



*Local Government Act 2009*

# **Local Government Regulation 2012**

**Current as at 7 November 2013**

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Queensland

# Local Government Regulation 2012

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# Local Government Regulation 2012

[as amended by all amendments that commenced on or before 7 November 2013]

## Chapter 1 Preliminary

### 1 Short title

This regulation may be cited as the *Local Government Regulation 2012*.

### 2 Definitions

The dictionary in schedule 8 defines particular words used in this regulation.

## Chapter 2 Local governments

### Part 1 Local government areas, names and representation

#### 3 What pt 1 is about

For section 8(4) of the Act, this part—

- (a) describes the boundaries of local government areas; and
- (b) describes the boundaries of any divisions; and
- (c) fixes the number of councillors for local governments and any divisions of local government areas; and
- (d) names local government areas; and

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- (e) classifies local government areas as a city, town, shire or region.

#### **4 Names of local government areas**

- (1) The name of each local government area is mentioned in schedule 1, column 1.
- (2) A local government may be called either—
- (a) ‘Council of the ... (*insert* City/Town/Shire/Region) of ... (*insert* name of local government area)’; or
- (b) ‘... (*insert* name of local government area) ... (*insert* City/Town/Shire/Regional) Council’.
- (3) Also, a local government mentioned in schedule 2 may be called ‘... (*insert* name of local government area) ... Aboriginal Shire Council’.

#### **5 Classifications of local government areas**

- (1) The classification of each local government area is mentioned in schedule 1, column 2.
- (2) The classifications of local government areas are—
- city
  - town
  - shire
  - region.

#### **6 Boundaries of local government areas and any divisions**

- (1) The boundaries of each local government area, and any divisions of the area, are shown on its area map mentioned in schedule 1, column 3.
- (2) To remove any doubt, it is declared that any part of a watercourse, including the land below the high-water mark of

the watercourse, that is within the boundary of a local government area is part of the local government area.

- (3) A *watercourse* includes a canal, lake or river.
- (4) Each area map is identified by a map number marked on the map.
- (5) The department's chief executive must ensure—
  - (a) the department's website states a place or places where a copy of the area maps may be inspected by the public; and
  - (b) a copy of the area maps may be inspected by the public at the place or places; and
  - (c) each local government has a copy of its area map.
- (6) Each local government must ensure the public may inspect a copy of its area map at the local government's public office.

## **7 Number of councillors for a local government and any divisions of the local government area**

- (1) The total number of councillors for each local government area is mentioned in schedule 1, column 5.
- (2) The number of councillors for each division of a local government area is mentioned in schedule 1, column 4.

## **Part 2**                      **Changing a local government area, name or representation**

### **Division 1**                **Changing boundaries of a local government**

#### **8**            **What div 1 is about**

This division prescribes, for section 19(2)(c) of the Act, the other matters to be considered by the change commission if a proposed local government change relates to a change of the boundaries of a local government area.

#### **9**            **Communities of interest**

- (1) The external boundaries of a local government area should be drawn in a way that has regard to communities of interest, including that the local government area should generally—
  - (a) reflect local communities, for example, the geographical pattern of human activities (where people live, work and engage in leisure activities), and the linkages between local communities; and
  - (b) have a centre, or centres, of administration and service easily accessible to its population; and
  - (c) ensure effective elected representation for residents and ratepayers; and
  - (d) have external boundaries that—
    - (i) do not divide local neighbourhoods or adjacent rural and urban areas with common interests or interdependencies, including, for example, economic, cultural and ethnic interests or interdependencies; and

- (ii) subject to the water catchment principle—follow the natural geographical features and non-natural features separating different communities; and
  - (iii) do not dissect properties.
- (2) The *water catchment principle* is the principle that water catchment areas should generally be included in the local government area they service.

## 10 Joint arrangements

- (1) Regard should be had to whether or not a joint arrangement should be established instead of, or in combination with, a change to the external boundaries of a local government area.
- (2) A *joint arrangement* includes the following—
- (a) a joint local government;
  - (b) a joint standing committee;
  - (c) joint action by agreement;
  - (d) the joint exercise of local government jurisdiction or the joint operation of an activity, facility or service;
  - (e) an agreement on, or extension of, an activity, facility or service outside a local government area;
  - (f) a contribution for the operation of an activity, facility or service outside a local government area;
  - (g) resource sharing by local governments;
  - (h) any other type of arrangement of a joint nature the change commission considers appropriate, including an arrangement not dealt with under the Act.

## 11 Planning

The external boundaries of a local government area should be drawn in a way that—

- (a) helps in—

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- (i) the planning and development for the benefit of the local government area; and
  - (ii) the efficient and effective operation of its facilities, services and activities; and
- (b) has regard to existing and expected population growth.

## **12 Resource base sufficiency**

A local government should have a sufficient resource base—

- (a) to be able to efficiently and effectively exercise its jurisdiction and operate facilities, services and activities; and
- (b) to be flexible and responsive in the exercise of its jurisdiction and the operation of its activities, facilities and services.

## **Division 2 Changing classification of a local government area**

### **13 Changing classification of a local government area**

- (1) This section prescribes, for section 19(2)(c) of the Act, the other matters to be considered by the change commission if a proposed local government change relates to a change of the classification of a local government area.
- (2) The criteria for a local government area to be declared a city are that—
  - (a) the area is the centre of a region providing commercial, industrial, health and public sector services for the region; and
  - (b) the area has, for the 3 years immediately before the declaration, had—
    - (i) a population of at least 25000; and



- (ii) a population of at least 15000 in its urban centre;  
and
  - (iii) a population density of at least 150 people for each square kilometre of its urban centre.
- (3) The criteria for a local government area to be declared a town are that the area does not meet the criteria for being declared a city but is urban in character.
  - (4) The criterion for a local government area to be declared a shire is that the area is not urban in character.
  - (5) The criterion for a local government area to be declared a region is that the area be created as a result of the amalgamation of 2 or more local government areas of any class.

## **Division 3                    Implementing particular local government changes**

### **13A    What div 3 is about**

This division provides for the following—

- (a) implementing, under section 20 of the Act, local government changes relating to a change of the boundaries of a local government area;
- (b) facilitating the implementation of the local government changes mentioned in paragraph (a).

### **13B    Implementing local government changes relating to changes of the boundaries of local government areas**

- (1) Schedule 3, part 1 implements the local government changes mentioned in it.
- (2) Schedule 3, part 2 makes provision for facilitating the implementation of each local government change mentioned in schedule 3, part 1.

## Chapter 3      The business of local governments

### Part 1            Local laws

#### 14      Local law register—Act, s 31

- (1) For section 31(1) of the Act, a local government's register of its local laws must contain, for each local law, the local law's name, purposes and general effect.
- (2) A person may, on payment of a fee decided by the local government, request an extract or a certified copy of a local law from the register of its local laws.
- (3) The fee mentioned in subsection (2) must be no more than the reasonable cost of providing the extract or copy.
- (4) The local government must publish the register of its local laws on its website.

#### 15      Anti-competitive provisions

- (1) For the Act, schedule 4, definition *anti-competitive provision*, a provision is identified as creating barriers to entry to a market (*competitive barriers*) or barriers to competition within a market (also *competitive barriers*) if a local government, applying the identification guidelines, identifies the provision as creating competitive barriers.
- (2) The *identification guidelines* is the document called 'National Competition Policy Guidelines to assist Local Governments identify possible anti-competitive provisions in proposed local laws and proposed local law policies', made by the department and dated 28 November 1997.

*Editor's note—*

A copy of the identification guidelines is available on the department's website.

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**16 Procedures for the review of anti-competitive provisions—Act, s 38**

- (1) For section 38(1) of the Act, the procedures prescribed are those procedures under the public interest test guidelines.
- (2) The *public interest test guidelines* is the document called ‘National Competition Policy Guidelines for conducting public interest tests on possible anti-competitive provisions in local laws and local law policies’, made by the department and dated 4 December 1997.

*Editor’s note—*

A copy of the public interest test guidelines is available on the department’s website.

## **Part 2 Business reform, including competitive neutrality**

### **Division 1 Introduction**

#### **17 What pt 2 is about**

This part is about reforming a local government’s significant business activity in accordance with the competitive neutrality principle.

*Note—*

See sections 43 and 44 of the Act.

#### **18 Reforming a significant business activity**

- (1) The local government must identify and assess each new significant business activity for possible reform.
- (2) If the local government decides to reform the significant business activity, the reform must involve—

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- (a) applying full cost pricing to the activity; or
- (b) commercialising the activity; or
- (c) corporatising the activity by creating a corporatised business entity to conduct the activity.

## Division 2                      Identifying significant business activities for reform

### 19      **Thresholds for significant business activities—Act, s 43(4)(b)**

- (1) This section prescribes, for section 43(4)(b) of the Act, the threshold that a business activity must meet to be a significant business activity.
- (2) A business activity that has expenditure of at least the following for the previous financial year is a ***type 1 significant business*** for the current financial year—
  - (a) for a business activity that is the provision of combined water and sewerage services—\$42.64m;
  - (b) for another business activity—\$25.54m.

*Note—*

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

- (3) A business activity, other than a type 1 significant business, that has expenditure of at least the following for the previous financial year is a ***type 2 significant business*** for the current financial year—
  - (a) for a business activity that is the provision of combined water and sewerage services—\$12.77m;
  - (b) for another business activity—\$8.55m.
- (4) The Minister must consult with LGAQ Ltd. about a proposed amendment to a threshold mentioned in subsection (2) or (3).

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**20 Identifying significant business activity for report—Acts 45**

For section 45(b) of the Act, a local government must use the financial information for the previous financial year that was presented to the local government's budget meeting to identify each new significant business activity for the financial year.

**Division 3 Full cost pricing**

**21 What div 3 is about**

- (1) This division explains how a local government applies full cost pricing to a significant business activity as part of the reform of the activity.
- (2) This division applies whether the reform is done by—
  - (a) full cost pricing; or
  - (b) commercialisation; or
  - (c) corporatisation.
- (3) This division expands on section 44 of the Act.

**22 Full cost pricing**

- (1) A local government applies full cost pricing to a significant business activity by charging for goods or services at the full cost of providing the goods or services, subject to the following—
  - (a) the pricing provisions;
  - (b) the removal of any competitive advantage or disadvantage, whenever possible and appropriate;
  - (c) if a competitive advantage or disadvantage can not be removed—the taking of the competitive advantage or

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disadvantage into account when pricing the goods or services.

- (2) For subsection (1)—
- (a) a local government applies full cost pricing to a significant business activity if the total projected revenue from providing all of the activity's goods and services is enough to cover the projected total costs of conducting the activity; and
  - (b) it is not relevant whether the projected revenue from providing a particular good or service is enough to cover the projected costs incurred in providing that particular good or service.
- (3) A **competitive advantage** is an advantage a business entity conducting a significant business activity has over a private sector business because the local government owns the activity.
- (4) For example, a competitive advantage includes—
- (a) a financial advantage; and
  - (b) a procedural advantage; and
  - (c) a regulatory advantage.

*Examples of a financial advantage—*

A business entity conducting a significant business activity has a financial advantage if the business entity—

- is exempt from paying a local government tax a private sector business must pay; or
- is charged a different government tax from the government tax a private sector business is charged; or
- is charged a lower rate of interest on a bank loan because the State guarantees the loan.

*Examples of a procedural advantage—*

A business entity conducting a significant business activity has a procedural advantage if the business entity—

- does not have to supply the same amount of information under a government approval process as a private sector business; or

- can access more information for a government approval process than a private sector business can access.

*Example of a regulatory advantage—*

A business entity conducting a significant business activity has a regulatory advantage if the business entity is exempt (completely or partly) from a government approval process a private sector business must follow.

- (5) A ***competitive disadvantage*** is a disadvantage a business entity conducting a significant business activity suffers over a private sector business because the local government owns the activity.
- (6) For example, a competitive disadvantage includes a community service obligation.

## **23 Cost of community service obligations**

- (1) This section applies when a local government is deciding what to charge for goods or services provided in conducting a significant business activity.
- (2) The cost of carrying out community service obligations, less any revenue received from performing the obligations, must be treated as revenue for the significant business activity.

## **24 Community service obligations**

A ***community service obligation*** is an obligation the local government imposes on a business entity to do something that is not in the commercial interests of the business entity to do.

*Example of a community service obligation—*

giving a price concession to a particular group of customers, including pensioners, seniors and students

## **25 Taking account of government taxes**

- (1) A commercialised business unit that is applying full cost pricing to a significant business activity must comply with the tax equivalents manual.

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- (2) The *tax equivalents manual* is a manual, issued by the Treasurer, about how a local government must account for tax equivalents.
- (3) A *tax equivalent* is an amount that is the equivalent to the advantage gained by a local government by not paying a tax the local government would be liable to pay if it were a private sector business.
- (4) A *tax* includes any charge, duty, fee, levy or rate payable under an Act of the Commonwealth or the State, including the Act.
- (5) The tax equivalents manual may, for example, provide for—
  - (a) lodging tax returns; and
  - (b) assessing tax returns; and
  - (c) rulings, including the application of rulings about taxes imposed under a Commonwealth Act; and
  - (d) objections and appeals against assessments and rulings; and
  - (e) the appointment of tax assessors.
- (6) The Treasurer must table a copy of each amendment of the tax equivalents manual in the Legislative Assembly within 14 sitting days after the amendment is made.

## **Division 4                      Commercialisation**

### **26            What div 4 is about**

- (1) This division is about the commercialisation of a significant business activity by a local government.
- (2) This involves the local government ensuring the significant business activity is conducted by a commercial business unit within the local government, as required under this division.



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## 27 Commercial business unit

- (1) As part of the commercialisation of a significant business activity, a local government must—
  - (a) if the activity is being conducted by a business unit—convert the business unit to a commercial business unit; or
  - (b) if the activity is not being conducted by a business unit—create a commercial business unit and transfer the activity to the commercial business unit.
- (2) A ***commercial business unit*** is a business unit that conducts business in accordance with the key principles of commercialisation.

## 28 What are the ***key principles of commercialisation***

The ***key principles of commercialisation***, for a commercial business unit, are—

- (a) clarity of objectives, namely that the local government—
  - (i) gives the unit clear and non-conflicting objectives; and
  - (ii) sets specific financial and non-financial performance targets for the significant business activity; and
  - (iii) keeps activities relating to local government policy formulation, or that are of a regulatory nature, separate from the unit, wherever possible; and
  - (iv) clearly identifies the nature and extent of the community service obligations the unit must perform; and
  - (v) sets performance targets for the unit's community service obligations; and
  - (vi) separately costs the unit's community service obligations; and

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- (vii) appropriately compensates the unit for performing the community service obligations, and discloses details of the compensation to the public; and
- (b) management autonomy and authority, namely that—
  - (i) the unit remains at arms-length to the local government in day-to-day operations; and
  - (ii) the local government gives the unit autonomy in day-to-day operations, subject to overarching monitoring; and
  - (iii) any directions the local government gives the unit to achieve non-commercial objectives are given in an open way; and
  - (iv) the unit uses its best endeavours to ensure the unit meets its performance targets; and
- (c) accountability for performance, namely that—
  - (i) the local government monitors the unit's performance against the performance targets; and
  - (ii) the unit must generally be subject to the management framework of the local government; and
  - (iii) the unit complies with all laws the local government must comply with; and
- (d) competitive neutrality, namely that the unit complies with the competitive neutrality principle by—
  - (i) removing any competitive advantage or competitive disadvantage, wherever possible and appropriate; and
  - (ii) promoting efficiency of the use of resources to ensure markets are not unnecessarily distorted.

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**29 Converting a business unit to a commercial business unit**

- (1) A local government must make the decision to convert a business unit to a commercial business unit by resolution.
- (2) A local government converts a business unit to a commercial business unit by changing the way in which the business unit is conducted to agree with the key principles of commercialisation.

**30 Creating a commercial business unit**

- (1) A local government must make the decision to create a commercial business unit by resolution.
- (2) The decision may be made in the same resolution the local government makes to commercialise a significant business activity.
- (3) A commercial business unit may be created to conduct more than 1 significant business activity.

**Division 5 Code of competitive conduct**

**31 What div 5 is about**

This division is about the code of competitive conduct for section 47 of the Act.

**32 Elements of code of competitive conduct**

The code of competitive conduct is all of the following—

- (a) the application of the competitive neutrality principle under section 33;
- (b) the pricing provisions;
- (c) sections 34 and 35 about financial reporting;
- (d) sections 36 and 37 about the treatment of community service obligations.

### **33 Applying the competitive neutrality principle**

- (1) If a local government applies the code of competitive conduct to a business activity, the local government must apply the competitive neutrality principle to the business activity including, for example, by—
  - (a) removing any competitive advantage or competitive disadvantage, wherever possible and appropriate; and
  - (b) promoting efficiency of the use of resources to ensure markets are not unnecessarily distorted.
- (2) However, subsection (3) applies if the local government conducting the business activity enjoys a net advantage over competitors, only because the local government is in competition with the private sector, that can not be eliminated to comply with the competitive neutrality principle.
- (3) For deciding charges to persons for goods or services provided in conducting the business activity, the individual advantages and disadvantages that make up the net advantage must be taken into account in deciding the required revenue under schedule 4, section 2.

