	–	419	–	505
420	420	–	420	–	420	–	506
421	421	–	421	–	421	–	507
422	422	–	422	–	422	–	508
423	423	–	423	–	423	–	509
424	424	–	424	–	424	–	510
425	425	–	425	–	425	–	511
426	426	–	426	–	426	–	512
427	427	–	427	–	427	–	513
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
428	428	–	428	–	428	–	514
429	429	–	429	–	429	–	515
430	430	–	430	–	430	–	516
431	431	–	431	–	431	–	517

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
432	432	–	432	–	432	–	518
433	433	–	433	–	433	–	519
434	434	–	434	–	434	–	520
435	435	–	435	–	435	–	521
436	436	–	436	–	436	–	522
437	437	–	437	–	437	–	523
438	438	–	438	–	438	–	524
pt 5 hdg	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
439	439	–	439	–	439	–	525
440	440	–	440	–	440	om	–
441	441	–	441	–	441	om	–
442	442	–	442	–	442	–	526
pt 6 hdg	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg
443	443	–	443	–	443	–	527
444	444	–	444	–	444	–	528
445	445	–	445	–	445	–	529
pt 7 hdg	pt 7 hdg	–	pt 7 hdg	–	pt 7 hdg	–	pt 7 hdg
446	446	–	446	–	446	–	530
pt 8 hdg	pt 8 hdg	–	pt 8 hdg	–	pt 8 hdg	–	pt 8 hdg
447	447	–	447	–	447	–	531
448	448	–	448	–	448	–	532
449	449	–	449	–	449	–	533
450	450	–	450	–	450	–	534
451	451	–	451	–	451	–	535
pt 9 hdg	pt 9 hdg	–	pt 9 hdg	–	pt 9 hdg	–	pt 9 hdg
452	452	–	452	–	452	–	536
453	453	–	453	–	453	–	537
pt 10 hdg	pt 10 hdg	–	pt 10 hdg	–	pt 10 hdg	–	pt 10 hdg

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
454	454	–	454	–	454	–	538
455	455	–	455	–	455	–	539
456	456	–	456	–	456	–	540
457	457	–	457	–	457	–	541
458	458	–	458	–	458	–	542
–	–	–	–	–	–	ch 7A hdg	ch 8 hdg
–	–	–	–	–	–	pt 1 hdg	pt 1 hdg
–	–	–	–	–	–	458A	543
–	–	–	–	–	–	458AA (prev 458B)	544
–	–	–	–	–	–	pt 2 hdg	pt 2 hdg
–	–	–	–	–	–	458AB (prev 458C)	545
–	–	–	–	–	–	pt 2A hdg	pt 3 hdg
–	–	–	–	–	–	458AC	546
–	–	–	–	–	–	458AD	547
–	–	–	–	–	–	458AE	548
–	–	–	–	–	–	pt 3 hdg	pt 4 hdg
–	–	–	–	–	–	div 1 hdg	div 1 hdg
–	–	–	–	–	–	458B (prev 458D)	549
–	–	–	–	–	–	458BA (prev 458E)	550
–	–	–	–	–	–	458BB (prev 458F)	551
–	–	–	–	–	–	458BC (prev 458G)	552

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458BD (prev 458H)	553
–	–	–	–	–	–	div 2 hdg	div 2 hdg
–	–	–	–	–	–	458BE (prev 458I)	554
–	–	–	–	–	–	div 3 hdg	div 3 hdg
–	–	–	–	–	–	458BF (prev 458J)	555
–	–	–	–	–	–	458BG	556
–	–	–	–	–	–	458BH (prev 458K)	557
–	–	–	–	–	–	458BI (prev 458L)	558
–	–	–	–	–	–	458BJ (prev 458M)	559
–	–	–	–	–	–	div 4 hdg	div 4 hdg
–	–	–	–	–	–	458BK	560
–	–	–	–	–	–	458BL	561
–	–	–	–	–	–	458BM	562
–	–	–	–	–	–	458BN	563
–	–	–	–	–	–	458BO	564
–	–	–	–	–	–	458BP	565
–	–	–	–	–	–	458BQ	566
–	–	–	–	–	–	pt 4 hdg	pt 5 hdg
–	–	–	–	–	–	458C	567
–	–	–	–	–	–	458CA	568
–	–	–	–	–	–	458CB	569

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458CC	570
–	–	–	–	–	–	pt 5 hdg	pt 6 hdg
–	–	–	–	–	–	div 1 hdg	div 1 hdg
–	–	–	–	–	–	458CD	571
–	–	–	–	–	–	div 2 hdg	div 2 hdg
–	–	–	–	–	–	458CE	572
–	–	–	–	–	–	458CF	573
–	–	–	–	–	–	458CG	574
–	–	–	–	–	–	div 3 hdg	div 3 hdg
–	–	–	–	–	–	458CH	575
–	–	–	–	–	–	458CI	576
–	–	–	–	–	–	458CJ	577
–	–	–	–	–	–	div 4 hdg	div 4 hdg
–	–	–	–	–	–	458CK	578
–	–	–	–	–	–	div 5 hdg	div 5 hdg
–	–	–	–	–	–	458CL	579
–	–	–	–	–	–	458CM	580
–	–	–	–	–	–	div 6 hdg	div 6 hdg
–	–	–	–	–	–	458CN	581
–	–	–	–	–	–	458CO	582
–	–	–	–	–	–	458CP	583
–	–	–	–	–	–	pt 6 hdg	pt 7 hdg
–	–	–	–	–	–	div 1 hdg	div 1 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
–	–	–	–	–	–	458D	584
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
–	–	–	–	–	–	458DA	585
–	–	–	–	–	–	458DB	586

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458DC	587
–	–	–	–	–	–	458DD	588
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
–	–	–	–	–	–	458DE	589
–	–	–	–	–	–	458DF	590
–	–	–	–	–	–	458DG	591
–	–	–	–	–	–	458DH	592
–	–	–	–	–	–	458DI	593
–	–	–	–	–	–	458DJ	594
–	–	–	–	–	–	sdiv 4 hdg	sdiv 4 hdg
–	–	–	–	–	–	458DK	595
–	–	–	–	–	–	sdiv 5 hdg	sdiv 5 hdg
–	–	–	–	–	–	458DL	596
–	–	–	–	–	–	458DM	597
–	–	–	–	–	–	458DN	598
–	–	–	–	–	–	458DO	599
–	–	–	–	–	–	div 2 hdg	div 2 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
–	–	–	–	–	–	458E	600
–	–	–	–	–	–	458EA	601
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
–	–	–	–	–	–	458EB	602
–	–	–	–	–	–	458EC	603
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
–	–	–	–	–	–	458ED	604
–	–	–	–	–	–	458EE	605

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458EF	606
–	–	–	–	–	–	458EG	607
–	–	–	–	–	–	sdiv 4 hdg	sdiv 4 hdg
–	–	–	–	–	–	458EH	608
–	–	–	–	–	–	458EI	609
–	–	–	–	–	–	sdiv 5 hdg	sdiv 5 hdg
–	–	–	–	–	–	458EJ	610
–	–	–	–	–	–	458EK	611
–	–	–	–	–	–	458EL	612
–	–	–	–	–	–	458EM	613
–	–	–	–	–	–	sdiv 6 hdg	sdiv 6 hdg
–	–	–	–	–	–	458EN	614
–	–	–	–	–	–	sdiv 7 hdg	sdiv 7 hdg
–	–	–	–	–	–	458F	615
–	–	–	–	–	–	458FA	616
–	–	–	–	–	–	458FB	617
–	–	–	–	–	–	sdiv 8 hdg	sdiv 8 hdg
–	–	–	–	–	–	458FC	618
–	–	–	–	–	–	458FD	619
–	–	–	–	–	–	458FE	620
–	–	–	–	–	–	458FF	621
–	–	–	–	–	–	sdiv 9 hdg	sdiv 9 hdg
–	–	–	–	–	–	458FG	622
–	–	–	–	–	–	458FH	623
–	–	–	–	–	–	sdiv 10 hdg	sdiv 10 hdg

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458FI	624
–	–	–	–	–	–	458FJ	625
–	–	–	–	–	–	458FK	626
–	–	–	–	–	–	458FL	627
–	–	–	–	–	–	458FM	628
–	–	–	–	–	–	sdiv 11 hdg	sdiv 11 hdg
–	–	–	–	–	–	458FN	629
–	–	–	–	–	–	div 3 hdg	div 3 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
–	–	–	–	–	–	458G	630
–	–	–	–	–	–	458GA	631
–	–	–	–	–	–	458GB	632
–	–	–	–	–	–	458GC	633
–	–	–	–	–	–	458GD	634
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
–	–	–	–	–	–	458GE	635
–	–	–	–	–	–	458GF	636
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
–	–	–	–	–	–	458GG	637
–	–	–	–	–	–	458GH	638
–	–	–	–	–	–	458GI	639
–	–	–	–	–	–	458GJ	640
–	–	–	–	–	–	458GK	641
–	–	–	–	–	–	458GL	642
–	–	–	–	–	–	sdiv 4 hdg	sdiv 4 hdg
–	–	–	–	–	–	458GM	643

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	sdiv 5 hdg	sdiv 5 hdg
–	–	–	–	–	–	458GN	644
–	–	–	–	–	–	458GO	645
–	–	–	–	–	–	458GP	646
–	–	–	–	–	–	458GQ	647
–	–	–	–	–	–	458GR	648
–	–	–	–	–	–	458GS	649
–	–	–	–	–	–	sdiv 6 hdg	sdiv 6 hdg
–	–	–	–	–	–	458GT	650
–	–	–	–	–	–	458GU	651
–	–	–	–	–	–	458GV	652
–	–	–	–	–	–	458GW	653
–	–	–	–	–	–	458GX	654
–	–	–	–	–	–	sdiv 7 hdg	sdiv 7 hdg
–	–	–	–	–	–	458H	655
–	–	–	–	–	–	458HA	656
–	–	–	–	–	–	sdiv 8 hdg	sdiv 8 hdg
–	–	–	–	–	–	458HB	657
–	–	–	–	–	–	458HC	658
–	–	–	–	–	–	458HD	659
–	–	–	–	–	–	458HE	660
–	–	–	–	–	–	458HF	661
–	–	–	–	–	–	458HG	662
–	–	–	–	–	–	458HH	663
–	–	–	–	–	–	458HI	664
–	–	–	–	–	–	sdiv 9 hdg	sdiv 9 hdg

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458HJ	665
–	–	–	–	–	–	458HK	666
–	–	–	–	–	–	458HL	667
–	–	–	–	–	–	sdiv 10 hdg	sdiv 10 hdg
–	–	–	–	–	–	458HM	668
–	–	–	–	–	–	458HN	669
–	–	–	–	–	–	sdiv 11 hdg	sdiv 11 hdg
–	–	–	–	–	–	458HO	670
–	–	–	–	–	–	458HP	671
–	–	–	–	–	–	458HQ	672
–	–	–	–	–	–	458HR	673
–	–	–	–	–	–	458HS	674
–	–	–	–	–	–	458HT	675
–	–	–	–	–	–	458HU	676
–	–	–	–	–	–	sdiv 12 hdg	sdiv 12 hdg
–	–	–	–	–	–	458I	677
–	–	–	–	–	–	458IA	678
–	–	–	–	–	–	sdiv 13 hdg	sdiv 13 hdg
–	–	–	–	–	–	458IB	679
–	–	–	–	–	–	sdiv 14 hdg	sdiv 14 hdg
–	–	–	–	–	–	458IC	680
–	–	–	–	–	–	sdiv 15 hdg	sdiv 15 hdg
–	–	–	–	–	–	458ID	681
–	–	–	–	–	–	sdiv 16 hdg	sdiv 16 hdg
–	–	–	–	–	–	458IE	682