### **34 Estimated activity statement**

- (1) A local government's budget must, for each business activity, contain an estimated activity statement.
- (2) An *estimated activity statement* is a document that states, for the business activity—
  - (a) the estimated revenue that is payable to—
    - (i) the local government; or
    - (ii) anyone else; and
  - (b) the estimated expenses, including all items taken into account under the pricing provisions (other than return on capital); and
  - (c) the estimated surplus or deficit for the financial year; and

- (d) if community service obligations are to be carried out during the business activity—
  - (i) a description of the nature of the community service obligations; and
  - (ii) the estimated cost of performing the community service obligations, less the estimated revenue for the community service obligations.
- (3) An estimated activity statement may contain a summary of the information mentioned in subsection (2), instead of a full statement of the information, if—
  - (a) the estimated activity statement states it is a summary only and that a full statement of the information may be—
    - (i) inspected or purchased at the local government’s public office; and
    - (ii) inspected on the local government’s website; and
  - (b) a full statement of the information can be—
    - (i) inspected or purchased at the local government’s public office; and
    - (ii) inspected on the local government’s website.
- (4) The price for purchasing a full statement of the information must be no more than the reasonable cost to the local government of making the statement available for purchase.

### **35 Activity statement**

- (1) A local government’s annual financial statements must contain, for each business activity, an activity statement.
- (2) An *activity statement* is a document that states—
  - (a) the revenue from goods and services provided to the local government in conducting the business activity; and

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- (b) the revenue from goods and services provided to persons other than the local government in conducting the business activity; and
  - (c) the expenses for the business activity, including all items required to be taken into account under the pricing provisions (other than return on capital); and
  - (d) the surplus or deficit for the financial year; and
  - (e) if community service obligations were carried on during the business activity—
    - (i) a description of the nature of the community service obligations; and
    - (ii) the cost of carrying out the community service obligations, minus the revenue from the community service obligations.
- (3) An activity statement may contain a summary of the information mentioned in subsection (2), instead of a full statement of the information, if—
- (a) the activity statement states it is a summary only and that a full statement of the information may be—
    - (i) inspected or purchased at the local government’s public office; and
    - (ii) inspected on the local government’s website; and
  - (b) a full statement of the information can be—
    - (i) inspected or purchased at the local government’s public office; and
    - (ii) inspected on the local government’s website.
- (4) The price for purchasing a full statement of the information must be no more than the cost to the local government of making the statement available for purchase.

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**36 Cost of community service obligations**

- (1) This section applies when a local government is deciding what to charge for goods or services provided in conducting a business activity.
- (2) The cost of performing community service obligations, less any revenue received from carrying out those obligations, must be treated as revenue for the business activity.

**37 Particular roads activities not to include community service obligations**

An offer or competitive tender for a roads activity on a State-controlled road must not include community service obligations.

**38 Building certifying activity—Act, s 47(4)(b)**

Any business activity conducted by any of the following local governments is prescribed for section 47(4)(b) of the Act—

- Bundaberg Regional Council
- Cairns Regional Council
- Fraser Coast Regional Council
- Gladstone Regional Council
- Gold Coast City Council
- Gympie Regional Council
- Ipswich City Council
- Logan City Council
- Mackay Regional Council
- Moreton Bay Regional Council
- Redland City Council
- Rockhampton Regional Council
- Scenic Rim Regional Council

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- Sunshine Coast Regional Council
- Tablelands Regional Council
- Toowoomba Regional Council
- Townsville City Council
- Whitsunday Regional Council.

### **39 Prescribed business activities—Act, s 47(7)**

- (1) A business activity is prescribed for section 47(7) of the Act for a financial year if the amount of current expenditure for the business activity for the previous financial year is \$300000 or more.
- (2) The amount of *current expenditure* for a business activity for a financial year is the total of the following amounts spent in conducting the activity for the year—
  - (a) operational costs;
  - (b) administrative and overhead costs;
  - (c) cost of resources;
  - (d) depreciation.

## **Division 6 Water and sewerage services**

### **40 What div 6 is about**

- (1) This division is about local governments achieving efficiency and sustainability in conducting relevant business activities.
- (2) A *relevant business activity* of a local government is—
  - (a) a significant business activity that is the provision of water or sewerage services; or
  - (b) an activity of a corporatised business entity that is the provision of water or sewerage services if the provision of the services was a significant business activity.



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#### 41 Full cost recovery for water and sewerage services

- (1) A local government conducting a relevant business activity must—
  - (a) conduct a 2-part charge assessment for the providing of water services; and
  - (b) decide whether a 2-part charge is to be applied for water services; and
  - (c) if a 2-part charge is to be applied for water services—apply the charge in accordance with the decision; and
  - (d) apply full cost recovery for water and sewerage services; and
  - (e) identify and disclose cross-subsidies and community service obligations in the providing of water and sewerage services; and
  - (f) disclose a class of consumers who are provided with water and sewerage services at an amount below full cost and the amount.
- (2) A local government applies full cost recovery for a service if the estimated total revenue for the financial year is more than the estimated total costs of providing the service in the financial year.
- (3) A **2-part charge assessment** is an assessment of the cost effectiveness of the application of a 2-part charge for a business activity that is the provision of water services.
- (4) A **2-part charge** is a utility charge that is made up of the following 2 parts—
  - (a) a fixed charge for using the infrastructure that supplies water to a person (a **consumer**) who is liable to pay the charge;
  - (b) a variable charge for using the water, based on the amount of water that is actually used by the consumer.

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- (5) The ***total revenue*** includes revenue from performing community service obligations, less the cost of performing the obligations.
- (6) The ***total costs***, of providing a service, include—
  - (a) the operational costs of providing the service; and
  - (b) a reasonable allocation of the administrative and overhead costs of conducting the local government's business activities to which this section applies; and
  - (c) the cost of resources used in providing the service, based on—
    - (i) if the resources have an identifiable cost—that cost; or
    - (ii) otherwise—the price at which the resources can be obtained on the open market on similar terms; and
  - (d) depreciation of each asset used in providing the service, based on—
    - (i) the depreciable amount for the asset, allocated over its useful life; or
    - (ii) an amount the local government decides is appropriate in the circumstances; and
  - (e) the return on the capital used in providing the service, based on a positive rate the local government decides.
- (7) The ***capital used in providing the service*** is the total value of the assets used for the service (using an accepted accounting method), less the liabilities attributable to the service.

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## **Division 7                      Competitive neutrality complaints**

### **Subdivision 1              Introduction**

#### **42              What div 7 is about**

This division prescribes, for section 48(4) of the Act, the process for resolving competitive neutrality complaints.

### **Subdivision 2              Complaint process**

#### **43              Application of sdiv 2**

- (1) This subdivision applies to a business activity, conducted by a business entity, to which the competitive neutrality principle applies.
- (2) The *relevant local government* for the business activity is—
  - (a) if the business entity conducting the activity is the local government—the local government; or
  - (b) if the business entity conducting the activity is a corporatised business entity—the local government that owns or controls the corporatised business entity.

#### **44              Minimum requirements for complaint process**

- (1) This section sets out the minimum requirements for the relevant local government's process for resolving a competitive neutrality complaint in relation to the business entity.
- (2) The local government must ensure the process deals with the following—
  - (a) resolving a matter before making a complaint, including, for example, the process for—

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- (i) a person to raise concerns about alleged failures of the business entity to comply with the competitive neutrality principle in conducting the business activity; and
- (ii) clarifying the matter;
- (b) recording all complaints, decisions and recommendations.

#### **45 Making a complaint**

- (1) A person who wants to make a competitive neutrality complaint must make the complaint in writing to the relevant local government or the QCA.
- (2) The complaint must contain—
  - (a) details of the business entity’s alleged failure to comply with the competitive neutrality principle in conducting the business activity the subject of the competitive neutrality complaint; and
  - (b) information that shows—
    - (i) the person (the *complainant*) is, or could be, in competition with the business entity; and
    - (ii) how the complainant is, or may be, adversely affected by the business entity’s alleged failure; and
    - (iii) the complainant has made a genuine attempt to resolve the complaint through the process mentioned in section 44(2)(a).
- (3) If a person makes a competitive neutrality complaint to a local government, the relevant local government must give the complaint to the QCA as soon as is practicable.
- (4) The making of a complaint does not stop the business entity from conducting the business activity.

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**46 QCA must investigate and report on complaint**

The QCA must, subject to this part, investigate and report on a competitive neutrality complaint received under section 45.

**47 QCA requiring further information**

- (1) The QCA may, by notice given to a complainant, require the complainant to give the QCA further information about the complaint (the *additional information*) within the reasonable period stated in the notice (the *stated period*).
- (2) However, the QCA may only require additional information that is necessary and reasonable to help the QCA to decide whether or not to investigate the complaint.
- (3) The QCA may refuse to investigate a complaint if the complainant fails, without reasonable excuse, to give the QCA the additional information within the stated period.

**48 QCA refusing to investigate**

- (1) The QCA may refuse to investigate a competitive neutrality complaint if the QCA reasonably believes that—
  - (a) the complainant has not shown that the complainant made a genuine attempt to resolve the matter through the process mentioned in section 44(2)(a); or
  - (b) the complainant is not, or will not be, in competition with the relevant local government, after the QCA considers—
    - (i) whether the complainant is, or will be, supplying goods or services that are similar to the goods or services the business activity supplies; and
    - (ii) the laws relating to competition that apply to the business activity; or
  - (c) the complainant is not, or is unlikely to be, adversely affected if the business activity is not conducted in a

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- way that complies with the competitive neutrality principle; or
- (d) the complaint is frivolous or vexatious.
- (2) If the QCA refuses to investigate the complaint, the QCA must give each of the following a refusal notice within 14 days—
- (a) the complainant;
  - (b) the relevant local government.
- (3) A *refusal notice* is a document that states—
- (a) that the QCA has refused to investigate the complaint; and
  - (b) the reasons for the refusal.

#### **49 Notice of intention to investigate**

- (1) Before the QCA starts to investigate a competitive neutrality complaint, the QCA must give an investigation notice to—
- (a) the complainant; and
  - (b) the relevant local government; and
  - (c) if a corporatised business entity is conducting the business activity—the corporatised business entity.
- (2) The QCA may also give an investigation notice to another person the QCA considers appropriate.
- (3) An *investigation notice* is a document that—
- (a) states the QCA's intention to investigate a competitive neutrality complaint; and
  - (b) states the subject matter of the complaint, or has a copy of the complaint attached; and
  - (c) invites the complainant to make written submissions or, if the QCA approves, oral submissions about the matter; and

- (d) states a reasonable period within which the submissions may be made; and
- (e) states the QCA's address.

## 50 Investigation by QCA

Part 6 of the QCA Act applies to the QCA's investigation of a competitive neutrality complaint with the following changes—

- (a) a reference to a government agency is taken to include a reference to a business entity;
- (b) a reference to an investigation under part 4 is taken to be a reference to an investigation of a competitive neutrality complaint.

## 51 Matters QCA must consider when investigating

- (1) The QCA must consider the competitive neutrality criteria when investigating a competitive neutrality complaint.
- (2) The following matters are the *competitive neutrality criteria*—
  - (a) the need to ensure the competitive neutrality principle is complied with;
  - (b) any policies of the relevant local government about the competitive neutrality principle, including, for example—
    - (i) directions the local government gives to the business entity conducting the business activity the subject of the competitive neutrality complaint; and
    - (ii) arrangements between the local government and the business entity about a competitive advantage gained, or competitive disadvantage suffered, by the business entity; and

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- (iii) social welfare and equity considerations, including, for example, community service obligations, and the availability of goods and services to consumers; and
    - (iv) policies on economic and regional development issues, including, for example, policies on employment and investment growth;
  - (c) policies of the relevant local government, or a law, about—
    - (i) ecologically sustainable development; or
    - (ii) industrial relations; or
    - (iii) occupational health and safety;
  - (d) the need to promote competition;
  - (e) the need to allocate resources efficiently.
- (3) Subsection (1) does not limit the matters the QCA may consider when investigating a competitive neutrality complaint.

## **52 QCA's report on investigation**

- (1) The QCA must prepare a report on the results of the QCA's investigation of a competitive neutrality complaint, and give it to—
  - (a) the relevant local government; and
  - (b) if a corporatised business entity is conducting the business activity—the corporatised business entity.
- (2) The report must state whether or not the QCA considers the complaint has been substantiated.
- (3) If the QCA decides the business entity has a competitive advantage, the report must include—
  - (a) recommendations on how the business entity can conduct the business activity in a way that complies with the competitive neutrality principle; and



- 
- (b) the reasons for the recommendations; and
  - (c) for a complaint about a building certifying activity—comments on how carrying out the statutory building functions has resulted in a competitive advantage.
- (4) The *statutory building functions* are the building functions under the Building Act or Planning Act that—
- (a) only a local government can provide; and
  - (b) a building certifier under the Building Act relies on.

*Examples—*

- providing site or town planning information to a building certifier
  - receiving and processing documents from a building certifier
- (5) If the QCA decides the business entity suffers a competitive disadvantage, the report must include—
- (a) recommendations on how the business entity can overcome the competitive disadvantage; and
  - (b) the reasons for the recommendations; and
  - (c) comments about the competitive disadvantage, including comments about the effect of the disadvantage on the business entity.

### **53 Public access to report**

A local government given a report under section 52 must ensure the public can inspect a copy of the report at the local government's public office as soon as practicable after being given the report.

### **54 Information to persons given an investigation notice**

The QCA must give the following documents to any other person to whom the QCA gave an investigation notice—

- (a) a copy of the recommendations in the report;

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- (b) notice that the person may inspect the report, including recommendations, at the local government's public office.

## **55 Local government response to QCA's report**

- (1) The relevant local government must decide, by resolution, whether to implement the recommendations in the QCA's report.
- (2) The resolution must state the reasons for the local government's decision.
- (3) The local government must make the resolution—
  - (a) within 1 month after the QCA gives the report to the local government; or
  - (b) if the local government does not ordinarily meet within that month—at the first meeting of the local government after that month.
- (4) The local government must, within 7 days after making the resolution, give notice of the resolution to—
  - (a) the complainant; and
  - (b) the QCA; and
  - (c) if a corporatised business entity is conducting the business activity—the corporatised business entity.
- (5) If a corporatised business entity is conducting the business activity, the corporatised business entity must implement the recommendations as soon as practicable.

## **Subdivision 3 Miscellaneous provision**

### **56 Register**

- (1) A local government must establish a register of business activities to which the competitive neutrality principle applies.

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- (2) The register must state the following—
- (a) business activities to which the local government has applied the competitive neutrality principle, and the date from which the competitive neutrality principle applied to each business activity;
  - (b) business activities to which the code of competitive conduct applies, and the date from which the code applied to each business activity;
  - (c) a list of—
    - (i) current investigation notices for competitive neutrality complaints; and
    - (ii) the business activities to which the complaints relate; and
    - (iii) the local government’s responses to the QCA’s recommendations on the complaints.

## **Part 3 Roads and other infrastructure**

### **Division 1 Roads**

#### **57 Prescribed particulars for register of roads—Act, s 74**

- (1) For section 74(1)(b)(iii) of the Act, the other particulars prescribed are—
- (a) the length of every road, including an unformed road, in the local government’s area; and
  - (b) if a road is formed, gravelled pavement or sealed pavement—the length and width of the formed, gravelled pavement or sealed pavement part of the road; and

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- (c) if a road consists of a through road and an adjacent road—the width of each as if each were a separate road.
- (2) For subsection (1)—
  - (a) a length must be measured in kilometres and a width must be measured in metres; and
  - (b) the width of a divided road is the total width of all sections of the divided road that are formed, gravelled pavement or sealed pavement.
- (3) In this section—

*formed*, for a road, means a road, other than a gravelled pavement or sealed pavement road, formed so that stormwater drains from the road.

*gravelled pavement*, for a road, means a road surfaced with gravel, limestone or rubble and constructed by the use of a mechanical compaction process.

*sealed pavement*, for a road, means a road with a surface of asphalt, bitumen, concrete or pavers.

*unformed*, for a road, means a road or track that—

- (a) is not a formed, gravelled pavement or sealed pavement road; but
- (b) is open to, and used by, the public.

## Division 2                      Malls

### 58      **Other matters connected with managing, promoting or using malls—Act, s 80A**

- (1) For section 80A(3) of the Act, this section prescribes other matters connected with managing, promoting or using a mall.
- (2) In relation to a mall, a local government may do any of the following—

- 
- (a) anything that is necessary or desirable for developing, managing, maintaining (including cleaning), promoting, or using the mall;
  - (b) permit the use of any part of the mall (including for the use of erecting any structure, for example) on the conditions it considers appropriate;
  - (c) anything incidental to its powers mentioned in paragraph (a) or (b).
- (3) The local government's planning scheme must include all existing and proposed malls in the local government area.

## **Division 3                    Marine and aquatic matters**

### **59            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 even if the waters of the harbour are inside the limits of a port within the meaning of the Transport Infrastructure Act.
- (3) A local government may occupy and use foreshore, tidal land or tidal waters to undertake work in exercising the powers under subsection (1).
- (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 local government area.

### **60            Canals**

- (1) This section is about canals within the meaning of the *Coastal Protection and Management Act 1995*, section 9.

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- (2) If a local law affects the owner of a structure in a canal, the **owner** of the structure is—
- (a) the holder of the development permit under the Planning Act to build the structure; or
  - (b) the owner of the land—
    - (i) that receives the benefit of the structure; or
    - (ii) to which the structure is connected.

## 61 The foreshore

- (1) The Governor in Council may, by gazette notice, place a foreshore under the control of—
- (a) the local government for the local government area adjoining the foreshore; or
  - (b) if there is no local government area adjoining the foreshore—the local government for a local government area that is near the foreshore.
- (2) While the foreshore is under the local government's control the foreshore is taken to be part of the local government's area.

## 62 Bathing reserves

- (1) The Governor in Council may, by gazette notice, place the following under the control of a local government as a bathing reserve—
- (a) a part of a seashore;
  - (b) land under the sea that is adjacent to the part of a seashore and seawards for a distance of not more than 1km beyond low-water mark at ordinary spring tides;
  - (c) sea above the part of a seashore and land.
- (2) The **seashore** is—
- (a) the foreshore; or

- 
- (b) State land that—
    - (i) is above the high-water mark at ordinary spring tides; and
    - (ii) is ordinarily covered by sand or shingle; and
    - (iii) is not subject to a licence, permit or other authority granted by the State under an Act.
  - (3) While the bathing reserve is under the local government's control the bathing reserve is taken to be part of the local government's area.

## Division 4            Other matters

### 63        Public thoroughfare easements

- (1) This section is about land that is subject to a public thoroughfare easement.
- (2) The local government in whose favour the easement is created has control of the land, subject to the provisions of the instrument that created the easement.
- (3) ***Control of the land*** includes the right to take all necessary steps for—
  - (a) construction on, maintenance of or improvement of the land; and
  - (b) regulation of the use of the land.
- (4) The local government is responsible for maintaining the land.
- (5) The owner of the land is not required, and can not be required, to maintain, or to contribute to the maintenance of, any part of the land.
- (6) The ***owner*** of the land is—
  - (a) if the land is land granted in trust under the Land Act—the trustee of the land; or

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- (b) if the land is non-freehold land under the Land Act—the lessee or licensee of the land; or
  - (c) if the land is a lot under the Land Title Act—the registered owner of the lot.
- (7) The owner of the land is not, and can not be made, civilly liable for an act done, or omission made, honestly and without negligence in relation to the land.
- (8) When deciding what rights and liabilities attach because of something that happened on the land, the land is taken to be a road under the local government’s control.

## **64 Boundary works**

- (1) This section is about a road or other work that is to be, or has been, built—
- (a) along the boundary between 2 or more local government areas; and
  - (b) partly in each of the areas.
- (2) The cost of planning, constructing, maintaining and managing the road or other work is the joint responsibility of each of those local governments.
- (3) The local governments must enter into the arrangements that are necessary to perform that responsibility.

# **Part 4 Levy on Kuranda rail line**

## **65 Definitions for pt 4**

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 railway between Cairns and Kuranda.

***Kuranda rail operator*** means a rail transport operator within the meaning of the *Transport (Rail Safety) Act 2010* who is accredited under that Act for the operation or movement of rolling stock on the Kuranda rail line.

***tourist infrastructure levy*** see section 66(1).

## **66 Imposition of levy**

- (1) A levy (the ***tourist infrastructure levy***) is imposed on each Kuranda rail operator until 31 December 2020.
- (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 Kuranda rail operator, other than a journey provided free of charge.
- (3) For subsection (2), a return journey is taken to be a single journey.

## **67 Payment of levy**

- (1) Each Kuranda rail operator must, within 3 weeks after the end of each quarter for which the tourist infrastructure levy is imposed, pay the State the amount of the levy imposed on it during the quarter.
- (2) A Kuranda rail operator must pay interest on an amount owing under subsection (1) unpaid from time to time.

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- (3) 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.
- (4) If a Kuranda rail operator does not pay an amount owing under this section, the State may recover it from the operator as a debt.

## **68 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 Kuranda rail 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) The approved form may require the statement to be made or verified by statutory declaration.

## **69 How levy is to be applied**

Amounts received by the State for payment of the tourist infrastructure levy must be paid to the Tablelands Regional Council in the way, and on the conditions, decided by the Minister.

## **70 Expiry**

This part expires on 30 June 2021.

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## Chapter 4 Rates and charges

### Part 1 Preliminary

#### 71 What ch 4 is about

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

*Note—*

See chapter 4, part 1 of the Act.

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

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

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

### Part 2 Land exempt from rating

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

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

- (a) land owned by a religious entity if the land is less than 20ha and is used for 1 or more of the following purposes—
- (i) religious purposes, including, for example, public worship;

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

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## Part 3 Value of land used for rates

### 74 Rateable value of land

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

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

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

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

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

where—

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

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

## 76 Working out the 3-year averaged value

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

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

where—

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

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

## **Part 4 Minimum general rates**

### **77 Minimum general rates for land generally**

- (1) A local government may fix a minimum amount of general rates.
- (2) The local government may identify parcels of rateable land to which a minimum amount of general rates applies in any way the local government considers appropriate.
- (3) However, a local government must not levy minimum general rates for a parcel of land if—
  - (a) the Land Valuation Act, chapter 2, part 2, division 5, subdivision 3, applies to the parcel of land; and  
*Editor's note—*  
Land Valuation Act, chapter 2, part 2, division 5, subdivision 3 (Discounting for subdivided land not yet developed (non-Land Act rental))
  - (b) the discounted valuation period for the parcel of land has not ended under that subdivision.
- (4) Generally, the same minimum amount of general rates must apply to all rateable land in the local government area.
- (5) However, a local government may fix a different minimum amount of general rates only for—

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- (a) if there are different rating categories of rateable land for the local government area, each different rating category; or
  - (b) timeshare property; or
  - (c) any of the following—
    - (i) a mining lease granted for mining for minerals over land that is not larger than 2ha;
    - (ii) a mining lease granted for a purpose that is associated with mining for minerals over land that is not larger than 4ha; or
  - (d) land that is subject to a mining claim, subject to section 79.
- (6) For subsection (5)(a), if a local government fixes a different minimum amount of general rates for different rating categories, the same minimum amount of general rates must apply to all rateable land belonging to a particular rating category.

## **78 Minimum general rates on timeshare property**

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



$$MA = L \times RU$$

where—

*MA* is the minimum amount.

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

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

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

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

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

# Part 5 Differential general rates

## Division 1 Introduction

### 80 Differential general rates

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

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

## **81 Categorisation of land for differential general rates**

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

*Example—*

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

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

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

## **82 Later categorisation**

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

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

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

### **83            Appointing categorisation officer**

- (1) The chief executive officer may appoint a qualified person as a categorisation officer for this division.
- (2) For subsection (1), a person is qualified if the person—
  - (a) has the competencies the chief executive officer considers are necessary to perform the functions that are required to be performed by the person under this division; and
  - (b) is authorised by a local government for this division.
- (3) A categorisation officer's appointment is subject to—
  - (a) section 85; and
  - (b) the conditions stated in the document that appoints the categorisation officer.

### **84            Identity card for categorisation officer**

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

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

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## 85 Exercise of power of entry

- (1) A categorisation officer may enter private property under this division only—
  - (a) with the permission of the occupier of the property; or
  - (b) to ask the occupier of the property for permission to stay on the property to exercise the powers under this division; or
  - (c) with, and in accordance with, a warrant.
- (2) Subject to subsection (7), section 129, other than subsections (2)(b) and (4)(a)(ii), of the Act (the *applied provision*) applies to a categorisation officer for entering private property under subsection (1)(a) or (b).
- (3) Subject to subsections (4) and (7), sections 130, other than subsections (5) and (6)(a), and 131 of the Act (also the *applied provisions*) apply to a categorisation officer for entering private property under subsection (1)(c).
- (4) However, a magistrate may issue a warrant for entering private property under this division only if—
  - (a) the magistrate is satisfied—
    - (i) the warrant is sought for entering the property for a proper purpose; and
    - (ii) the occupier of the property has unreasonably refused a request for permission to enter the property under section 129(2) of the Act as applied under subsection (2); and
  - (b) the warrant states the purpose for which it is issued.
- (5) For subsection (4)(a)(i), a proper purpose is to enable any of the following to happen—
  - (a) the rating categories into which rateable land in a local government area is to be categorised to be decided;
  - (b) a description for each of the rating categories to be decided;

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- (c) the rating category for a parcel of rateable land to be identified;
  - (d) an objection against the categorisation of rateable land to be decided.
- (6) Subject to subsection (7), sections 126, 136 and 137 of the Act (also the *applied provisions*) apply to a categorisation officer for entering private property under this division.
- (7) The applied provisions apply as if—
- (a) a reference in the applied provisions to an authorised person were a reference to a categorisation officer; and
  - (b) a reference in the applied provisions, other than section 137 of the Act, to a Local Government Act were a reference to this division; and
  - (c) a reference in the applied provisions to the powers under the Act were a reference to the powers under this division; and
  - (d) a reference in the applied provisions to the powers or action under chapter 5, part 2, division 1 of the Act were a reference to the powers or action under this division.

*Editor's note—*

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

## **86 End of appointment of categorisation officer**

- (1) A person stops being a categorisation officer—
- (a) at the end of the term of appointment stated in the document that appointed the person; or
  - (b) if the person gives the local government a signed notice of resignation; or

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- (c) if it is a condition of the person's appointment that the person hold another position at the same time—if the person stops holding the other position.
  - (2) This section does not limit the ways in which a categorisation officer's appointment ends.

## **87 Entering private property with written notice**

- (1) For the purpose of deciding an appeal relating to the categorisation of land, a Land Court representative may, after giving the occupier of a private property at least 14 days written notice, enter the property, other than a home on the property.
- (2) The written notice must inform the occupier of—
  - (a) the Land Court representative's intention to enter the property; and
  - (b) the reason for entering the property; and
  - (c) the day and time when the property is to be entered.
- (3) The Land Court representative may enter the property under subsection (1) at any reasonable time of the day without the permission of the occupier.
- (4) Also, as soon as the Land Court representative enters the property, the representative must inform an occupier of the property of the reason for entering the property.
- (5) If there is no occupier of the property, this section applies as if a reference to the occupier of the property were a reference to an owner of the property.
- (6) In this section—

***Land Court representative*** means each of the following persons—

  - (a) a member of the Land Court;
  - (b) a person authorised in writing by a member of the Land Court for this section.

## Division 3                      Notice of categorisation of land

### 88            Notice to owner of categorisation

- (1) This section applies if a local government decides to levy differential general rates on rateable land for a financial year.
- (2) The local government must ensure each of the following rate notices (a *relevant rate notice*) is accompanied by, or contains, a rating category statement—
  - (a) the first rate notice for the financial year given to the owner of the land;
  - (b) a later rate notice for the financial year if—
    - (i) the owner of the land has changed since the first rate notice for the financial year was issued; or
    - (ii) the rating category for the land has changed since the first rate notice for the financial year was issued.
- (3) However, a rating category statement may also accompany, or be contained in, a rate notice other than a relevant rate notice.
- (4) The *rating category statement* is a document stating—
  - (a) the rating categories for land in the local government area, and a description of each of the rating categories; and
  - (b) the rating category for the land (the *owner's land*) described in the rate notice accompanying or containing the rating category statement; and
  - (c) that the owner may object to the categorisation of the owner's land only on the ground that the rating category is wrong in reference to the local government's descriptions of the rating categories; and
  - (d) that the owner may object by giving the local government an objection notice within—



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- (i) 30 days after the date when the first rate notice was issued; or
  - (ii) a longer period that the local government allows; and
- (e) that the owner is liable to pay the amount in the rate notice even if the owner gives an objection notice; and
  - (f) that, if the rating category of the owner's land is changed because of the objection, the rates will be adjusted at that time.

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

### **89            What div 4 is about**

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

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

- (1) This section applies if an owner of rateable land wants to object to the rating category for the land that is stated in a rate notice for the land.
- (2) The only ground for objecting is that the owner considers the land should belong to a different rating category.
- (3) The owner may object by giving the local government an objection notice.
- (4) An ***objection notice*** is a document, in a form approved by the local government, stating—
  - (a) the rating category that the owner claims the land should belong to; and

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- (b) the facts and circumstances on which the owner makes that claim.
- (5) The owner must give the objection notice within—
  - (a) 30 days after the day when the rate notice was issued; or
  - (b) a longer period that the local government allows.

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

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

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

- (1) This section applies if the owner of rateable land wants to appeal against a decision of—
  - (a) the local government not to allow a longer period for giving an objection notice; or

- (b) the chief executive officer on the owner's objection to the rating category for the land.
- (2) The owner may appeal by filing an appeal notice in the Land Court registry, within 42 days after the day when the owner received notice of the decision.
- (3) The appeal notice must be in the form approved by the Land Court.
- (4) The owner must give a copy of the filed appeal notice to the local government, within 7 days after the appeal notice was filed.
- (5) If the owner fails to do so, it does not affect the making of the appeal, or the jurisdiction of the Land Court to decide the appeal, but the court may award costs against the owner for any adjournment that is caused by the owner's failure.

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

- (1) For an appeal under this division, the Land Court is constituted by 1 member.
- (2) The Land Court—
  - (a) must conduct the appeal with a view to its prompt disposal; and
  - (b) must observe natural justice; and
  - (c) is not bound by the rules of evidence.
- (3) The Land Court may decide to—
  - (a) if the appeal is against the decision of the local government not to allow a longer period for giving an objection notice—
    - (i) allow a longer period for giving an objection notice; or
    - (ii) not allow the appeal; or

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- (b) if the appeal is against the decision of the chief executive officer on the owner's objection to the rating category for the land—
  - (i) change the rating category for the land; or
  - (ii) not allow the appeal.
- (4) If the Land Court decides to change the rating category for the land, the rating category is taken to have been changed from the start of the period of the rate notice.

## Part 6                      Special rates and charges

### 94      Levying special rates or charges

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

*Note—*

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

- (2) The local government's resolution to levy special rates or charges must identify—
  - (a) the rateable land to which the special rates or charges apply; and
  - (b) the overall plan for the service, facility or activity to which the special rates or charges apply.
- (3) The **overall plan** is a document that—
  - (a) describes the service, facility or activity; and
  - (b) identifies the rateable land to which the special rates or charges apply; and
  - (c) states the estimated cost of carrying out the overall plan; and

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- (d) states the estimated time for carrying out the overall plan.
- (4) The local government must adopt the overall plan before, or at the same time as, the local government first resolves to levy the special rates or charges.
- (5) Under an overall plan, special rates or charges may be levied for 1 or more years before any of the special rates or charges are spent in carrying out the overall plan.
- (6) If an overall plan is for more than 1 year, the local government must also adopt an annual implementation plan for each year.
- (7) An ***annual implementation plan*** for a financial year is a document setting out the actions or processes that are to be carried out in the financial year for the service, facility or activity to which the special rates or charges apply.
- (8) The local government must adopt the annual implementation plan before or at the budget meeting for each year of the period for carrying out the overall plan.
- (9) The local government may at any time, by resolution, amend—
- (a) an overall plan; or
  - (b) an annual implementation plan.
- (10) The local government may fix a minimum amount of the special rates or charges.
- (11) Subsection (12) applies if the local government decides to levy special rates or charges on particular rateable land for a service, facility or activity.
- (12) The amount of the special rates or charges for the particular rateable land may be different to the amount for other rateable land because, in the local government's opinion—
- (a) the land or its occupier—
    - (i) specially benefits from the service, facility or activity; or

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- (ii) has or will have special access to the service, facility or activity; or
  - (b) the land is or will be used in a way that specially contributes to the need for the service, facility or activity; or
  - (c) the occupier of the land specially contributes to the need for the service, facility or activity.
- (13) For subsection (12), the local government may levy the special rates or charges on any basis the local government considers appropriate.
- (14) In any proceedings about special rates or charges, a resolution or overall plan mentioned in subsection (2) is not invalid merely because the resolution or plan does not identify all rateable land to which the special rates or charges could have been levied.
- (15) To remove any doubt, it is declared that a local government may make and levy a special rate or charge for a service, facility or activity whether or not supplied or undertaken by the local government itself, including a service, facility or activity supplied or undertaken by another local government—
- (a) in the other local government’s local government area; and
  - (b) conducted as a joint government activity by the local governments.

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

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

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

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

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

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

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

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

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

# **Part 7 Utility charges**

## **99 Utility charges**

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



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

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

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

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*Note—*

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

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

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

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

*Note—*

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

- (b) partly according to the water used, using a 2-part charge.
- (2) The utility charges for the water used must be worked out on the basis of—
  - (a) if the water used is not measured by a water meter—
    - (i) the estimated average water usage of the consumers within a group of consumers who have similar water usage; or
    - (ii) another method that is appropriate to decide a consumer's likely water usage; or
  - (b) if the water used is measured by a water meter—
    - (i) an amount for each unit, or part of a unit, of water that is used; or
    - (ii) a fixed amount plus an amount for each unit, or part of a unit, of water that is used over a stated quantity.

*Example for paragraph (b)(ii)—*

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

The local government works out that—

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

The utility charges for the year would be—

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

- (3) Utility charges for water are not invalid only because the local government does not comply with this part.

## **102 Reading meters for utility charges**

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

*Example—*

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

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

*Example—*

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

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

### **103      Levying separate rates or charges**

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

## **Part 9                      Levying and adjusting rates and charges**

### **Division 1                  Rate notices**

#### **104      Rate notice for rates or charges**

- (1) A local government may levy rates or charges only by a rate notice.
- (2) A *rate notice* is a document stating—
  - (a) the date when the rate notice is issued; and
  - (b) the due date for payment of the rates or charges; and
  - (c) if the local government has decided a discount applies to the rates or charges—
    - (i) the terms of the discount; and
    - (ii) the last day of the discount period; and

- (d) if the local government has decided rates or charges may be paid by instalments—the requirements for paying by instalments; and
- (e) the ways in which the rates or charges may be paid.