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458IF	683
–	–	–	–	–	–	458IG	684
–	–	–	–	–	–	458IH	685
–	–	–	–	–	–	458II	686
–	–	–	–	–	–	458IJ	687
–	–	–	–	–	–	sdiv 17 hdg	sdiv 17 hdg
–	–	–	–	–	–	458IK	688
–	–	–	–	–	–	458IL	689
–	–	–	–	–	–	458IM	690
–	–	–	–	–	–	458IN	691
–	–	–	–	–	–	458IO	692
–	–	–	–	–	–	458IP	693
–	–	–	–	–	–	458IQ	694
–	–	–	–	–	–	458IR	695
–	–	–	–	–	–	458IS	696
–	–	–	–	–	–	458IT	697
–	–	–	–	–	–	458IU	698
–	–	–	–	–	–	458IV	699
–	–	–	–	–	–	sdiv 18 hdg	sdiv 18 hdg
–	–	–	–	–	–	458J	700
–	–	–	–	–	–	458JA	701
–	–	–	–	–	–	458JB	702
–	–	–	–	–	–	458JC	703
–	–	–	–	–	–	458JD	704
–	–	–	–	–	–	458JE	705
–	–	–	–	–	–	458JF	706
–	–	–	–	–	–	sdiv 19 hdg	sdiv 19 hdg

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458JG	707
–	–	–	–	–	–	458JH	708
–	–	–	–	–	–	sdiv 20 hdg	sdiv 20 hdg
–	–	–	–	–	–	458JI	709
–	–	–	–	–	–	458JJ	710
–	–	–	–	–	–	sdiv 21 hdg	sdiv 21 hdg
–	–	–	–	–	–	458JK	711
–	–	–	–	–	–	458JL	712
–	–	–	–	–	–	458JM	713
–	–	–	–	–	–	sdiv 22 hdg	sdiv 22 hdg
–	–	–	–	–	–	458JN	714
–	–	–	–	–	–	458JO	715
–	–	–	–	–	–	458JP	716
–	–	–	–	–	–	sdiv 23 hdg	sdiv 23 hdg
–	–	–	–	–	–	458JQ	717
–	–	–	–	–	–	458JR	718
–	–	–	–	–	–	458JS	719
–	–	–	–	–	–	458JT	720
–	–	–	–	–	–	458JU	721
–	–	–	–	–	–	458JV	722
–	–	–	–	–	–	sdiv 24 hdg	sdiv 24 hdg
–	–	–	–	–	–	458K	723
–	–	–	–	–	–	458KA	724
–	–	–	–	–	–	458KB	725
–	–	–	–	–	–	458KC	726
–	–	–	–	–	–	458KD	727

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458KE	728
–	–	–	–	–	–	div 4 hdg	div 4 hdg
–	–	–	–	–	–	458KF	729
–	–	–	–	–	–	458KG	730
–	–	–	–	–	–	458KH	731
–	–	–	–	–	–	458KI	732
–	–	–	–	–	–	458KJ	733
–	–	–	–	–	–	div 5 hdg	div 5 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
–	–	–	–	–	–	458L	734
–	–	–	–	–	–	458LA	735
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
–	–	–	–	–	–	458LB	736
–	–	–	–	–	–	458LC	737
–	–	–	–	–	–	458LD	738
–	–	–	–	–	–	458LE (prev459 LE)	739
–	–	–	–	–	–	458LF	740
–	–	–	–	–	–	458LG	741
–	–	–	–	–	–	458LH	742
–	–	–	–	–	–	458LI	743
–	–	–	–	–	–	sdiv 3 hdg	sdiv 3 hdg
–	–	–	–	–	–	458LJ	744
–	–	–	–	–	–	458LK	745
–	–	–	–	–	–	458LL	746
–	–	–	–	–	–	458LM	747
–	–	–	–	–	–	458LN	748

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	–	–	458LO	749
–	–	–	–	–	–	458LP	750
–	–	–	–	–	–	div 6 hdg	div 6 hdg
–	–	–	–	–	–	458LQ	751
–	–	–	–	–	–	458LR	752
–	–	–	–	–	–	458LS	753
–	–	–	–	–	–	458LT	754
–	–	–	–	–	–	458LU	755
–	–	–	–	–	–	458LV	756
–	–	–	–	–	–	458LW	757
–	–	–	–	–	–	ch 7B hdg	ch 9 hdg
–	–	–	–	–	–	pt 1 hdg	pt 1 hdg
–	–	–	–	–	–	458M	758
–	–	–	–	–	–	458MA	759
–	–	–	–	–	–	458MB	760
–	–	–	–	–	–	pt 2 hdg	pt 2 hdg
–	–	–	–	–	–	458MC	761
–	–	–	–	–	–	458MD	762
–	–	–	–	–	–	pt 3 hdg	pt 3 hdg
–	–	–	–	–	–	458ME	763
–	–	–	–	–	–	458MF	764
–	–	–	–	–	–	pt 4 hdg	pt 4 hdg
–	–	–	–	–	–	458MG	765
–	–	–	–	–	–	458MH	766
–	–	–	–	–	–	458MI	767
–	–	–	–	–	–	458MJ	768
–	–	–	–	–	–	ch 7C hdg	ch 10 hdg
–	–	–	–	–	–	pt 1 hdg	pt 1 hdg

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–	–	–	–	–	–	458N	769
–	–	–	–	–	–	458NA	770
–	–	–	–	–	–	458NB	771
–	–	–	–	–	–	pt 2 hdg	pt 2 hdg
–	–	–	–	–	–	458NC	772
–	–	–	–	–	–	pt 3 hdg	pt 3 hdg
–	–	–	–	–	–	458ND	773
–	–	–	–	–	–	458NE	774
–	–	–	–	–	–	458NF	775
–	–	–	–	–	–	458NG	776
–	–	–	–	–	–	458NH	777
–	–	–	–	–	–	pt 4 hdg	pt 4 hdg
–	–	–	–	–	–	458NI	778
–	–	–	–	–	–	458NJ	779
–	–	–	–	–	–	458NK	780
–	–	–	–	–	–	458NL	781
–	–	–	–	–	–	458NM	782
–	–	–	–	–	–	pt 5 hdg	pt 5 hdg
–	–	–	–	–	–	458NN	783
–	–	–	–	–	–	458NO	784
–	–	–	–	–	–	458NP	785
–	–	–	–	–	–	458NQ	786
–	–	–	–	–	–	ch 7D hdg	ch 11 hdg
–	–	–	–	–	–	pt 1 hdg	pt 1hdg
–	–	–	–	–	–	458O	787
–	–	–	–	–	–	458OA	788
–	–	–	–	–	–	458OB	789
–	–	–	–	–	–	458OC	790