### **105 Other amounts under rate notice**

- (1) A rate notice may also include an amount, other than an amount for rates or charges, payable to the local government.

*Example—*

a licence fee payable to the local government

- (2) However, the rate notice must make it clear that—
  - (a) the amount is not for rates or charges; and
  - (b) payment of the amount, whether before or after the end of any discount period, does not affect any discount that applies to the rates or charges.

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

A rate notice must be given—

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

*Note—*

See part 13 for more information on the land record.

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

- (1) A rate notice may only be issued—
  - (a) for utility charges, for a period of at least 1 month, that the local government considers appropriate; and

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

## **108 Electronic issue of rate notice**

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

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

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

### **109 What div 2 is about**

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

**110 Land stops being rateable land**

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

**111 Change in value**

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

**112 Change in rating category**

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

**113 Special rates become or stop being payable**

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

**114 Loss of entitlement to occupy land from State**

- (1) This section applies if—
  - (a) a person is entitled to occupy land under a lease, licence or permission given by the State; and
  - (b) the person loses the entitlement, including, for example, because the lease, licence or permission expires or is surrendered or forfeited.

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- (2) The local government must adjust the rates or charges so that the rates or charges are calculated only for the period when the person was entitled to occupy the land.

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

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

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

## **Division 3 Other matters about levying rates or charges**

### **116 Limitation of increase in rates or charges levied**

- (1) When a local government resolves to levy rates or charges, it also may resolve to limit the increase in the rates or charges.
- (2) The rates or charges may be limited to not more than—
  - (a) if the rates or charges for the last financial year were for a full year—
    - (i) the rates or charges for the last financial year; or
    - (ii) the rates or charges for the last financial year, increased by a stated percentage; or
  - (b) if the rates or charges levied for the last financial year were not for a full year—
    - (i) the corresponding annual amount for the rates or charges for the last financial year; or
    - (ii) the corresponding annual amount for the rates or charges for the last financial year, increased by a stated percentage.



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- (3) The *corresponding annual amount* is the amount worked out by—
    - (a) converting the amount of the rates or charges levied for the last financial year to a daily amount; and
    - (b) multiplying the daily amount by 365.
  - (4) The resolution may specify different percentages for—
    - (a) different land or classes of land; or
    - (b) different rates or charges.

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

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

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

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

## Part 10 Concessions

### 119 Concession for rates or charges

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

### 120 Criteria for granting concession

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

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- (i) the person who subdivided the parcel is the owner of the land; and
  - (ii) the land is not developed land.
- (2) In this section—
- GHG tenure*** see the *Greenhouse Gas Storage Act 2009*, section 18(2).
- mining tenement*** see the *Mineral Resources Act 1989*, schedule 2.
- petroleum tenure*** means—
- (a) a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*, section 18(3); or
  - (b) an authority to prospect or lease under the *Petroleum Act 1923*.

## 121 Types of concession

The concession may only be of the following types—

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

## 122 Resolutions for granting concession

- (1) The local government may grant the concession only by—
  - (a) a resolution granting the concession to a stated ratepayer; or
  - (b) if the concession is of a type mentioned in section 121(a) or (b)—a resolution granting the concession to a ratepayer who is a member of a stated class of ratepayers.
- (2) The local government may make the resolution before the local government levies the rates or charges.

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- (3) The local government may make a resolution under subsection (1)(a) only if the ratepayer has applied for the concession in a way accepted by the local government.
- (4) If the local government grants a concession by making a resolution under subsection (1)(b), the concession may be granted only to the ratepayers whom the local government is satisfied are eligible for the concession.
- (5) The resolution may include conditions for granting the concession to the ratepayer.
- (6) Without limiting subsection (5), the conditions may include the following—
  - (a) a condition requiring the ratepayer to show the local government particular information or documents or follow a procedure to be eligible for the concession;

*Examples—*

- a condition requiring the ratepayer to produce a health care card or pensioner concession card to show the ratepayer's eligibility for the concession for the rates or charges
  - a condition requiring the ratepayer to enter an agreement to defer payment of rates or charges in a form required by the local government
- (b) a condition limiting the period for which the ratepayer is granted the concession.

*Example—*

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

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

- (1) The local government may grant a rebate of rates or charges for land occupied only by pensioners only if the land owner agrees to pass the benefit of the rebate on to the pensioners.

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

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

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

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

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

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*Example—*

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

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

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

- (1) This section applies if a concession to a ratepayer for rates or charges includes an agreement to accept a transfer of unencumbered land in full or part payment of the rates or charges.
- (2) The agreement must state the due date for payment of the rates or charges.

# **Part 11 Paying rates and charges**

## **127 Who must pay rates and charges**

- (1) Subject to section 163, the following persons are liable to pay rates and charges—
  - (a) for rateable land—the current owner of the land, even if that owner did not own the land during the period to which the rates or charges relate;
  - (b) for a service that is supplied to a structure, or to land that is not rateable land—the entity who asked for the service to be supplied;
  - (c) for previously rateable land—the owner of the land immediately before it stopped being rateable land.
- (2) *Previously rateable land* is land that was, but has stopped being, rateable land because—

- (a) the tenure of a holding is terminated; or
  - (b) the land is surrendered or forfeited to the State; or
  - (c) the land is acquired by the State or the Commonwealth;  
or
  - (d) the land is exempted from rating; or
  - (e) the property description of the land no longer exists.
- (3) If more than 1 person is liable to pay rates or charges, all the persons are jointly and severally liable to pay the rates or charges.

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

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

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

- (1) A local government may decide to allow ratepayers to pay rates or charges by instalments.
- (2) The local government must, by resolution, make the decision at its budget meeting.
- (3) The resolution must state—

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- (a) the periods for payment of each instalment of the rates or charges; and
  - (b) any other requirements for paying the rates or charges by instalments.
- (4) The requirements may include a requirement for the ratepayer to pay an additional charge in return for paying the rates or charges by instalments.
- (5) The resolution may state a discount for paying an instalment of the rates or charges within the period for paying the instalment.

### **130 Discount for prompt payment of rates or charges**

- (1) A local government may decide to allow a discount for payment of rates or charges before the end of the discount period.
- (2) The amount of the discount and the discount period may differ for different rating categories of rateable land.
- (3) The *discount period* is a period that ends on or before the due date for payment.

*Examples of discount period—*

- 1 month before the due date for payment
  - a period of 1 month ending 2 weeks before the due date for payment
- (4) The local government must, by resolution, make the decision at its budget meeting.
- (5) The resolution must state—
- (a) whether the discount is to be—
    - (i) a fixed amount; or
    - (ii) a percentage of the rates or charges; and
  - (b) if the discount is to be a fixed amount—the amount; and



- (c) if the discount is to be a percentage of the rates or charges—the percentage; and
  - (d) whether the discount applies only if—
    - (i) other rates or charges are paid; or
    - (ii) an amount, including any interest on the amount, is paid for work that was performed by the local government under a remedial notice issued under the Act; and
  - (e) the discount period.
- (6) The local government may allow more than 1 discount period for rates or charges only if the local government’s resolution—
- (a) states more than 1 discount period for the rates or charges; and
  - (b) allows a different discount for each discount period.
- (7) The local government may, by resolution, change the discount period to end on a later day (the *new discount day*).
- (8) However, if the discount period is changed under subsection (7), the local government must also, by resolution, change the due date for payment to a later day that is no earlier than the new discount day.
- (9) If the local government decides to allow a discount for a discount period, it must allow the discount to all ratepayers who pay the rates or charges before the end of the discount period.
- (10) If a local government is satisfied a ratepayer has been prevented, by circumstances beyond their control, from paying the rates or charges in time to get a discount, the local government may still allow the discount.
- (11) A ratepayer is not entitled to a discount for paying in full rates or charges for land by the end of a discount period if other rates or charges for the land are overdue.

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### **131 Other benefits for prompt payment**

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

*Examples of a benefit—*

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

## **Part 12 Overdue rates and charges**

### **Division 1 General provisions**

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

- (1) *Overdue* rates or charges are made up of—
  - (a) either of the following—
    - (i) subject to subparagraph (ii), rates or charges that are not paid by the due date for payment stated in the rate notice;
    - (ii) if a ratepayer is granted a concession for rates or charges of a type mentioned in section 121(b) or (c)—rates or charges that are not paid by the due date stated in the agreement to which the concession relates; and
  - (b) if the local government takes the ratepayer to court to recover rates or charges and the court orders the ratepayer to pay the council's costs—the costs; and
  - (c) the interest, if interest is payable, on the rates or charges, or costs.

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- (2) Subject to subsection (3), the rates or charges mentioned in subsection (1)(a)(i) become **overdue** on the day after the due date for payment of the rates or charges stated in the rate notice.
  - (3) Subject to subsections (4) to (6), the rates or charges mentioned in subsection (1)(a)(ii) become **overdue** on the day after the due date for payment of the rates or charges stated in the agreement to which the concession relates.
  - (4) Subsection (5) applies if—
    - (a) rates or charges are not paid before the due date stated in the rate notice for the rates or charges; and
    - (b) a concession of a type mentioned in section 121(b) or (c) is granted after the due date; and
    - (c) the rates or charges are not paid by the due date stated in the agreement to which the concession relates.
  - (5) The rates or charges are taken to have become **overdue** on the day after the due date stated in the rate notice for the rates or charges.
  - (6) If an agreement deferring payment of rates or charges includes a condition about when the rates or charges become payable, the rates or charges can become **overdue** only if the condition is satisfied.

*Example—*

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

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

- (1) Interest is payable on overdue rates or charges—
  - (a) at the percentage, of not more than 11% a year, decided by the local government; and
  - (b) from the day the rates or charges become overdue or a later day decided by the local government.

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- (2) A local government's decision about the rate of interest, and the date from which interest is payable on overdue rates or charges, must apply equally to all ratepayers.
- (3) Interest must be calculated—
  - (a) on daily rests and as compound interest; or
  - (b) in another way the local government decides, if an equal or lower amount will be obtained.

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

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

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

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

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

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

### **Subdivision 1            Preliminary**

#### **136    What div 3 is about**

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

#### **137    Reference to *market value***

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

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

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

- (1) This section applies if—
  - (a) a local government intends to sell land under this subdivision; and
  - (b) the land is subject to a State encumbrance.
- (2) A *State encumbrance* is an encumbrance on land that gives the State or a government entity an interest in the land, including, for example—
  - (a) a mortgage; or

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- (b) an interest that arises under a Housing Act contract.
- (3) The local government must give the State or government entity that has the interest in the land under the State encumbrance a notice of the local government's intention to sell the land, before the local government sells the land.
- (4) The local government may sell the land only—
  - (a) subject to the State encumbrance; or
  - (b) free of the State encumbrance to the extent, and on any conditions (the *sale conditions*), to which the State or government entity agrees.
- (5) If the land is subject to an interest arising under a Housing Act contract, the local government may sell the land free of the interest only if the sale conditions include a condition that the local government pays the State an amount for—
  - (a) the State's interest in the land; and
  - (b) any amount that is owing to the State under the contract.

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

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

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

- (1) This section applies if—
  - (a) there are overdue rates or charges on land; and
  - (b) the liability to pay the overdue rates or charges is not the subject of court proceedings; and
  - (c) some or all of the overdue rates or charges have been overdue for at least—
    - (i) generally—3 years; or
    - (ii) if the rates or charges were levied on vacant land or land used only for commercial purposes, and the local government has obtained judgment for the overdue rates or charges—1 year; or
    - (iii) if the rates or charges were levied on a mining claim—3 months.
- (2) The local government may, by resolution, decide to sell the land.
- (3) If the local government does so, the local government must, as soon as practicable, give all interested parties a notice of intention to sell the land.
- (4) A *notice of intention to sell* is a document, signed by the chief executive officer, stating—
  - (a) that the local government has, by resolution, decided under this section to sell land for overdue rates or charges; and
  - (b) the day on which the resolution was made; and
  - (c) the terms of the resolution; and
  - (d) a description of the location and size of the land, as shown in the local government's land record; and
  - (e) details of the overdue rates or charges for the land, as at the date of the notice, including details of the period for which the rates or charges have been unpaid; and

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- (f) details of the interest that is owing on the overdue rates or charges, as at the date of the notice, including—
  - (i) details of the rate at which interest is payable on the rates or charges; and
  - (ii) a description of the way the interest is calculated; and
- (g) the total amount of overdue rates or charges and the interest, as at the date of the notice; and
- (h) a copy, or a general outline, of sections 141 to 144.

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

- (1) This section applies if—
  - (a) a local government decides to sell land under this subdivision for overdue rates and charges and gives the registered owner of the land a notice of intention to sell the land; and
  - (b) the overdue rates or charges are not paid in full within—
    - (i) generally—3 months after the local government gives the notice of intention to sell the land; or
    - (ii) if the rates or charges were levied on a mining claim—1 month after the local government gives the notice of intention to sell the land.
- (2) The local government must start the procedures under section 142 for selling the land within 6 months after the local government gives the notice of intention to sell the land.
- (3) However, the local government must end the procedures if the local government is paid—
  - (a) the amount of the overdue rates or charges; and
  - (b) all expenses that the local government incurs in attempting to sell the land.



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## 142 Procedures for selling land

- (1) This section sets out the procedures that a local government must follow when selling land for overdue rates or charges.
- (2) The local government must first offer the land for sale by auction.
- (3) The local government must prepare an auction notice.
- (4) An *auction notice* is a document stating—
  - (a) the time and place of the auction; and
  - (b) a full description of the land.
- (5) At least 14 days, but not more than 35 days, before the day of the auction, the local government must—
  - (a) give a copy of the auction notice to everyone who was given a notice of intention to sell the land; and
  - (b) advertise the auction notice in a newspaper that is circulating generally in the local government area; and
  - (c) display the auction notice in a conspicuous place in the local government's public office, until the day of the auction; and
  - (d) display the auction notice in a conspicuous place on the land unless it is not reasonably practicable to do so because the land is in a remote location or difficult to access.
- (6) However, if—
  - (a) the land is a building unit; and
  - (b) it is not practicable to display the auction notice in a conspicuous place on the land;the notice may be displayed in a conspicuous part of the common property for the building units.

### **143 Conduct of auction**

- (1) The local government must set a reserve price for the auction that is at least—
  - (a) the market value of the land; or
  - (b) the higher of the following—
    - (i) the amount of overdue rates or charges on the land;
    - (ii) the value of the land.
- (2) If the reserve price is not reached at the auction, the local government may enter into negotiations with the highest bidder at the auction to sell the land by agreement.
- (3) However, the price for the land under the agreement must be more than the highest bid for the land at the auction.
- (4) If the highest bidder at the auction does not agree to buy the land, the land is taken to have been sold at the auction to the local government for the reserve price.
- (5) However, subsection (4) does not apply if the land is held on a tenure the local government is not competent to hold.

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

- (1) This section applies if land is taken to have been sold at auction to the local government under section 143(4).
- (2) The local government must give the registrar of titles a general request form.
- (3) A *general request form* is a form that—
  - (a) is approved for a general request lodged in the land registry; and
  - (b) requests the local government be registered as owner of the land.
- (4) After receiving the general request form, the registrar of titles must register the transfer of the interest of the registered owner to the local government free of all encumbrances.

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- (5) The registrar of titles may register the transfer even though the general request form is not accompanied by the instrument of title for the land.
  - (6) Also, the registrar of titles—
    - (a) need not inquire whether the local government has complied with this subdivision; and
    - (b) is not affected by actual or constructive notice of any failure by the local government to comply with this subdivision.

#### **145 Procedures after sale of land other than to local government**

- (1) This section applies if land is sold at auction under this division, but is not taken to be sold at auction to the local government under section 143(4).
- (2) The local government must give the registrar of titles an appropriate form stating—
  - (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 of the land; and
  - (d) the purchase price of the land.
- (3) An *appropriate form* is a form approved by the registrar of titles for lodgement in the land registry to record the transfer of land to a purchaser.
- (4) After receiving the appropriate form, the registrar of titles must register the transfer of the interest of the registered owner to the purchaser free of all encumbrances.
- (5) The registrar of titles may register the transfer even though the appropriate form is not accompanied by the instrument of title for the land.
- (6) Also, the registrar of titles—

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- (a) need not inquire whether the local government has complied with this subdivision; and
- (b) is not affected by actual or constructive notice of any failure by the local government to comply with this subdivision.

#### **146 Application of proceeds of sale**

- (1) The local government must use the proceeds of the sale of the land in the following order—
  - (a) to pay any amount agreed for the release of a State encumbrance under section 138(4)(b) or (5);
  - (b) to pay the expenses of the sale;  
*Example of expenses of the sale—*
    - administrative costs incurred by the local government
  - (c) to pay land tax owing on the day of sale;
  - (d) to pay the overdue rates or charges for the land;
  - (e) to pay any other amounts relating to the land that the owner of the land owed the local government immediately before the sale;
  - (f) to pay any rates or charges, other than overdue rates or charges, for the land;
  - (g) to pay any registered encumbrances, other than State encumbrances, in order of their priority under the Land Title Act;
  - (h) to pay any body corporate fees that the owner of the land owed immediately before the sale;
  - (i) to pay the person who owned the land immediately before the sale.
- (2) If any of the proceeds of sale remain unclaimed after 2 years, the local government must pay the proceeds to the public trustee as unclaimed money.

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

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

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

**148 Application of sdiv 3**

This subdivision applies if—

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

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

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

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

- (ii) a description of the way that the interest is calculated; and
- (g) the total amount of the overdue rates or charges and the interest, as at the date of the notice; and
- (h) a copy, or general outline, of this section and sections 150 and 151.

### **150 Time to start procedures to acquire**

- (1) This section applies if—
  - (a) a local government gives, under section 149, a notice of intention to acquire land for overdue rates or charges; and
  - (b) the overdue rates or charges are not paid in full within 6 months after the local government gives the notice of intention to acquire the land.
- (2) The local government may start the procedures for acquiring the land.
- (3) However, the local government must end the procedures for acquiring the land if the local government is paid—
  - (a) the amount of the overdue rates or charges; and
  - (b) all expenses that the local government incurs in attempting to acquire the land.

### **151 Acquisition procedures**

- (1) This section sets out the procedures that a local government must follow when acquiring land for overdue rates or charges.
- (2) The local government must—
  - (a) discharge the overdue rates or charges payable for the land; and

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- (b) give the registrar of titles a request, in the appropriate form, to record the local government as the registered owner of the land.
- (3) After receiving the request, the registrar of titles must record the local government as the registered owner of the land free of all encumbrances other than any State encumbrances.
- (4) The registrar of titles—
  - (a) may record the local government as the registered owner of the land even if the request is not accompanied by the instrument of title for the land; and
  - (b) need not inquire whether the local government has complied with this subdivision; and
  - (c) is not affected by actual or constructive notice of any failure by the local government to comply with this subdivision.
- (5) When the registrar of titles has recorded the local government as the registered owner of the land, the local government must remove the reference to the land from the land record.
- (6) In this section—  
*appropriate form* see the Land Title Act, schedule 2.

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

### **152    Satisfaction on termination of tenure**

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



- (2) After retaining any amount owing to the State, the State may pay the local government an amount for the rates or charges.

## **Part 13                      Land record of local government**

### **Division 1                  Land record**

#### **153      What pt 13 is about**

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

#### **154      Land record to be kept**

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

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

## **155 Public may inspect land record**

- (1) The public may, on payment of the reasonable fee decided by a local government, inspect the land record kept by the local government.
- (2) However, the following persons may inspect particulars of land in the land record free of charge—
  - (a) an owner, lessee or occupier of—
    - (i) the land; or
    - (ii) adjoining land;
  - (b) the agent of an owner, lessee or occupier of—
    - (i) the land; or
    - (ii) adjoining land.
- (3) The agent must produce, to the local government, written evidence of the agent's appointment.
- (4) The local government may—
  - (a) provide a person with access to an electronic or paper copy of the land record or part of the land record; or

- 
- (b) give a person an electronic or paper copy of the land record or part of the land record, including, for example, by sending it by post, email or facsimile.
- (5) The local government must not include a person's name and address for service in the land record when it is open to inspection if—
- (a) the local government has been given a notice about the person under the Land Valuation Act, section 204; and
  - (b) the relevant suppression direction under that Act is still in effect.

## 156 Amending land record

- (1) The chief executive officer must ensure the particulars contained in the land record are amended whenever necessary to ensure the land record is correct and up to date.
- (2) If an amendment of the land record changes the rates or charges that are or may be levied on land, the chief executive officer must, as soon as practicable, give the ratepayer an information notice about the amendment.
- (3) An *information notice* is a notice that states the following matters—
  - (a) the amendment of the land record and how the amendment changes the rates or charges that are or may be levied on land;
  - (b) the reasons for the amendment of the land record;
  - (c) the ratepayer has a right to have the amendment of the land record reviewed by QCAT;
  - (d) how, and the period within which, the ratepayer may apply for the review;
  - (e) any right the ratepayer has to have the operation of the decision stayed under the QCAT Act, section 22.
- (4) Subsection (2) does not apply to an amendment of the land record that is made because of an annual valuation of all

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rateable land in a local government area by the valuation authority.

### **157 Evidence of land record**

- (1) In any court proceedings in which the liability for rates or charges is relevant, a certified extract of the land record is evidence that—
  - (a) the valuation recorded in the extract was properly made; and
  - (b) the information about the rates or charges recorded in the extract is correct; and
  - (c) the person recorded in the extract as the owner of the land is liable to pay the rates or charges levied on the land.
- (2) In this section—

A *certified extract* is a document that—

  - (a) purports to be a copy of an entry in the land record; and
  - (b) is certified by the chief executive officer to be a true copy of the entry in the land record.

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

### **158 Who may apply for review**

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

### **159 Powers of QCAT on review**

In deciding the review, QCAT may—

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

## **Division 3                      Change in ownership of land**

### **160      Definitions for div 3**

In this division—

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

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

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

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

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

- (1) This section applies if the owner of land changes—
  - (a) because the land is sold; or
  - (b) for another reason, including, for example, if the land, or an entitlement to occupy the land, is forfeited or surrendered to the State.

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- (2) The new owner of the land must give the local government notice of the change of owner within 30 days after the change, unless the new owner has a reasonable excuse.

Maximum penalty—5 penalty units.

- (3) The new owner may comply with subsection (2) by giving the following documents to the registrar of titles—

- (a) a properly completed combined form for the change of owner of the land;
- (b) the instrument of transfer of the land.

- (4) However, subsection (2) does not prevent the previous owner of the land giving the local government the notice about the change of owner for the land.

- (5) In this section—

*combined form* means a form that—

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

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

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

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

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

- (a) the change of owner notice is given under this division;  
or

- 
- (b) the local government otherwise records the details of the new owner in the land record.

## **Chapter 5           Financial planning and                               accountability**

### **Part 1                General matters about financial                               management systems**

#### **164    Requirement to keep record of particular matters**

- (1) A local government must keep a written record stating the following—
- (a) the risks the local government’s operations are exposed to, to the extent they are relevant to financial management;
  - (b) the control measures adopted to manage the risks.
- (2) The local government must keep, with the record, a copy of each of the following—
- (a) its community grants policy;
  - (b) its entertainment and hospitality policy;
  - (c) its advertising spending policy;
  - (d) its procurement policy.

## **Part 2                      Financial planning documents**

### **Division 1                      5-year corporate plan**

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

- (1) A local government must prepare a 5-year corporate plan for each period of 5 financial years.
- (2) A local government must adopt its 5-year corporate plan in sufficient time to allow a budget and annual operational plan, consistent with the corporate plan, to be adopted for the first financial year that is covered by the plan.
- (3) A local government may, by resolution, amend its 5-year corporate plan at any time.
- (4) A local government must discharge its responsibilities in a way that is consistent with its 5-year corporate plan.

#### **166      5-year corporate plan contents**

A local government's 5-year corporate plan must—

- (a) outline the strategic direction of the local government; and
- (b) state the performance indicators for measuring the local government's progress in achieving its vision for the future of the local government area; and
- (c) include the following information for each commercial business unit—
  - (i) an outline of the objectives of the commercial business unit;
  - (ii) an outline of the nature and extent of the significant business activity the commercial business unit will conduct.



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## **Division 2                      Long-term asset management plan**

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

- (1) A local government must prepare and adopt a long-term asset management plan.
- (2) The long-term asset management plan continues in force for the period stated in the plan unless the local government adopts a new long-term asset management plan.
- (3) The period stated in the plan must be 10 years or more.

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

A local government's long-term asset management plan must—

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

## **Division 3                      Annual budget**

### **169      Preparation and content of budget**

- (1) A local government's budget for each financial year must—
  - (a) be prepared on an accrual basis; and
  - (b) include statements of the following for the financial year for which it is prepared and the next 2 financial years—

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- (i) financial position;
  - (ii) cash flow;
  - (iii) income and expenditure;
  - (iv) changes in equity.
- (2) The budget must also include—
  - (a) a long-term financial forecast; and
  - (b) a revenue statement; and
  - (c) a revenue policy.
- (3) The statement of income and expenditure must state each of the following—
  - (a) rates and utility charges excluding discounts and rebates;
  - (b) contributions from developers;
  - (c) fees and charges;
  - (d) interest;
  - (e) grants and subsidies;
  - (f) depreciation;
  - (g) finance costs;
  - (h) net result;
  - (i) the estimated costs of—
    - (i) the local government’s significant business activities carried on using a full cost pricing basis; and
    - (ii) the activities of the local government’s commercial business units; and
    - (iii) the local government’s significant business activities.

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- (4) The budget must include each of the relevant measures of financial sustainability for the financial year for which it is prepared and the next 9 financial years.
  - (5) The *relevant measures of financial sustainability* are the following measures as described in the financial management (sustainability) guideline—
    - (a) asset sustainability ratio;
    - (b) net financial liabilities ratio;
    - (c) operating surplus ratio.
  - (6) The budget must include the total value of the change, expressed as a percentage, in the rates and utility charges levied for the financial year compared with the rates and utility charges levied in the previous budget.
  - (7) For calculating the rates and utility charges levied for a financial year, any discounts and rebates must be excluded.
  - (8) The budget must be consistent with the following documents of the local government—
    - (a) its 5-year corporate plan;
    - (b) its annual operational plan.
  - (9) In this section—

*financial management (sustainability) guideline* means the document called ‘Financial Management (Sustainability) Guideline 2013’, version 1, made by the department.

*Editor’s note—*

A copy of the document is available on the department’s website.

## **170 Adoption and amendment of budget**

- (1) A local government must adopt its budget for a financial year—
  - (a) after 31 May in the year before the financial year; but
  - (b) before—

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- (i) 1 August in the financial year; or
  - (ii) a later day decided by the Minister.
- (2) If the budget does not comply with section 169 when it is adopted, the adoption of the budget is of no effect.
- (3) The local government may, by resolution, amend the budget for a financial year at any time before the end of the financial year.
- (4) If the budget does not comply with the following when it is amended, the amendment of the budget is of no effect—
  - (a) section 169;
  - (b) the local government’s decision about the rates and charges to be levied for the financial year made at the budget meeting for the financial year.

*Note—*

A local government may only decide the rates and charges to be levied for a financial year at the budget meeting for the financial year. See the Act, section 94(2).

## **171 Long-term financial forecast**

- (1) A local government’s *long-term financial forecast* is a forecast, covering a period of at least 10 years, of the following for each year during the period of the forecast—
  - (a) income of the local government;
  - (b) expenditure of the local government;
  - (c) the value of assets, liabilities and equity of the local government.
- (2) The local government must—
  - (a) consider its long-term financial forecast before planning new borrowings; and
  - (b) review its long-term financial forecast annually.

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## 172 Revenue statement

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

## 173 Unauthorised spending

- (1) A local government may spend money in a financial year before adopting its budget for the financial year only if the

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local government provides for the spending in the budget for the financial year.

- (2) However, the local government may spend money, not authorised in its budget, for genuine emergency or hardship if the local government makes a resolution about spending the money before, or as soon as practicable after, the money is spent.
- (3) The resolution must state how the spending is to be funded.
- (4) If the local government's budget for a financial year is amended after the money is spent, the amendment must take the spending into account.

## **Division 4                      Annual operational plan**

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

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

### **175      Annual operational plan contents**

- (1) The annual operational plan for a local government must—

- (a) be consistent with its annual budget; and
  - (b) state how the local government will—
    - (i) progress the implementation of the 5-year corporate plan during the period of the annual operational plan; and
    - (ii) manage operational risks; and
  - (c) include an annual performance plan for each commercial business unit of the local government.
- (2) An ***annual performance plan*** for a commercial business unit is a document stating the following for the financial year—
- (a) the unit’s objectives;
  - (b) the nature and extent of the significant business activity the unit is to conduct;
  - (c) the unit’s financial and non-financial performance targets;
  - (d) the nature and extent of the community service obligations the unit must perform;
  - (e) the cost of, and funding for, the community service obligations;
  - (f) the unit’s notional capital structure, and treatment of surpluses;
  - (g) the unit’s proposed major investments;
  - (h) the unit’s outstanding, and proposed, borrowings;
  - (i) the unit’s policy on the level and quality of service consumers can expect;
  - (j) the delegations necessary to allow the unit to exercise autonomy in its commercial activities;
  - (k) the type of information that the unit’s reports to the local government must contain.
- (3) A local government may omit information from the copies of the annual performance plan made available to the public if—

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- (a) the information is of a commercially sensitive nature to the commercial business unit; and
- (b) the information is given to each of the local government's councillors.

*Note—*

See also section 171 (Use of information by councillors) of the Act.

- (4) The local government may change an annual performance plan for a commercial business unit at any time before the end of the financial year.

## **Part 3                      Financial accountability documents**

### **Division 1                Financial statements and report**

#### **176      Preparation of financial statements**

For each financial year, a local government must prepare each of the following (the *financial statements*)—

- (a) a general purpose financial statement;
- (b) a current-year financial sustainability statement;
- (c) a long-term financial sustainability statement.

#### **177      General purpose financial statement**

A local government's general purpose financial statement must be prepared in compliance with the following documents (each a *prescribed accounting standard*) published by the Australian Accounting Standards Board—

- (a) Australian Accounting Standards;



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- (b) Statements of Accounting Concepts;
  - (c) Interpretations;
  - (d) Framework for the Preparation and Presentation of Financial Statements.

*Editor's note—*

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

## **178 Financial sustainability statements**

- (1) A local government's current-year financial sustainability statement must state the relevant measures of financial sustainability for the financial year to which the statement relates.
- (2) A local government's long-term financial sustainability statement must state—
  - (a) the relevant measures of financial sustainability for the 9 financial years following the year to which the statement relates; and
  - (b) an explanation of the local government's financial management strategy that is consistent with the long-term financial forecast.

## **179 Community financial report**

- (1) A local government must prepare a community financial report for each financial year.
- (2) The community financial report for a financial year must—
  - (a) contain a summary and an analysis of the local government's financial performance and position for the financial year; and
  - (b) be consistent with the general purpose financial statement for the financial year; and

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- (c) include the relevant measures of financial sustainability for the financial year; and
- (d) be written in a way that can be easily understood by the community.

## **Division 2            Asset register**

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

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

## **Division 3            Annual report**

### **181    What div 3 is about**

This division explains what an annual report for a local government must contain.

### **182    Preparation of annual report**

- (1) A local government must prepare an annual report for each financial year.
- (2) The local government must adopt its annual report within 1 month after the day the auditor-general gives the auditor-general's audit report about the local government's financial statements for the financial year to the local government.
- (3) However, the Minister may, by notice to the local government, extend the time by which the annual report must be adopted.
- (4) The local government must publish its annual report on its website within 2 weeks of adopting the annual report.

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### **183 Financial statements**

The annual report for a financial year must contain—

- (a) the general purpose financial statement for the financial year, audited by the auditor-general; and
- (b) the current-year financial sustainability statement for the financial year, audited by the auditor-general; and
- (c) the long-term financial sustainability statement for the financial year; and
- (d) the auditor-general's audit reports about the general purpose financial statement and the current-year financial sustainability statement.

### **184 Community financial report**

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

### **185 Particular resolutions**

The annual report for a financial year must contain—

- (a) a copy of the resolutions made during the financial year under section 250(1); and
- (b) a list of any resolutions made during the financial year under section 206(2).

### **186 Councillors**

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

- (a) for each councillor, the total remuneration, including superannuation contributions, paid to the councillor during the financial year; and

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- (b) the expenses incurred by, and the facilities provided to, each councillor during the financial year under the local government's expenses reimbursement policy; and
- (c) the number of local government meetings that each councillor attended during the financial year; and
- (d) the total number of the following during the financial year—
  - (i) orders and recommendations made under section 180(2) or (4) of the Act;
  - (ii) orders made under section 181 of the Act; and
- (e) each of the following during the financial year—
  - (i) the name of each councillor for whom an order or recommendation was made under section 180 of the Act or an order was made under section 181 of the Act;
  - (ii) a description of the misconduct or inappropriate conduct engaged in by each of the councillors;
  - (iii) a summary of the order or recommendation made for each councillor; and
- (f) the number of each of the following during the financial year—
  - (i) complaints about the conduct or performance of councillors for which no further action was taken under section 176C(2) of the Act;
  - (ii) complaints referred to the department's chief executive under section 176C(3)(a)(i) of the Act;
  - (iii) complaints referred to the mayor under section 176C(3)(a)(ii) or (b)(i) of the Act;
  - (iv) complaints referred to the department's chief executive under section 176C(4)(a) of the Act;
  - (v) complaints assessed by the chief executive officer as being about official misconduct;

- (vi) complaints heard by a regional conduct review panel;
- (vii) complaints heard by the tribunal;
- (viii) complaints to which section 176C(6) of the Act applied.

### **187 Administrative action complaints**

- (1) The annual report for a financial year must contain—
  - (a) a statement about the local government’s commitment to dealing fairly with administrative action complaints; and
  - (b) a statement about how the local government has implemented its complaints management process, including an assessment of the local government’s performance in resolving complaints under the process.
- (2) The annual report must also contain particulars of—
  - (a) the number of the following during the financial year—
    - (i) administrative action complaints made to the local government;
    - (ii) administrative action complaints resolved by the local government under the complaints management process;
    - (iii) administrative action complaints not resolved by the local government under the complaints management process; and
  - (b) the number of administrative action complaints under paragraph (a)(iii) that were made in a previous financial year.

### **188 Overseas travel**

- (1) The annual report for a financial year must contain the following information about any overseas travel made by a

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councillor or local government employee in an official capacity during the financial year—

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

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

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

- (a) the local government’s expenditure for the financial year on grants to community organisations; and
- (b) expenditure from each councillor’s discretionary fund, including—
  - (i) the name of each community organisation to which an amount was allocated from the fund; and
  - (ii) the amount and purpose of the allocation.