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–	–	–	–	–	–	pt 2 hdg	pt 2 hdg
–	–	–	–	–	–	div 1 hdg	div 1 hdg
–	–	–	–	–	–	458OD	791
–	–	–	–	–	–	458OE	792
–	–	–	–	–	–	div 2 hdg	div 2 hdg
–	–	–	–	–	–	458OF	793
–	–	–	–	–	–	458OG	794
–	–	–	–	–	–	458OH	795
–	–	–	–	–	–	458OI	796
–	–	–	–	–	–	458OJ	797
–	–	–	–	–	–	458OK	798
–	–	–	–	–	–	div 3 hdg	div 3 hdg
–	–	–	–	–	–	458OL	799
–	–	–	–	–	–	458OM	800
–	–	–	–	–	–	458ON	801
–	–	–	–	–	–	458OO	802
–	–	–	–	–	–	458OP	803
–	–	–	–	–	–	458OQ	804
–	–	–	–	–	–	458OR	805
–	–	–	–	–	–	div 4 hdg	div 4 hdg
–	–	–	–	–	–	458OS	806
–	–	–	–	–	–	458OT	807
–	–	–	–	–	–	458OU	808
–	–	–	–	–	–	458OV	809
–	–	–	–	–	–	div 5 hdg	div 5 hdg
–	–	–	–	–	–	458OW	810
–	–	–	–	–	–	458OX	811
–	–	–	–	–	–	458OY	812
–	–	–	–	–	–	458OZ	813

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–	–	–	–	–	–	458OZA	814
–	–	–	–	–	–	div 6 hdg	div 6 hdg
–	–	–	–	–	–	458OZB	815
–	–	–	–	–	–	458OZC	816
–	–	–	–	–	–	458OZD	817
–	–	–	–	–	–	458OZE	818
–	–	–	–	–	–	458OZF	819
–	–	–	–	–	–	458OZG	820
–	–	–	–	–	–	pt 3 hdg	pt 3 hdg
–	–	–	–	–	–	div 1 hdg	div 1 hdg
–	–	–	–	–	–	458P	821
–	–	–	–	–	–	div 2 hdg	div 2 hdg
–	–	–	–	–	–	458PA	822
–	–	–	–	–	–	458PB	823
–	–	–	–	–	–	458PC	824
–	–	–	–	–	–	458PD	825
–	–	–	–	–	–	458PE	826
–	–	–	–	–	–	458PF	827
–	–	–	–	–	–	div 3 hdg	div 3 hdg
–	–	–	–	–	–	458PG	828
–	–	–	–	–	–	458PH	829
–	–	–	–	–	–	458PI	830
–	–	–	–	–	–	458PJ	831
–	–	–	–	–	–	pt 4 hdg	pt 4 hdg
–	–	–	–	–	–	458Q	832
–	–	–	–	–	–	458QA	833
–	–	–	–	–	–	458QB	834
–	–	–	–	–	–	458QC	835
–	–	–	–	–	–	458QD	836

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–	–	–	–	–	–	458QE	837
–	–	–	–	–	–	458QF	838
–	–	–	–	–	–	458QG	839
–	–	–	–	–	–	458QH	840
–	–	–	–	–	–	458QI	841
–	–	–	–	–	–	458QJ	842
–	–	–	–	–	–	458QK	843
–	–	–	–	–	–	458QL	844
–	–	–	–	–	–	458QM	845
–	–	–	–	–	–	pt 5 hdg	pt 5 hdg
–	–	–	–	–	–	458R	846
–	–	–	–	–	–	458RA	847
ch 8 hdg	ch 8 hdg	–	ch 8 hdg	–	ch 8 hdg	–	ch 12 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
459	459	–	459	–	459	–	848
460	460	–	460	–	460	–	849
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
461	461	–	461	–	461	–	850
462	462	–	462	–	462	–	851
463	463	–	463	–	463	–	852
464	464	–	464	–	464	–	853
–	–	–	–	–	–	464AA	854
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
div 1 hdg	div 1 hdg	–	–	div 1 hdg	div 1 hdg	–	div 1 hdg
–	–	–	–	–	–	464A	855
465	465	–	465	–	465	–	856
466	466	–	466	–	466	–	857
467	467	–	467	–	467	–	858

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
468	468	–	468	–	468	–	859
469	469	–	469	–	469	–	860
470	470	–	470	–	470	–	861
471	471	–	471	–	471	–	862
472	472	–	472	–	472	–	863
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
–	–	–	–	–	–	472A	864
473	473	–	473	–	473	–	865
474	474	–	474	–	474	–	866
475	475	–	475	–	475	–	867
476	476	–	476	–	476	–	868
477	477	–	477	–	477	–	869
478	478	–	478	–	478	–	870
479	479	–	479	–	479	–	871
480	480	–	480	–	480	–	872
481	481	–	481	–	481	–	873
482	482	–	482	–	482	–	874
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
–	–	–	–	–	–	482A	875
483	483	–	483	–	483	–	876
484	484	–	484	–	484	–	877
485	485	–	485	–	485	–	878
486	486	–	486	–	486	–	879
487	487	–	487	–	487	–	880
488	488	–	488	–	488	–	881
489	489	–	489	–	489	–	882
–	–	489A	489A	–	489A	–	883
–	–	–	–	–	–	div 5 hdg	div 5 hdg