## **190 Other contents**

- (1) The annual report for a financial year must contain the following information—
- (a) the chief executive officer’s assessment of the local government’s progress towards implementing its 5-year corporate plan and annual operational plan;

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- (b) particulars of other issues relevant to making an informed assessment of the local government's operations and performance in the financial year;
  - (c) an annual operations report for each commercial business unit;
  - (d) details of any action taken for, and expenditure on, a service, facility or activity—
    - (i) supplied by another local government under an agreement for conducting a joint government activity; and
    - (ii) for which the local government levied special rates or charges for the financial year;
  - (e) the number of invitations to change tenders under section 228(7) during the financial year;
  - (f) a list of the registers kept by the local government;
  - (g) a summary of all concessions for rates and charges granted by the local government;
  - (h) the report on the internal audit for the financial year;
  - (i) a summary of investigation notices given in the financial year under section 49 for competitive neutrality complaints;
  - (j) the local government's responses in the financial year on the QCA's recommendations on any competitive neutrality complaints under section 52(3).

(2) In this section—

***annual operations report***, for a commercial business unit, means a document that contains the following information for the previous financial year—

- (a) information that allows an informed assessment of the unit's operations, including a comparison with the unit's annual performance plan;

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- (b) particulars of any changes made to the unit's annual performance plan for the previous financial year;
- (c) particulars of the impact the changes had on the unit's—
  - (i) financial position; and
  - (ii) operating surplus or deficit; and
  - (iii) prospects;
- (d) particulars of any directions the local government gave the unit.

## **Part 4                      Financial policies**

### **191      Investment policy**

- (1) A local government must prepare and adopt an investment policy.
- (2) The investment policy must outline—
  - (a) the local government's investment objectives and overall risk philosophy; and
  - (b) procedures for achieving the goals related to investment stated in the policy.

### **192      Debt policy**

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



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## **193 Revenue policy**

- (1) A local government's revenue policy for a financial year must state—
  - (a) the principles that the local government intends to apply in the financial year for—
    - (i) levying rates and charges; and
    - (ii) granting concessions for rates and charges; and
    - (iii) recovering overdue rates and charges; and
    - (iv) cost-recovery methods; and
  - (b) if the local government intends to grant concessions for rates and charges—the purpose for the concessions; and
  - (c) the extent to which physical and social infrastructure costs for a new development are to be funded by charges for the development.
- (2) The revenue policy may state guidelines that may be used for preparing the local government's revenue statement.
- (3) A local government must review its revenue policy annually and in sufficient time to allow an annual budget that is consistent with the revenue policy to be adopted for the next financial year.

## **Part 5 Community grants**

### **194 Grants to community organisations**

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

- (a) if the local government is satisfied—
  - (i) the grant will be used for a purpose that is in the public interest; and

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- (ii) the community organisation meets the criteria stated in the local government's community grants policy; and
- (b) in a way that is consistent with the local government's community grants policy.

### 195 Community grants policy

A local government must prepare and adopt a policy about local government grants to community organisations (a *community grants policy*), which includes the criteria for a community organisation to be eligible for a grant from the local government.

## Part 6 Spending

### 196 Entertainment and hospitality

- (1) A local government must prepare and adopt a policy about the local government's spending on entertainment or hospitality (an *entertainment and hospitality policy*).

*Examples of entertainment or hospitality—*

- entertaining members of the public in order to promote a local government project
- providing food or beverages to a person who is visiting the local government in an official capacity
- providing food or beverages for a conference, course, meeting, seminar, workshop or another forum that is held by the local government for its councillors, local government employees or other persons
- paying for a councillor or local government employee to attend a function as part of the councillor's or employee's official duties or obligations as a councillor or local government employee

- (2) A local government may spend money on entertainment or hospitality only in a way that is consistent with its entertainment and hospitality policy.

### **197 Advertising spending**

- (1) A local government must prepare and adopt a policy about the local government's spending on advertising (an *advertising spending policy*).
- (2) A local government may spend money on advertising only—
  - (a) if—
    - (i) the advertising is to provide information or education to the public; and
    - (ii) the information or education is provided in the public interest; and
  - (b) in a way that is consistent with the local government's advertising spending policy.
- (3) *Advertising* is promoting, for the payment of a fee, an idea, goods or services to the public.

### **198 Procurement policy**

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

## **Part 7                                  Public access to particular documents**

### **199    Public access to relevant financial and planning documents**

- (1) This section applies to the following documents of a local government—
  - (a) 5-year corporate plan;
  - (b) annual budget;
  - (c) general purpose financial statement;
  - (d) community financial report;
  - (e) annual report;
  - (f) investment policy;
  - (g) debt policy;
  - (h) community grants policy;
  - (i) procurement policy.
- (2) The local government must allow the public—
  - (a) to inspect the documents—
    - (i) at the local government’s public office; and
    - (ii) on the local government’s website; and
  - (b) to purchase copies of the documents from the local government.
- (3) The price for purchasing a copy of a document must be no more than the cost to the local government of making the copy available for purchase.

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## Part 8                      Local government funds and accounts

### Division 1                Trust fund

#### 200    Trust fund

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

#### 201    Transferring money to or from a trust fund

- (1) A local government may transfer trust money from a trust fund only in compliance with this section.

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- (2) The local government may transfer trust money from a trust fund—
  - (a) to, or for, the person who is entitled to the money, according to law; or
  - (b) as required by the relevant Act under which the money was paid into the trust fund.
- (3) If the purpose for which an amount of trust money was credited to the trust fund no longer exists, the local government may, if it has resolved the purpose no longer exists, transfer the amount from the trust fund.
- (4) If an amount of trust money is mistakenly not credited to the trust fund, the local government must transfer the amount to the trust fund as soon as practicable, but no longer than 5 working days, after the local government becomes aware the amount has been incorrectly credited.
- (5) If an amount that is not trust money is mistakenly credited to the trust fund, the local government must transfer the amount from the fund as soon as practicable, but no longer than 5 working days, after the local government becomes aware the amount has been incorrectly credited.
- (6) Money that is trust money under section 200(3)(d) may be transferred from the trust fund at any time.

## **Division 2                      Discretionary funds**

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

- (1) This section prescribes requirements for—
  - (a) a local government for making discretionary funds available; and
  - (b) a councillor for using discretionary funds.

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- (2) A local government must, within 20 business days after adopting its budget for a financial year, publish a notice (the *availability notice*) stating—
    - (a) the amount in the local government’s discretionary funds budgeted for use by each councillor for the financial year; and
    - (b) that community organisations may apply for allocation of the funds; and
    - (c) how to apply for allocation of the funds.
  - (3) The availability notice must be—
    - (a) published on the local government’s website; and
    - (b) displayed in a conspicuous place in the local government’s public office.
  - (4) A councillor may use the councillor’s discretionary funds in any of the following ways—
    - (a) to spend for a community purpose;
    - (b) to allocate for capital works of the local government that are for a community purpose, but only with the approval of—
      - (i) if the councillor is the mayor—the deputy mayor and the chief executive officer; or
      - (ii) otherwise—the mayor and the chief executive officer;
    - (c) to allocate to a community organisation for a community purpose.
  - (5) The mayor, the deputy mayor or the chief executive officer must have regard to the local government’s 5-year corporate plan, long-term asset management plan and annual budget when deciding whether to approve the allocation of a councillor’s discretionary funds under subsection (4)(b).
  - (6) For subsection (4)(c), a councillor—

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- (a) may allocate funds only to community organisations that have applied for the funds in the way stated in the availability notice; and
  - (b) must allocate the funds in a way that is consistent with the local government's community grants policy.
- (7) As soon as practicable after an amount has been allocated from a councillor's discretionary funds, the local government must publish a notice stating—
- (a) the amount and purpose of the allocation; and
  - (b) where an amount has been allocated to a community organisation, the name of that community organisation.
- (8) The notice under subsection (7) must be published under subsection (3)(a) and displayed under subsection (3)(b).

## **Part 9                      Accounting records**

### **203      Accounting records for funds generally**

- (1) A local government must establish separate accounting records for—
- (a) its operations; and
  - (b) its trust fund.
- (2) The accounting records for a financial year must give a comparison with its annual budget for the financial year.

### **204      Financial report**

- (1) The local government must prepare a financial report.
- (2) The chief executive officer must present the financial report—
- (a) if the local government meets less frequently than monthly—at each meeting of the local government; or



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

### **205 Statement of estimated financial position**

- (1) The chief executive officer must present the local government's annual budget meeting with a statement of estimated financial position.
- (2) A *statement of estimated financial position* is a document stating the financial operations, and financial position, of the local government for the previous financial year.

## **Part 10 Asset accounting**

### **206 Valuation of non-current physical assets**

- (1) The value of a local government's non-current physical assets must be worked out using the prescribed accounting standards.
- (2) The local government must, by resolution, set an amount for each different type of non-current physical asset below which the value of an asset of the same type must be treated as an expense.
- (3) The amount must be included in a note in the local government's general purpose financial statement.
- (4) For subsection (2), the following assets that are controlled by the local government do not have a value for a local government's general purpose financial statement—

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- (a) land that is a reserve under the Land Act;
- (b) a road that is not owned by the local government.

## **Part 11                      Auditing**

### **Division 1                      Internal audit function**

#### **Subdivision 1              Internal auditing and reporting**

##### **207      Internal audit**

- (1) For each financial year, a local government must—
  - (a) prepare an internal audit plan; and
  - (b) carry out an internal audit; and
  - (c) prepare a progress report for the internal audit; and
  - (d) assess compliance with the internal audit plan.
- (2) A local government's *internal audit plan* is a document that includes statements about—
  - (a) the way in which the operational risks have been evaluated; and
  - (b) the most significant operational risks identified from the evaluation; and
  - (c) the control measures that the local government has adopted, or is to adopt, to manage the most significant operational risks.
- (3) A local government must give its audit committee—
  - (a) the progress report mentioned in subsection (1)(c); and

- (b) at least twice during the year after the internal audit is carried out, each of the following documents—
  - (i) a summary of the recommendations stated in the report;
  - (ii) a summary of the actions that have been taken by the local government in response to the recommendations;
  - (iii) a summary of any actions that have not been taken by the local government in response to the recommendations.
- (4) If a local government does not have an audit committee, a reference to the committee in subsection (3) is taken to be a reference to the chief executive officer.

## **Subdivision 2      Audit committee**

### **208      Application of sdiv 2**

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

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

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

*Note—*

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

### **210      Audit committee composition**

- (1) The audit committee of a local government must—

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

## **211 Audit committee meetings**

- (1) The audit committee of a local government must—
  - (a) meet at least twice each financial year; and
  - (b) review each of the following matters—
    - (i) the internal audit plan for the internal audit for the current financial year;
    - (ii) the internal audit progress report for the internal audit for the preceding financial year including the recommendations in the report and the actions to which the recommendations relate;
    - (iii) a draft of the local government's financial statements for the preceding financial year before the statements are certified and given to the auditor-general under section 212;
    - (iv) the auditor-general's audit report and auditor-general's observation report about the local government's financial statements for the preceding financial year; and
  - (c) as soon as practicable after a meeting of the committee, give the local government a written report about the

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matters reviewed at the meeting and the committee's recommendations about the matters.

- (2) At a meeting of the audit committee—
- (a) a quorum is at least half the number of members of the committee; and
- Examples—*
- 1 If the committee consists of 4 members, a quorum is 2.
  - 2 If the committee consists of 5 members, a quorum is 3.
- (b) either—
- (i) the chairperson presides; or
  - (ii) if the chairperson is absent, the member chosen by the members present as chairperson for the meeting presides.
- (3) The audit committee may, for performing its functions under subsection (1)(b), seek information or advice from the person who has carried out the internal audit.
- (4) The chief executive officer must present the report mentioned in subsection (1)(c) at the next meeting of the local government.

## **Division 2 External auditing**

### **212 Auditing of financial statements by auditor-general**

- (1) A local government's general purpose financial statement and current-year financial sustainability statement for a financial year must be given to the auditor-general for auditing.
- (2) Also, a local government's long-term financial sustainability statement for the financial year must be given to the auditor-general for information.
- (3) The financial statements mentioned in subsections (1) and (2) must be given to the auditor-general by a date agreed between the chief executive officer and the auditor-general.

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- (4) The date agreed under subsection (3) must allow the audit of the financial statements, and the auditor-general's audit report about the statements, to be completed no later than 4 months after the end of the financial year to which the statements relate.
- (5) The financial statements given to the auditor-general must be accompanied by a certificate in the approved form given by the mayor and chief executive officer, certifying whether, in their opinion—
  - (a) in relation to the general purpose financial statement—
    - (i) any requirements prescribed under the Act or another Act for establishing and keeping the local government's accounts have been complied with in all material respects; and
    - (ii) the statement presents a true and fair view, in compliance with the prescribed accounting standards, of the local government's transactions for the financial year and financial position at the end of the year; and
  - (b) in relation to the current-year financial sustainability statement and the long-term financial sustainability statement—the statements have been accurately calculated.
- (6) Subsection (7) applies if the Minister considers there are extraordinary circumstances that make it impractical for a local government to give the auditor-general its financial statements by a date that would allow the audit and report to be completed within the time stated in subsection (4).
- (7) The Minister may, by notice to the local government, decide later dates by which the statements must be given and the audit and report must be completed.

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## **213 Presentation of auditor-general's observation report**

- (1) This section applies if the auditor-general gives the mayor of a local government a copy of the auditor-general's observation report about an audit of the local government's financial statements.
- (2) An *auditor-general's observation report*, about an audit of a local government's financial statements, is a report about the audit prepared under section 54 of the *Auditor-General Act 2009* that includes observations and suggestions made by the auditor-general about anything arising out of the audit.
- (3) The mayor must present a copy of the report at the next ordinary meeting of the local government.

## **Part 12 Other matters**

### **214 Required amounts for insurances—Act, s 107**

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

- (a) for public liability insurance—\$30m;
- (b) for professional indemnity insurance—\$10m.

### **215 Notice of payment of notional GST**

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

## Chapter 6 Contracting

### Part 1 Introduction

#### 216 What ch 6 is about

- (1) This chapter is about a local government's contracting activities.
- (2) *Contracting activities* are activities for the making of a contract for—
  - (a) the carrying out of work; or
  - (b) the supply of goods or services; or
  - (c) the disposal of non-current assets.
- (3) However, this chapter does not apply to a local government making a contract of employment with a local government employee.

### Part 2 Strategic contracting procedures

#### 217 What pt 2 is about

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



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- (5) For all other contracts, this part provides an alternative to part 3.

## **218 Power to choose strategic approach**

- (1) A local government may, by resolution, decide to apply this part to its contracts.
- (2) However, the local government may do so only after it—
- (a) has considered the costs and benefits of complying with this part; and
  - (b) has given the public notice of the proposed resolution.
- (3) The notice must—
- (a) state the proposed resolution; and
  - (b) state the day and time of the meeting where the resolution is to be considered; and
  - (c) be published in a newspaper that circulates generally in the local government area at least 4 weeks before the meeting.

## **219 Effect of choice**

- (1) If a local government decides to apply this part to its contracts, it must comply with this part from—
- (a) the day on which the resolution is passed; or
  - (b) if the resolution states a later day for complying—the later day.
- (2) The later day must not be more than 1 year after the resolution is passed.
- (3) The passing of the resolution does not of itself affect a contractual obligation or right of the local government.
- (4) Subsection (5) applies if, immediately before the day on which the local government passes the resolution, the local government—

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- (a) had, under part 3, invited tenders or quotes for a contract; and
  - (b) had received tenders or quotes in response to the invitation; and
  - (c) had not accepted, or had decided not to accept, any of the tenders or quotes.
- (5) Part 3 continues to apply to the contracts as if the resolution had not been passed.
- (6) The local government may, by a later resolution, decide this part no longer applies to the local government.
- (7) If the local government does so, it must continue to comply with this part for any contract that was made when this part did apply to the local government.

## 220 Contracting plans

- (1) This section applies if a local government decides to apply this part to its contracts.
- (2) Each financial year, the local government must make and adopt a contracting plan.
- (3) A **contracting plan** is a document stating—
- (a) the types of contracts that the local government proposes to make in the financial year; and
  - (b) the principles and strategies for performing the contracts; and
  - (c) a policy about proposed delegations for the contracts; and
  - (d) a market assessment for each type of contract; and
  - (e) the contracts that the local government considers will be significant (a **significant contract**) having regard to the market assessment; and
  - (f) a policy about the making of a significant contracting plan under section 221.

- (4) A *market assessment* is an assessment of the relative cost and difficulty in securing supply under each type of contract.
- (5) A contracting plan must be consistent with and support the achievement of the strategic directions stated in the local government's 5-year corporate plan.
- (6) The local government must not make the resolution to adopt a contracting plan before the local government adopts the annual budget for the financial year.
- (7) The local government may, by resolution, amend a contracting plan at any time before the end of the financial year to which the plan relates.
- (8) The local government must allow the public to inspect and buy copies of the contracting plan at the local government public office.

## 221 Significant contracting plans

- (1) This section applies if the contracting plan identifies any significant contracts.
- (2) The local government must make a significant contracting plan for each significant contract before the contract starts.
- (3) A *significant contracting plan* is a document stating—
  - (a) the objectives of the significant contract; and
  - (b) how the objectives 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 activity; and
  - (f) a risk analysis of the market in which the contract is to happen.
- (4) The objectives must be consistent with the local government's contracting plan.

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- (5) The local government may, by resolution, amend a significant contracting plan at any time before the end of the financial year to which the plan relates.

## **222 Contract manual**

- (1) A local government must make and adopt a contract manual.
- (2) A *contract manual* is a document that sets out the procedures for how the local government is to carry out all contracts.
- (3) The contract manual must—
  - (a) apply the sound contracting principles; and
  - (b) be consistent with, and support, the achievement of the strategic direction stated in the local government's 5-year corporate plan; and
  - (c) if the local government has adopted a contracting plan—be consistent with the contracting plan; and
  - (d) include a policy about how the local government is to deal with any non-current assets that have a value of less than the amount mentioned in section 224(7).

# **Part 3 Default contracting procedures**

## **Division 1 Introduction**

### **223 What pt 3 is about**

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

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a deed of grant in trust under which an indigenous local government is the trustee.

## Division 2                    Entering into particular contracts

### 224    What div 2 is about

- (1) This division explains what a local government must do before it enters into—
  - (a) a medium-sized contractual arrangement; or
  - (b) a large-sized contractual arrangement; or
  - (c) a valuable non-current asset contract.
- (2) A *medium-sized contractual arrangement* is a contractual arrangement with a supplier that is expected to be worth, exclusive of GST, \$15000 or more but less than \$200000 in a financial year.
- (3) A *large-sized contractual arrangement* is a contractual arrangement with a supplier that is expected to be worth, exclusive of GST, \$200000 or more in a financial year.
- (4) For subsections (2) and (3), the expected value of a contractual arrangement with a supplier for a financial year is the total expected value of all of the local government's contracts, in the financial year, with the supplier for goods and services of a similar type.
- (5) A *valuable non-current asset contract* is a contract for the disposal of a valuable non-current asset.
- (6) A *valuable non-current asset* is—
  - (a) land; or
  - (b) another non-current asset that has an apparent value that is equal to or more than a limit set by the local government.
- (7) A limit set by the local government under subsection (6)(b) can not be more than the following amount—

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- (a) for plant or equipment—\$5000;
- (b) for another type of non-current asset—\$10000.

**225 Medium-sized contractual arrangement—quotes needed first**

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

**226 Large-sized contractual arrangement—tenders needed first**

- (1) A local government can not enter into a large-sized contractual arrangement unless the local government first invites written tenders for the contract under section 228.
- (2) This section is subject to division 3.

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

- (1) A local government can not enter into a valuable non-current asset contract unless it first—
  - (a) invites written tenders for the contract under section 228; or

- (b) offers the non-current asset for sale by auction.
- (2) This section is subject to division 4.

## **228 Tender process**

- (1) This section is about how a local government must invite written tenders for—
  - (a) a large-sized contractual arrangement; or
  - (b) a valuable non-current asset contract.
- (2) The local government must either—
  - (a) invite written tenders under subsection (4); or
  - (b) invite expressions of interest under subsection (5) before considering whether to invite written tenders under subsection (6)(b).
- (3) However, the local government may invite expressions of interest under subsection (5) only if the local government—
  - (a) decides, by resolution, that it would be in the public interest to invite expressions of interest before inviting written tenders; and
  - (b) records its reasons for making the resolution in the minutes of the meeting at which the resolution was made.
- (4) The invitation for tenders must—
  - (a) be made by an advertisement in a newspaper that circulates generally in the local government area; and
  - (b) allow written tenders to be given to the local government for at least 21 days after the advertisement is published.
- (5) The invitation for expressions of interest must—
  - (a) be made by an advertisement in a newspaper that circulates generally in the local government area; and

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- (b) allow written expressions of interest to be given to the local government for at least 21 days after the advertisement is published.
- (6) If the local government invites expressions of interest under subsection (5), the local government may—
  - (a) prepare a short list from the persons who respond to the invitation for expressions of interest; and
  - (b) invite written tenders from those persons.
- (7) If—
  - (a) an invitation to tender under subsection (4) or (6)(b) states that the local government might later invite all tenderers to change their tenders to take account of a change in the tender specifications; and
  - (b) the local government does change the tender specifications;

the local government may invite all the persons who submitted a tender to change their tender to take account of the change, before making a decision on the tenders.
- (8) A local government may decide not to accept any tenders it receives.
- (9) However, if the local government does decide to accept a tender, the local government must accept the tender most advantageous to it, having regard to the sound contracting principles.

## **Division 3                      Exceptions for medium-sized and large-sized contractual arrangements**

### **229      What div 3 is about**

This division explains when a local government may enter into—



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

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

- (1) A local government may enter into a medium-sized contractual arrangement or large-sized contractual arrangement without first inviting written quotes or tenders if the local government—
  - (a) decides, by resolution, to prepare a quote or tender consideration plan; and
  - (b) prepares and adopts the plan.
- (2) A *quote or tender consideration plan* is a document stating—
  - (a) the objectives of the plan; and
  - (b) how the objectives are to be achieved; and
  - (c) how the achievement of the objectives will be measured; and
  - (d) any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and
  - (e) the proposed terms of the contract for the goods or services; and
  - (f) a risk analysis of the market from which the goods or services are to be obtained.

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

- (1) This section applies to a medium-sized contractual arrangement or large-sized contractual arrangement for services.

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

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

- (1) This section applies to a medium-sized contractual arrangement or large-sized contractual arrangement for the supply of goods or services.
- (2) A local government may enter into the contract without first inviting written quotes or tenders if the contract is entered into with a supplier from a register of pre-qualified suppliers.
- (3) A local government may establish a register of pre-qualified suppliers of particular goods or services only if—
  - (a) the preparation and evaluation of invitations every time the goods or services are needed would be costly; or
  - (b) the capability or financial capacity of the supplier of the goods or services is critical; or
  - (c) the supply of the goods or services involves significant security considerations; or

- (d) a precondition of an offer to contract for the goods or services is compliance with particular standards or conditions set by the local government; or
  - (e) the ability of local business to supply the goods or services needs to be discovered or developed.
- (4) A *pre-qualified supplier* is a supplier who has been assessed by the local government as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements.

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

- (1) This section applies to a medium-sized contractual arrangement or large-sized contractual arrangement for goods or services if a local government—
- (a) needs the goods or services—
    - (i) in large volumes; or
    - (ii) frequently; and
  - (b) is able to obtain better value for money by accumulating the demand for the goods or services; and
  - (c) is able to describe the goods or services in terms that would be well understood in the relevant industry.
- (2) A local government may enter into a contract for the goods or services without first inviting written quotes or tenders if the contract is entered into with the preferred supplier under a preferred supplier arrangement that is made in compliance with subsections (3) to (8).
- (3) A local government must invite persons to tender for a preferred supplier arrangement.
- (4) The invitation to tender for a preferred supplier arrangement must—
- (a) be made by an advertisement in a newspaper that circulates generally in the local government area; and

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- (b) allow tenders to be given to the local government for at least 21 days after the advertisement is published; and
  - (c) describe the terms of the preferred supplier arrangement.
- (5) When selecting a person to be a preferred supplier under a preferred supplier arrangement, the local government must have regard to the sound contracting principles.
  - (6) The local government must ensure the terms of the preferred supplier arrangement allow the contract to be cancelled for the poor performance of the preferred supplier.
  - (7) A preferred supplier arrangement may be entered into for a term of more than 2 years only if the local government is satisfied the longer term will result in better value for the local government.
  - (8) For subsection (7), the term of a preferred supplier arrangement includes any period provided for under the arrangement by which the term of the arrangement can be extended.

## **234 Exception for LGA arrangement**

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

*Note—*  
See section 287 of the Act.

  - (ii) a company (the ***associated company***) registered under the Corporations Act, if LGAQ Ltd. is its only shareholder; and

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- (b) if LGAQ Ltd. or the associated company were a local government, would be either—
- (i) a contract with an independent supplier from a register of pre-qualified suppliers established under section 232(3) by LGAQ Ltd. or the associated company; or
  - (ii) a preferred supplier arrangement entered into with an independent supplier under section 233.
- (3) An **independent supplier** is an entity other than a subsidiary (a **relevant subsidiary**) of LGAQ Ltd. or the associated company under the Corporations Act.
- (4) Despite subsection (2)(b), an **LGA arrangement** may include a contract with a relevant subsidiary from a register of pre-qualified suppliers or a preferred supplier arrangement with a relevant subsidiary if the arrangement is approved by the Minister.
- (5) For deciding whether to approve an LGA arrangement under subsection (4), the Minister—
- (a) must have regard to the sound contracting principles; and
  - (b) may ask LGAQ Ltd. or the associated company to give the Minister information or documents relevant to the arrangement.

*Examples of relevant information or documents—*

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

## 235 Other exceptions

A local government may enter into a medium-sized contractual arrangement or large-sized contractual

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arrangement without first inviting written quotes or tenders if—

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

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

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

- (1) Subject to subsections (2) to (4), a local government may dispose of a valuable non-current asset other than by tender or auction if—
  - (a) the valuable non-current asset—
    - (i) was previously offered for sale by tender or auction but was not sold; and
    - (ii) is sold for more than the highest tender or auction bid that was received; or
  - (b) the valuable non-current asset is disposed of to—
    - (i) a government agency; or
    - (ii) a community organisation; or

- (c) for the disposal of land or an interest in land—
  - (i) the land will not be rateable land after the disposal;  
or
  - (ii) the land is disposed of to a person whose restored enjoyment of the land is consistent with Aboriginal tradition or Island custom; or
  - (iii) the disposal is for the purpose of renewing the lease of land to the existing tenant of the land; or
  - (iv) the land is disposed of to a person who owns adjoining land if—
    - (A) the land is not suitable to be offered for disposal by tender or auction for a particular reason, including, for example, the size of the land or the existence of particular infrastructure on the land; and
    - (B) there is not another person who owns other adjoining land who wishes to acquire the land; and
    - (C) it is in the public interest to dispose of the land without a tender or auction; and
    - (D) the disposal is otherwise in accordance with sound contracting principles; or
  - (v) all or some of the consideration for the disposal is consideration other than money, for example, other land given in exchange for the disposal, if—
    - (A) it is in the public interest to dispose of the land without a tender or auction; and
    - (B) the disposal is otherwise in accordance with sound contracting principles; or
  - (vi) the disposal is for the purpose of a lease for a telecommunication tower; or
  - (vii) the disposal is of an interest in land that is used as an airport or for related purposes if—

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- (A) it is in the public interest to dispose of the interest in land without a tender or auction; and
    - (B) the disposal is otherwise in accordance with sound contracting principles; or
  - (d) for the disposal of a valuable 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 this part; 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 section 227.
- (2) An exception mentioned in subsection (1)(a) to (d) applies to a local government disposing of a valuable non-current asset only if, before the disposal, the local government has decided, by resolution, that the exception may apply to the local government on the disposal of a valuable non-current asset other than by tender or auction.
- (3) A local government may only dispose of land or an interest in land under this section if the consideration for the disposal would be equal to, or more than, the market value of the land or the interest in land, including the market value of any improvements on the land.
- (4) However, subsection (3) does not apply if the land or interest in land is disposed of under subsection (1)(b), (1)(c)(ii) or (1)(e).
- (5) For subsection (3), a written report about the market value of land or an interest in land from a valuer registered under the *Valuers Registration Act 1992* who is not an employee of the local government is evidence of the market value of the land or the interest in land.
- (6) An exemption under subsection (1)(e) may be given subject to conditions.



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## Part 4 Publishing details of particular contracts

### 237 Publishing details of contracts worth \$200000 or more

- (1) A local government must, as soon as practicable after entering a contract worth \$200000 or more (exclusive of GST)—
  - (a) publish the relevant details of the contract on the local government's website; and
  - (b) display the relevant details of the contract in a conspicuous place in the local government's public office.
- (2) The relevant details must be published or displayed under subsection (1) for a period of at least 12 months.
- (3) In this section—

*relevant details*, of a contract, means the following—

  - (a) the person with whom the local government has entered into the contract;
  - (b) the value of the contract;
  - (c) the purpose of the contract.

*Example—*

the particular goods or services to be supplied under the contract

## Part 5 Other matters

### 238 Entering into a contract under a delegation

- (1) This section applies if a local government delegates, under section 257 of the Act, power to make, amend or discharge a contract for the local government.

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*Note—*

The chief executive officer may delegate a power delegated by a local government. See the Act, section 259.

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

## Chapter 7      Monitoring and enforcing Local Government Acts

### 239      Period prescribed for carrying out particular approved inspection programs—Act, s 134

For section 134(4)(e) of the Act, the period prescribed for carrying out an approved inspection program is 12 months if—

- (a) the program is only for the inspection of budget accommodation buildings under the Building Act; and
- (b) inspection under the program is for, or includes, the monitoring of compliance with the fire safety standard under that Act.

## **Chapter 8 Administration**

### **Part 1 Councillors**

#### **Division 1 Councillor remuneration**

##### **240 What div 1 is about**

This division states the processes of the tribunal in deciding the remuneration that is payable to councillors.

##### **241 Establishing categories of local governments**

- (1) The tribunal must establish categories of local governments for this part.
- (2) The purpose of establishing categories of local governments is to enable the tribunal to decide the maximum amounts of remuneration that are payable to mayors and other councillors in each of the categories.

##### **242 Criteria for establishing categories**

In establishing categories of local governments, the tribunal—

- (a) must have regard to the following criteria—

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- (i) the size, and geographical and environmental terrain, of local government areas;
  - (ii) the population of local government areas, including the areas' demographics, the spread of population serviced by the local governments and the extent of the services the local governments provide; and
- (b) may have regard to other matters the tribunal considers relevant to the effectiveness, efficiency and sustainability of local governments.

### **243 Deciding and reviewing categories to which local governments belong**

- (1) The 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 tribunal must have regard to the criteria it used for establishing categories of local governments.
- (3) The tribunal must, once during each local government term—
  - (a) review the categories of local governments established under section 241; and
  - (b) ensure the review is completed before 1 December of the year before the year in which the next quadrennial election is to be held.
- (4) For subsection (3), a ***local government term*** is the period between a quadrennial election and the next quadrennial election.
- (5) After reviewing the categories, the tribunal must—
  - (a) decide whether to amend the established categories; and
  - (b) if any established category of local government is amended, again decide the categories of any local governments affected by the amendment.

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## 244 Deciding maximum amounts of remuneration

- (1) The tribunal must, before 1 December of each year, and for each category of local government, decide the maximum amount of remuneration payable from 1 July of the following year to a councillor, mayor or deputy mayor of a local government in each category.
- (2) The remuneration 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 or deputy chairperson of a committee, of a local government.
- (3) The remuneration can not include—
  - (a) any amount for expenses to be paid or facilities to be provided to a councillor of a local government under its expenses reimbursement policy; or
  - (b) any contribution a local government makes for a councillor to a voluntary superannuation scheme for councillors established or taken part in by the local government under section 226 of the Act.
- (4) However, the remuneration may include an additional amount for councillors who are over 75 years paid in lieu of the contributions mentioned in subsection (3)(b).

## 246 Remuneration schedule

- (1) The tribunal must prepare a remuneration schedule after the tribunal makes a decision about maximum amounts of remuneration under section 244.
- (2) A *remuneration schedule* must state—
  - (a) the date from which the schedule applies; and
  - (b) the category of each local government decided under section 243; and

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- (c) the maximum amount of remuneration payable to the mayors, deputy mayors and other councillors for each category of local government decided under section 244.
- (3) After preparing a remuneration schedule, the tribunal must—
  - (a) within 14 days, prepare a report about the remuneration schedule and give a copy of the report and the remuneration schedule to the Minister; and
  - (b) publish the remuneration schedule in the gazette.
- (4) A remuneration schedule continues in effect until a new remuneration schedule applies.

#### **247 Remuneration payable to councillors**

- (1) A local government must pay remuneration to each councillor of the local government.
- (2) The maximum amount of remuneration payable to a councillor under the remuneration schedule must be paid to the councillor, unless the local government, by resolution, decides the maximum amount is not payable to the councillor.
- (3) If the local government decides the maximum amount of remuneration is not payable to the councillor, the local government must, by resolution, decide the amount of remuneration payable to the councillor.
- (4) The amount of remuneration decided under subsection (3) for each councillor must not be more than the maximum amount of remuneration payable to the councillor under the remuneration schedule.
- (5) The amount of remuneration for each councillor, other than a mayor or deputy mayor, must be the same.
- (6) The local government must make a resolution under subsection (2) within 90 days after each remuneration schedule is published in the gazette.
- (7) Subsections (4) and (5) are subject to section 248.

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**248 Submission to vary remuneration in exceptional circumstances**

- (1) This section applies if a local government considers that, having regard to exceptional circumstances, a councillor of its local government is entitled to an amount of remuneration that is more than the maximum amount of remuneration payable to the councillor under the remuneration schedule.
- (2) The local government may make a submission to the tribunal for approval to pay the councillor an amount of remuneration of more than the maximum amount (a *higher amount*).
- (3) The tribunal may, but is not required to, consider the submission.
- (4) If the tribunal is satisfied that, having regard to the exceptional circumstances, the councillor is entitled to be paid any higher amount, the tribunal may approve payment of that amount.

**Division 2 Reimbursement of expenses and provision of facilities**

**249 What div 2 is about**

- (1) This division is about the expenses reimbursement policy.
- (2) The *expenses reimbursement policy* is a policy providing for the following—
  - (a) payment of reasonable expenses incurred, or to be incurred, by councillors for discharging their duties and responsibilities as councillors;
  - (b) provision of facilities to councillors for that purpose.

**250 Requirement to adopt expenses reimbursement policy or amendment**

- (1) A local government must adopt an expenses reimbursement policy.