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–	–	–	–	–	–	489B	884
–	–	–	–	–	–	489C	885
–	–	–	–	–	–	489D	886
–	–	–	–	–	–	489E	887
–	–	–	–	–	–	489F	888
–	–	–	–	–	–	489G	889
–	–	–	–	–	–	489H	890
–	–	–	–	–	–	489I	891
–	–	–	–	–	–	489J	892
–	–	–	–	–	–	489K	893
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
490	490	–	490	–	490	–	894
491	491	–	491	–	491	–	895
pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
492	492	–	492	–	492	–	896
493	493	–	493	–	493	–	897
494	494	–	494	–	494	–	898
495	495	–	495	–	495	–	899
ch 9 hdg	ch 9 hdg	–	ch 9 hdg	–	ch 9 hdg	–	ch 13 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
496	496	–	496	–	496	–	900
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
497	497	–	497	–	497	–	901
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
498	498	–	498	–	498	–	902
499	499	–	499	–	499	–	903
500	500	–	500	–	500	–	904
501	501	–	501	–	501	–	905

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502	502	–	502	–	502	–	906
503	503	–	503	–	503	–	907
504	504	–	504	–	504	–	908
505	505	–	505	–	505	–	909
506	506	–	506	–	506	–	910
507	507	–	507	–	507	–	911
508	508	–	508	–	508	–	912
509	509	–	509	–	509	–	913
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
510	510	–	510	–	510	–	914
511	511	–	511	–	511	–	915
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
512	512	–	512	–	512	–	916
513	513	–	513	–	513	–	917
514	514	–	514	–	514	–	918
515	515	–	515	–	515	–	919
516	516	–	516	–	516	–	920
517	517	–	517	–	517	–	921
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
518	518	–	518	–	518	–	922
519	519	–	519	–	519	–	923
520	520	–	520	–	520	–	924
521	521	–	521	–	521	–	925
522	522	–	522	–	522	–	926
523	523	–	523	–	523	–	927
524	524	–	524	–	524	–	928
525	525	–	525	–	525	–	929
pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
526	526	–	526	–	526	–	930

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
527	527	–	527	–	527	–	931
528	528	–	528	–	528	–	932
529	529	–	529	–	529	–	933
530	530	–	530	–	530	–	934
531	531	–	531	–	531	–	935
532	532	–	532	–	532	–	936
pt 5 hdg	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
533	533	–	533	–	533	–	937
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
534	534	–	534	–	534	–	938
535	535	–	535	–	535	–	939
536	536	–	536	–	536	–	940
537	537	–	537	–	537	–	941
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
538	538	–	538	–	538	–	942
539	539	–	539	–	539	–	943
540	540	–	540	–	540	–	944
541	541	–	541	–	541	–	945
542	542	–	542	–	542	–	946
543	543	–	543	–	543	–	947
544	544	–	544	–	544	–	948
545	545	–	545	–	545	–	949
546	546	–	546	–	546	–	950
547	547	–	547	–	547	–	951
548	548	–	548	–	548	–	952
549	549	–	549	–	549	–	953
550	550	–	550	–	550	–	954
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg

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551	551	–	551	–	551	–	955
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	–	div 5 hdg
552	552	–	552	–	552	–	956
ch 10 hdg	ch 10 hdg	–	ch 10 hdg	–	ch 10 hdg	–	ch 14 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
553	553	–	553	–	553	–	957
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
554	554	–	554	–	554	–	958
555	555	–	555	–	555	–	959
556	556	–	556	–	556	–	960
557	557	–	557	–	557	–	961
558	558	–	558	–	558	–	962
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
559	559	–	559	–	559	–	963
560	560	–	560	–	560	–	964
561	561	–	561	–	561	–	965
562	562	–	562	–	562	–	966
563	563	–	563	–	563	–	967
564	564	–	564	–	564	–	968
565	565	–	565	–	565	–	969
566	566	–	566	–	566	–	970
567	567	–	567	–	567	–	971
568	568	–	568	–	568	–	972
569	569	–	569	–	569	–	973
570	570	–	570	–	570	–	974
571	571	–	571	–	571	–	975
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg

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572	572	–	572	–	572	–	976
573	573	–	573	–	573	–	977
574	574	–	574	–	574	–	978
575	575	–	575	–	575	–	979
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
576	576	–	576	–	576	–	980
577	577	–	577	–	577	–	981
578	578	–	578	–	578	–	982
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
579	579	–	579	–	579	–	983
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
580	580	–	580	–	580	–	984
581	581	–	581	–	581	–	985
582	582	–	582	–	582	–	986
583	583	–	583	–	583	–	987
584	584	–	584	–	584	–	988
585	585	–	585	–	585	–	989
586	586	–	586	–	586	–	990
587	587	–	587	–	587	–	991
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	–	div 5 hdg
588	588	–	588	–	588	–	992
589	589	–	589	–	589	–	993
pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
590	590	–	590	–	590	–	994
591	591	–	591	–	591	–	995
592	592	–	592	–	592	–	996
593	593	–	593	–	593	–	997
594	594	–	594	–	594	–	998

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div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
595	595	–	595	–	595	–	999
596	596	–	596	–	596	–	1000
597	597	–	597	–	597	–	1001
598	598	–	598	–	598	–	1002
599	599	–	599	–	599	–	1003
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
600	600	–	600	–	600	–	1004
601	601	–	601	–	601	–	1005
602	602	–	602	–	602	–	1006
603	603	–	603	–	603	–	1007
pt 5 hdg	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
604	604	–	604	–	604	–	1008
605	605	–	605	–	605	–	1009
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
606	606	–	606	–	606	–	1010
607	607	–	607	–	607	–	1011
608	608	–	608	–	608	–	1012
609	609	–	609	–	609	–	1013
610	610	–	610	–	610	–	1014
611	611	–	611	–	611	–	1015
–	–	–	–	–	–	611(3A)	1015(4)
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
612	612	–	612	–	612	–	1016
613	613	–	613	–	613	–	1017
614	614	–	614	–	614	–	1018
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
615	615	–	615	–	615	–	1019

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616	616	–	616	–	616	–	1020
617	617	–	617	–	617	–	1021
618	618	–	618	–	618	–	1022
619	619	–	619	–	619	–	1023
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	–	div 5 hdg
sdiv A hdg	sdiv A hdg	–	sdiv 1 hdg	–	sdiv 1 hdg	–	sdiv 1 hdg
620	620	–	620	–	620	–	1024
621	621	–	621	–	621	–	1025
622	622	–	622	–	622	–	1026
sdiv B hdg	sdiv B hdg	–	sdiv 2 hdg	–	sdiv 2 hdg	–	sdiv 2 hdg
623	623	–	623	–	623	–	1027
624	624	–	624	–	624	–	1028
625	625	–	625	–	625	–	1029
626	626	–	626	–	626	–	1030
pt 6 hdg	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg
627	627	–	627	–	627	–	1031
–	–	–	–	–	–	627(3A)	1031(4)
627(4)	627(4)	–	627(4)	–	627(4)	–	1031(5)
628	628	–	628	–	628	–	1032
–	–	–	–	–	–	628(4A)	1032(5)
628(5)	628(5)	–	628(5)	–	628(5)	–	1032(6)
629	629	–	629	–	629	–	1033
630	630	–	630	–	630	–	1034
631	631	–	631	–	631	–	1035
632	632	–	632	–	632	–	1036
pt 7 hdg	pt 7 hdg	–	pt 7 hdg	–	pt 7 hdg	–	pt 7 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
633	633	–	633	–	633	–	1037

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div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
634	634	–	634	–	634	–	1038
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
635	635	–	635	–	635	–	1039
636	636	–	636	–	636	–	1040
637	637	–	637	–	637	–	1041
638	638	–	638	–	638	–	1042
639	639	–	639	–	639	–	1043
640	640	–	640	–	640	–	1044
641	641	–	641	–	641	–	1045
642	642	–	642	–	642	–	1046
643	643	–	643	–	643	–	1047
644	644	–	644	–	644	–	1048
645	645	–	645	–	645	–	1049
646	646	–	646	–	646	–	1050
div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg	–	div 4 hdg
647	647	–	647	–	647	–	1051
648	648	–	648	–	648	–	1052
649	649	–	649	–	649	–	1053
div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg	–	div 5 hdg
650	650	–	650	–	650	–	1054
651	651	–	651	–	651	–	1055
652	652	–	652	–	652	–	1056
653	653	–	653	–	653	–	1057
654	654	–	654	–	654	–	1058
ch 11 hdg	ch 11 hdg	–	ch 11 hdg	–	ch 11 hdg	–	ch 15 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
655	655	–	655	–	655	–	1059
–	–	pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	655A	655A	–	655A	–	1060
pt 2 hdg	pt 2 hdg	renum as pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
656	656	–	656	–	656	–	1061
pt 3 hdg	pt 3 hdg	renum as pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
657	657	–	657	–	657	–	1062
658	658	–	658	–	658	–	1063
659	659	–	659	–	659	–	1064
660	660	–	660	–	660	–	1065
661	661	–	661	–	661	–	1066
662	662	–	662	–	662	–	1067
663	663	–	663	–	663	–	1068
664	664	–	664	–	664	–	1069
div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
665	665	–	665	–	665	–	1070
666	666	–	666	–	666	–	1071
div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
667	667	–	667	–	667	–	1072
668	668	–	668	–	668	–	1073
669	669	–	669	–	669	–	1074
670	670	–	670	–	670	–	1075
671	671	–	671	–	671	–	1076
672	672	–	672	–	672	–	1077
–	–	–	–	–	–	672A	1078
–	–	–	–	–	–	672B	1079
–	–	–	–	–	–	672C	1080
673	673	–	673	–	673	–	1081
pt 4 hdg	pt 4 hdg	om	–	–	–	–	–

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–	–	pt 5 hdg	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
–	–	div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg
674	674	–	674	–	674	–	1082
675	675	–	675	–	675	–	1083
–	–	div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg
676	676	–	676	–	676	–	1084
677	677	–	677	–	677	–	1085
678	678	–	678	–	678	–	1086
679	679	–	679	–	679	–	1087
680	680	–	680	–	680	–	1088
–	–	680A	681	–	681	–	1089
–	–	div 3 hdg	div 3 hdg	–	div 3 hdg	–	div 3 hdg
–	–	680B	682	–	682	–	1090
–	–	div 4 hdg	div 4 hdg	–	div 4 hdg	–	div 4 hdg
–	–	680C	683	–	683	–	1091
–	–	680D	684	–	684	–	1092
–	–	680E	685	–	685	–	1093
–	–	div 5 hdg	div 5 hdg	–	div 5 hdg	–	div 5 hdg
–	–	680F	686	–	686	–	1094
–	–	680G	687	–	687	–	1095
–	–	div 6 hdg	div 6 hdg	–	div 6 hdg	–	div 6 hdg
–	–	680H	688	–	688	–	1096
–	–	680I	689	–	689	–	1097
–	–	div 7 hdg	div 7 hdg	–	div 7 hdg	–	div 7 hdg
–	–	680J	690	–	690	–	1098
–	–	680K	691	–	691	–	1099
–	–	680L	692	–	692	–	1100
–	–	680M	693	–	693	–	1101
–	–	div 8 hdg	div 8 hdg	–	div 8 hdg	–	div 8 hdg

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–	–	680N	694	–	694	–	1102
–	–	div 9 hdg	div 9 hdg	–	div 9 hdg	–	div 9 hdg
–	–	680O	695	–	695	–	1103
–	–	680P	696	–	696	–	1104
–	–	div 10 hdg	div 10 hdg	–	div 10 hdg	–	div 10 hdg
–	–	680Q	697	–	697	–	1105
pt 5 hdg	pt 5 hdg	renum as pt 6 hdg	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg
681	681	–	698	–	698	–	1106
682	682	–	699	–	699	–	1107
683	683	–	700	–	700	–	1108
684	684	–	701	–	701	–	1109
685	685	–	702	–	702	–	1110
686	686	–	703	–	703	–	1111
687	687	–	704	–	704	–	1112
pt 6 hdg	pt 6 hdg	renum as pt 7 hdg	pt 7 hdg	–	pt 7 hdg	–	pt 7 hdg
688	688	–	705	–	705	–	1113
689	689	–	706	–	706	–	1114
690	690	–	707	–	707	–	1115
691	691	–	708	–	708	–	1116
692	692	–	709	–	709	–	1117
693	693	–	710	–	710	–	1118
694	694	–	711	–	711	–	1119
695	695	–	712	–	712	–	1120
–	–	–	–	–	–	712A	1121
pt 7 hdg	pt 7 hdg	renum as pt 8 hdg	pt 8 hdg	–	pt 8 hdg	–	pt 8 hdg
696	696	–	713	–	713	–	1122
697	697	–	714	–	714	–	1123

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
698	698	–	715	–	715	–	1124
699	699	–	716	–	716	–	1125
700	700	–	717	–	717	–	1126
ch 12 hdg	ch 12 hdg	–	ch 12 hdg	–	ch 12 hdg	–	ch 16 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
701	701	–	718	–	718	–	1127
702	702	–	719	–	719	–	1128
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
703	703	–	720	–	720	–	1129
704	704	–	721	–	721	–	1130
pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
705	705	–	722	–	722	–	1131
706	706	–	723	–	723	–	1132
707	707	–	724	–	724	–	1133
708	708	–	725	–	725	–	1134
709	709	–	726	–	726	–	1135
710	710	–	727	–	727	–	1136
711	711	–	728	–	728	–	1137
pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
712	712	–	729	–	729	–	1138
713	713	–	730	–	730	–	1139
714	714	–	731	–	731	–	1140
715	715	–	732	–	732	–	1141
716	716	–	733	–	733	–	1142
717	717	–	734	–	734	–	1143
718	718	–	735	–	735	–	1144
pt 5 hdg	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
719	719	–	736	–	736	–	1145
720	720	–	737	–	737	–	1146

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
721	721	–	738	–	738	–	1147
722	722	–	739	–	739	–	1148
723	723	–	740	–	740	–	1149
724	724	–	741	–	741	–	1150
pt 6 hdg	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg
725	725	–	742	–	742	–	1151
726	726	–	743	–	743	–	1152
727	727	–	744	–	744	–	1153
728	728	–	745	–	745	–	1154
729	729	–	746	–	746	–	1155
730	730	–	747	–	747	–	1156
731	731	–	748	–	748	–	1157
732	732	–	749	–	749	–	1158
733	733	–	750	–	750	–	1159
734	734	–	751	–	751	–	1160
735	735	–	752	–	752	–	1161
736	736	–	753	–	753	–	1162
737	737	–	754	–	754	–	1163
738	738	–	755	–	755	–	1164
739	739	–	756	–	756	–	1165
740	740	–	757	–	757	–	1166
741	741	–	758	–	758	–	1167
742	742	–	759	–	759	–	1168
743	743	–	760	–	760	–	1169
–	–	–	–	ch 12A hdg	ch 13 hdg	–	ch 17 hdg
–	–	–	–	pt 1 hdg	pt 1 hdg	–	pt 1 hdg
–	–	–	–	743A	761	–	1170
–	–	–	–	743B	762	–	1171

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
–	–	–	–	pt 2 hdg	pt 2 hdg	–	pt 2 hdg
–	–	–	–	div 1 hdg	div 1 hdg	–	div 1 hdg
–	–	–	–	743C	763	–	1172
–	–	–	–	743D	764	–	1173
–	–	–	–	743E	765	–	1174
–	–	–	–	743F	766	–	1175
–	–	–	–	div 2 hdg	div 2 hdg	–	div 2 hdg
–	–	–	–	743G	767	–	1176
–	–	–	–	743H	768	–	1177
–	–	–	–	743I	769	–	1178
–	–	–	–	div 3 hdg	div 3 hdg	–	div 3 hdg
–	–	–	–	743J	770	–	1179
–	–	–	–	pt 3 hdg	pt 3 hdg	–	pt 3 hdg
–	–	–	–	div 1 hdg	div 1 hdg	–	div 1 hdg
–	–	–	–	743K	771	–	1180
–	–	–	–	743L	772	–	1181
–	–	–	–	div 2 hdg	div 2 hdg	–	div 2 hdg
–	–	–	–	743M	773	–	1182
–	–	–	–	743N	774	–	1183
–	–	–	–	743O	775	–	1184
–	–	–	–	743P	776	–	1185
–	–	–	–	743Q	777	–	1186
–	–	–	–	div 3 hdg	div 3 hdg	–	div 3 hdg
–	–	–	–	743R	778	–	1187
–	–	–	–	div 4 hdg	div 4 hdg	–	div 4 hdg
–	–	–	–	743S	779	–	1188
–	–	–	–	pt 4 hdg	pt 4 hdg	–	pt 4 hdg
–	–	–	–	743T	780	–	1189
–	–	–	–	743U	781	–	1190

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–	–	–	–	743V	782	–	1191
–	–	–	–	743W	783	–	1192
–	–	–	–	743X	784	–	1193
ch 13 hdg	ch 13 hdg	–	ch 13 hdg	–	ch 18 hdg	–	ch 18 hdg
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
744	744	–	761	–	785	–	1194
745	745	–	762	–	786	exp new s 786 ins	1195
746	746	–	763	–	787	–	1196
747	747	–	764	–	788	–	1197
748	748	–	765	–	789	–	1198
749	749	–	766	–	790	–	1199
pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
750	750	–	767	–	791	–	1200
751	751	–	768	–	792	–	1201
–	–	–	–	–	–	792A	1202
752	752	–	769	–	793	–	1203
–	–	–	–	–	–	793A	1204
–	–	–	–	–	–	793B	1205
–	–	–	–	–	–	793C	om
–	pt 3 hdg	–	exp	–	–	–	–
–	752A	–	exp	–	–	–	–
–	752B	–	exp	–	–	–	–
–	752C	–	exp	–	–	–	–
–	752D	–	exp	–	–	–	–
–	752E	–	exp	–	–	–	–
–	752F	–	exp	–	–	–	–
ch 14 hdg	ch 14 hdg	–	ch 14 hdg	–	ch 15 hdg	–	ch 19 hdg

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
753	753	–	770	–	794	–	1206
754	754	–	771	–	795	–	1207
755	755	–	772	–	796	–	1208
div 2 hdg	div 2 hdg	–	exp	–	–	–	–
756	756	–	exp	–	–	–	–
757	757	–	exp	–	–	–	–
758	758	–	exp	–	–	–	–
759	759	–	exp	–	–	–	–
760	760	–	exp	–	–	–	–
761	761	–	exp	–	–	–	–
div 3 hdg	div 3 hdg	–	exp	–	–	–	–
sdiv A hdg	sdiv A hdg	–	exp	–	–	–	–
762	762	–	exp	–	–	–	–
763	763	–	exp	–	–	–	–
764	764	–	exp	–	–	–	–
765	765	–	exp	–	–	–	–
766	766	–	exp	–	–	–	–
sdiv B hdg	sdiv B hdg	–	exp	–	–	–	–
767	767	–	exp	–	–	–	–
sdiv C hdg	sdiv C hdg	–	exp	–	–	–	–
768	768	–	exp	–	–	–	–
div 4 hdg	div 4 hdg	–	exp	–	–	–	–
769	769	–	exp	–	–	–	–
div 5 hdg	div 5 hdg	–	exp	–	–	–	–
770	770	–	exp	–	–	–	–

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
771	771	–	exp	–	–	–	–
772	772	–	exp	–	–	–	–
div 6 hdg	div 6 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
773	773	–	773	–	exp	–	–
774	774	–	exp	–		–	–
775	775	–	774	–	797	–	1209
–	–	–	–	–	–	797A	1210
div 7 hdg	div 7 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
776	776	–	775	–	798	–	1211
777	777	–	776	–	799	–	1212
778	778	–	777	–	800	–	1213
779	779	–	778	–	801	–	1214
780	780	–	779	–	802	–	1215
781	781	–	780	–	803	–	1216
–	–	–	–	–	–	div 3A hdg	div 4 hdg
–	–	–	–	–	–	sdiv 1 hdg	sdiv 1 hdg
–	–	–	–	–	–	803A	1217
–	–	–	–	–	–	803B	1218
–	–	–	–	–	–	803C	1219
–	–	–	–	–	–	sdiv 2 hdg	sdiv 2 hdg
–	–	–	–	–	–	803D	1220
–	–	–	–	–	–	803E	1221
–	–	–	–	–	–	803F	1222
–	–	–	–	–	–	803G	1223
–	–	–	–	–	–	803H	1224
–	–	–	–	–	–	803I	1225
–	–	–	–	–	–	803J	1226

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–	–	–	–	–	–	803K	1227
–	–	–	–	–	–	803L	1228
–	–	–	–	–	–	803M	1229
–	–	–	–	–	–	803N	1230
–	–	–	–	–	–	803O	1231
–	–	–	–	–	–	803P	1232
div 8 hdg	div 8 hdg	–	exp	–	–	–	–
782	782	–	exp	–	–	–	–
783	783	–	exp	–	–	–	–
784	784	–	exp	–	–	–	–
785	785	–	exp	–	–	–	–
786	786	–	exp	–	–	–	–
div 9 hdg	div 9 hdg	–	div 4 hdg	–	div 4 hdg	–	exp
787	787	–	781	–	804	–	exp
788	788	–	782	–	805	–	exp
789	789	–	783	–	806	–	exp
790	790	–	784	–	807	–	exp
791	791	–	785	–	808	–	exp
–	–	791A	786	–	exp	–	–
792	792	–	787	–	809	–	exp
div 10 hdg	div 10 hdg	–	om	–	–	–	–
793	793	–	om	–	–	–	–
div 11 hdg	div 11 hdg	–	div 5 hdg	–	div 5 hdg	exp new div hdg ins	div 5 hdg
794	794	–	788	–	810	exp new s 810 ins	exp
795	795	–	789	–	811	exp new s 811 ins	exp

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796	796	–	790	–	812	exp new s 812 ins	exp
797	797	–	791	–	813	–	1233
798	798	–	792	–	814	exp new s 814 ins	exp
–	–	–	–	div11A hdg	exp	–	–
–	–	–	–	sdiv A hdg	exp	–	–
–	–	–	–	798A	exp	–	–
–	–	–	–	798B	exp	–	–
–	–	–	–	sdiv B hdg	exp	–	–
–	–	–	–	798C	exp	–	–
–	–	–	–	798D	exp	–	–
–	–	–	–	798E	exp	–	–
–	–	–	–	798F	exp	–	–
–	–	–	–	sdiv C hdg	exp	–	–
–	–	–	–	798G	exp	–	–
–	–	–	–	798H	exp	–	–
–	–	–	–	798I	exp	–	–
–	–	–	–	798J	exp	–	–
–	–	–	–	798K	exp	–	–
–	–	–	–	sdiv D hdg	exp	–	–
–	–	–	–	798L	exp	–	–
–	–	–	–	798M	exp	–	–
div 12 hdg	div 12 hdg	–	div 6 hdg	–	div 6 hdg	–	exp
799	799	–	793	–	815	–	exp

Original Act	Reprint No. 1 26/3/94	New ss ins between Reprint Nos. 1 and 2	Reprint No. 2 3/4/95	New ss ins between Reprint Nos. 2 and 3	Reprint No. 3 7/7/95	New ss ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/98
800	800	–	794	–	816	–	exp
801	801	–	795	–	817	–	exp
pt 2 hdg	om	–	–	–	–	–	–
802	om	802	om	–	–	–	–
803	om	–	–	–	–	–	–
pt 3 hdg	om	–	–	–	–	–	–
804	om	–	–	–	–	–	–
sch	om	–	–	–	–	–	–

10 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note to the text.

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