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- (2) A local government may, by resolution, amend its expenses reimbursement policy at any time.

### **251 Notification of adoption of expenses reimbursement policy**

- (1) As soon as practicable after a local government adopts or amends its expenses reimbursement policy, the local government must—
- (a) ensure a copy of the policy may be inspected and purchased by the public at the local government’s public office; and
  - (b) publish the policy on the local government’s website.
- (2) The price for purchasing a copy of the policy must be no more than the cost to the local government of making the copy available for purchase.

### **252 Meetings about expenses reimbursement policy**

A local government can not resolve under section 275 that a meeting at which a proposed expenses reimbursement policy is discussed (including its adoption or amendment, for example) be closed.

## **Division 3 Other matters**

### **254 Declaration of office—Act, s 169**

For section 169(2) of the Act, the declaration of office prescribed is—

‘I, (*insert name of councillor*), having been elected/appointed as a councillor of the (*insert name of local government*), declare that I will faithfully and impartially fulfil the duties of the office, in accordance with the local government principles under the *Local Government Act 2009*, to the best of my judgment and ability.’



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## **Part 2**                   **Local government meetings and committees**

### **Division 1**               **Local government meetings**

#### **255**   **What div 1 is about**

This division is about the meetings of a local government (other than meetings of its committees).

#### **256**   **Agenda of post-election meetings**

- (1) The matters a local government must consider at a post-election meeting include the day and time for holding other meetings.
- (2) A *post-election meeting* is the meeting mentioned in section 175(1) of the Act.

#### **257**   **Frequency and place of meetings**

- (1) A local government must meet at least once in each month.
- (2) However, the Minister may, after written application by a local government, vary the requirement under subsection (1) for the local government.
- (3) All meetings of a local government are to be held—
  - (a) at 1 of the local government’s public offices; or
  - (b) for a particular meeting—at another place fixed by the local government, by resolution, for the meeting.

#### **258**   **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

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days before the day of the meeting unless it is impracticable to give the notice.

- (2) The written notice must state—
  - (a) the day and time of the meeting; and
  - (b) for a special meeting—the business to be conducted at the meeting.
- (3) A *special meeting* is a meeting at which the only business that may be conducted is the business stated in the notice of meeting.
- (4) Despite subsection (1), the written notice must be given to each councillor of an indigenous regional council at least 4 days before the day of the meeting unless it is impracticable to give the notice.
- (5) The written notice may be given to a councillor by sending the notice to the councillor electronically.

## **259 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.

## **260 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 of a local government—
  - (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 also has a casting vote; and
- (d) if a councillor present fails to vote, the councillor is taken to have voted in the negative.

## **261 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 15 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.

## **262 Repeal or amendment of resolutions**

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.

## **Division 2 Local government committees**

### **263 What div 2 is about**

This division is about committees of local governments.

## **264 Appointment of committees**

- (1) A local government may—
  - (a) appoint, from its councillors, standing committees or special committees; and
  - (b) appoint advisory committees.
- (2) Two or more local governments may appoint, from their councillors, a joint standing committee.

## **265 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 (whether or not they are a councillor) may vote on business before the committee.

## **266 Alternate members of committees**

- (1) A local government that appoints a committee may appoint 1 person as an alternate member of the committee.
- (2) An *alternate member*, of a committee, is a person who attends meetings of the committee and acts as a member of the committee only if another member of the committee is absent from the meeting of the committee.

## **267 Chairperson of committee**

- (1) A local government may appoint a chairperson of each committee.
- (2) If the local government does not appoint a chairperson for a committee, the committee may appoint 1 of its members as chairperson.

- (3) If the chairperson is not present at a meeting, the members present may appoint a chairperson for the meeting.

## **268 Frequency of meetings**

Meetings of a committee are held at the times and places decided by the committee.

## **269 Quorum**

- (1) A quorum of a committee is a majority of its members.
- (2) However, if the number of members is an even number, one-half of the number is a quorum.

## **270 Procedure at meetings**

- (1) Business may be conducted at a meeting of a committee only if a quorum is present.
- (2) At a meeting of a committee—
  - (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 also has a casting vote; and
  - (d) if a member present fails to vote, the member is taken to have voted in the negative.

## **Division 3**                      **Common provisions for local government and committee meetings**

### **271**    **What div 3 is about**

- (1) This division is about the meetings of a local government (including meetings of its committees).
- (2) In this division *meeting* means—
  - (a) a meeting of the local government; or
  - (b) a meeting of a committee of a local government.

### **272**    **Minutes**

- (1) The chief executive officer must ensure minutes of each meeting of a local government 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 committee members present; and
  - (b) signed by the person presiding at the later meeting.
- (4) A copy of the minutes of each meeting—
  - (a) must be available for inspection by the public, at a local government's public office and on its website, within 10 days after the end of the meeting; and

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- (b) when the minutes have been confirmed—must be available for purchase at the local government’s public office.
  - (5) The price for purchasing the 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.
  - (6) This section does not apply to a committee which a local government has, by resolution, exempted from the requirement to take minutes of its proceedings.
  - (7) A local government may only exempt a committee under subsection (6) if the committee’s only function is to advise, or otherwise make a recommendation to, the local government.
  - (8) Also, a committee which has been exempted under subsection (6) must give the local government a written report of its deliberations and its advice or recommendations.

### **273 Recording of reasons for particular decisions**

- (1) This section applies if a decision made at a meeting is inconsistent with a recommendation or advice given to the local government by an advisor of the local government and either or both of the following apply to the decision—
  - (a) the decision is about entering into a contract the total value of which is more than the greater of the following—
    - (i) \$200000 exclusive of GST;
    - (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;
  - (b) the decision is inconsistent with—

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- (i) the policy or approach ordinarily followed by the local government for the type of decision; or
- (ii) a policy previously adopted by the local government by resolution, whether or not as required by the Act, and still in force.

*Examples of decisions to which this section 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
  - the disposal of land or a non-current asset
- (2) An **advisor**, of a local government, is a person—
    - (a) who is an employee of the local government or is otherwise engaged to provide services to the local government; and
    - (b) whose duties include giving a recommendation or advice.
  - (3) The chief executive officer must ensure the minutes of the meeting include a statement of the reasons for not adopting the recommendation or advice.

## **274 Meetings in public unless otherwise resolved**

A meeting is open to the public unless the local government or committee has resolved that the meeting is to be closed under section 275.

## **275 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



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- (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 the local government; or
  - (g) any action to be taken by the local government under the Planning Act, 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 state 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.

## 276 Teleconferencing

- (1) **Teleconferencing** is the use of a telephone, video conferencing equipment or other means of instant communication that allows a person to take part in discussions as they happen.
- (2) A local government may allow a person to take part in a meeting by teleconferencing.
- (3) A councillor taking part in a meeting by teleconferencing is taken to have attended the meeting if—
  - (a) the councillor was simultaneously in audio contact with each other person at the meeting; and
  - (b) the local government approved the teleconferencing arrangement.

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## **277 Public notice of meetings**

- (1) A local government must, at least once in each year, publish a notice of the days and times when—
  - (a) its ordinary meetings will be held; and
  - (b) the ordinary meetings of its standing committees will be held.
- (2) The notice mentioned in subsection (1) must be published—
  - (a) in a newspaper circulating generally in the local government's area; and
  - (b) on the local government's website.
- (3) 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; and
  - (b) meetings of its committees will be held.
- (4) The local government must immediately notify any change to the days and times mentioned in subsection (1) or (3) in the same way as the days and times were previously notified.
- (5) A list of the items to be discussed at a meeting mentioned in subsection (3) must be available for inspection at the time the agenda for the meeting is made available to councillors.
- (6) The local government may publish the list of items to be discussed at a meeting, including any details or documents relating to an item, on the local government's website.
- (7) Subsection (5) 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.

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## **Part 3                      Local government employees**

### **Division 1                      Disciplinary action against local government employees**

#### **278      What div 1 is about**

This division prescribes, for section 197(2) of the Act, when the chief executive officer may take, and the types of, disciplinary action.

#### **279      When disciplinary action may be taken**

The chief executive officer may take disciplinary action against a local government employee if the chief executive officer is satisfied the employee has—

- (a) failed to perform their responsibilities under the Act; or
- (b) failed to perform a responsibility under the Act in accordance with the local government principles; or
- (c) taken action under the Act in a way that is not consistent with the local government principles.

#### **280      Types of disciplinary action**

(1) The disciplinary action taken by the chief executive officer against a local government employee may be 1 or more of the following—

- (a) dismissal;
- (b) demotion, including a reduction in remuneration;

*Examples of demotion of a local government employee—*

- a reduction in the classification level of the local government employee's employment and a corresponding change in the employee's duties

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- a reduction in the local government employee's level of remuneration within the classification level of the employee's employment
- (c) a deduction from salary or wages of an amount of not more than 2 penalty units;
- (d) a written reprimand or warning.

*Note—*

If the disciplinary action to be taken is dismissal, the dismissal must comply with the requirements under the *Industrial Relations Act 1999*, chapter 3.

- (2) A written reprimand or warning—
- (a) must state the following—
- (i) the employee's conduct that is disapproved of;
  - (ii) the remedial action needed to rectify the conduct;
  - (iii) the period within which the remedial action is to be taken;
  - (iv) the possible consequences for a repeat of the conduct by the employee; and
- (b) is part of a local government employee's employment record.

## **281 Deductions from salary or wages**

- (1) 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—when 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—when notice of the decision is given to the employee; or

- (c) if an appeal is brought against the disciplinary action and the appeal is discontinued or struck out—when the appeal is discontinued or struck out.
- (2) If an appeal is brought against the disciplinary action taken against a local government employee and the decision on appeal changes the disciplinary action to a deduction from the salary or wages of the employee, the local government may make the deduction when notice of the decision is given to the employee.

## **282 Suspension of employees**

- (1) If the chief executive officer is satisfied, on reasonable grounds, that a local government employee will be subject to disciplinary action, the chief executive officer may suspend the employee from duty.
- (2) Suspension of a local government employee from duty does not affect the following—
- (a) the continuity of the employee’s service in employment with the local government;
  - (b) the entitlements previously accrued to the employee from employment with the local government;
  - (c) the accrual of entitlements to the employee during the period of suspension.
- (3) A suspended employee must be paid the employee’s full remuneration as at the start of the suspension for the period of suspension.

## **283 Employee to be given notice of grounds for disciplinary action**

- (1) Before the chief executive officer takes disciplinary action against a local government employee, the chief executive officer must give the employee—
- (a) written notice of the following—

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- (i) the disciplinary action to be taken;
    - (ii) the grounds on which the disciplinary action is taken;
    - (iii) the particulars of conduct claimed to support the grounds; and
  - (b) a reasonable opportunity to respond to the information contained in the written notice.
- (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 about the disciplinary action taken against the local government employee.

## Division 2                      Portability of long service leave

### 284      What div 2 is about

- (1) This division is about the continuation of particular local government employees' accrued rights to long service leave and recognition of their previous periods of employment.

*Note—*

See the *City of Brisbane Regulation 2012*, chapter 8, part 3, division 2 for the provisions that deal with the portability of long service leave where the Brisbane City Council is the new employer or former employer of a local government employee.

- (2) A person's ***accrued right to long service leave*** is the person's entitlement to take long service leave after having completed a minimum period of employment with an employer.
- (3) This division applies if—
- (a) a person is employed (the ***new employment***) by a relevant entity (the ***new employer***); and
  - (b) the person was previously employed (the ***former employment***) by a relevant entity (the ***former employer***); and

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- (c) the period between ending the former employment and beginning the new employment is not longer than 1 year; and
  - (d) the person did not receive a payment from the former employer of an amount as a cash equivalent for accrued long service leave.
- (4) However, this division does not apply if—
- (a) the new employer is—
    - (i) a distributor-retailer; or
    - (ii) a water entity, other than a water entity that is a local government; and
  - (b) the former employer is—
    - (i) a distributor-retailer; or
    - (ii) a water entity, other than a water entity that is a local government.
- (5) A *relevant entity* is—
- (a) a local government; or
  - (b) a distributor-retailer; or
  - (c) a water entity; or
  - (d) another entity that is controlled or owned by a local government.
- (6) A *distributor-retailer* is a distributor-retailer under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.
- (7) A *water entity* is a water entity under the *South East Queensland Water (Restructuring) Act 2007*.

**285 Continuation of particular local government employees' accrued rights to long service leave**

- (1) The person's accrued right to long service leave, in relation to the former employment, is continued, in relation to the new

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employment, as an accrued right to long service leave as an employee of the new employer.

- (2) From the start of the new employment, the new employer has the same obligations in relation to the person's accrued right to long service leave as the former employer had in relation to the person, at the end of the former employment.

*Example—*

If a person was entitled to take 11 weeks long service leave at the time the former employment ended, the person continues to be entitled to take 11 weeks long service leave after the start of the new employment. The entitlement would not be subject to completing any further period of employment with the new employer.

- (3) However, after the start of the new employment, the person continues to accrue rights to long service leave only under the same conditions as an employee of the new employer who is not a person to whom this division applies.

## **286 Recognition of previous periods of employment for particular local government employees**

- (1) This section applies when determining the person's accrued right to long service leave in relation to the new employer.
- (2) The person's period of employment with the former employer, in addition to the person's period of employment with the new employer, is taken to be the person's period of employment with the new employer.

*Example—*

A person is taken to have completed a period of employment of 10 years with a new employer if the person completed a period of employment of 6 years with a former employer and a period of employment of 4 years with the new employer.



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**287 Payment by former employer to new employer towards long service leave entitlements accrued with former employer**

- (1) The former employer must pay the new employer an amount for the number of days of long service leave that the person—
  - (a) is entitled to take because of the person's period of employment with the former employer; or
  - (b) would have been entitled to take, because of the person's period of employment with the former employer, if there was no minimum period of employment to be completed before the entitlement accrued.
- (2) The amount—
  - (a) is the amount the former employer would have been required to pay the person if the person had taken the long service leave; and
  - (b) must be paid within a reasonable time of being requested by the new employer.
- (3) A former employer must provide the new employer with the following information relating to the person—
  - (a) the length of accrued long service leave;
  - (b) any special leave taken by the person without salary;
  - (c) any long service leave taken by the person or any amount of cash paid to the person in lieu of long service leave;
  - (d) any undertaking given in relation to long service leave.

## Part 4 Authorised persons

### 288 Who may be appointed as authorised persons—Act, s 202

- (1) For section 202(2)(b)(ii) of the Act, each of the following types of persons are prescribed—
  - (a) a person who contracts with the relevant local government to provide services to it for the administration or enforcement of a Local Government Act;
  - (b) a person who is an employee of an entity that contracts with the relevant local government to provide services to it for the administration or enforcement of a Local Government Act;
  - (c) a person who is an employee of another local government and who performs duties for the relevant local government under an arrangement between the relevant local government and the other local government.
- (2) The *relevant local government* is the local government that employs the chief executive officer.

## Part 5 Register of interests

### 289 What pt 5 is about

- (1) This part is about the register of interests of the following persons—
  - (a) councillors;
  - (b) chief executive officers;
  - (c) senior executive employees;

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- (d) a person who is related to a councillor, chief executive officer or senior executive employee.
- (2) A person is *related* to a councillor, chief executive officer or senior executive employee (the *primary party*) if—
- (a) the person is the primary party's spouse; or
  - (b) the person is totally or substantially dependent on the primary party and—
    - (i) the person is the primary party's child; or
    - (ii) the person's affairs are so closely connected with the affairs of the primary party that a benefit derived by the person, or a substantial part of it, could pass to the primary party.

## **290 Who maintains registers of interests**

- (1) The chief executive officer must maintain a register of interests of the following persons—
  - (a) councillors;
  - (b) senior executive employees;
  - (c) a person who is related to a councillor or senior executive employee.
- (2) The mayor must maintain a register of interests of the following persons—
  - (a) the chief executive officer;
  - (b) a person who is related to the chief executive officer.

## **291 Contents of registers of interests**

- (1) The register of interests of each of the following persons must contain the financial and non-financial particulars mentioned in schedule 5 for an interest held by the person—
  - (a) a councillor;
  - (b) the chief executive officer;

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- (c) a senior executive employee;
  - (d) a person who is related to a councillor, the chief executive officer or a senior executive employee.
- (2) However, the register of interests of a person who is related to a councillor, the chief executive officer or a senior executive employee need not include any interest that is—
- (a) held jointly, or in common, with the councillor, chief executive officer or senior executive employee; and
  - (b) included in the register of interests of the councillor, chief executive officer or senior executive employee.
- (3) Nothing in subsection (1) requires a register of interests to include any of the following—
- (a) the number or monetary value of shares;
  - (b) the monetary value of an investment or interest;
  - (c) the full street address of land;
  - (d) the amount of a liability, donation or other income;
  - (e) the account number of, or amounts held in, accounts held with a financial institution;
  - (f) the monetary value of accommodation, an asset, a gift or travel.
- (4) To remove any doubt, it is declared that a person holds an interest if the person holds the interest alone or jointly, or in common, with another person.

## **292 Obligation of chief executive officer and senior executive employees to correct register of interests**

- (1) Subsection (2) applies if the chief executive officer knows—
- (a) of an interest that must be recorded in a register of interests under section 291 in relation to the chief executive officer or a person who is related to the chief executive officer; or

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- (b) that particulars of an interest recorded in a register under section 291 in relation to the chief executive officer or a person who is related to the chief executive officer are no longer correct.
- (2) The chief executive officer must, in the approved form, inform the mayor of the interest or the correct particulars within 30 days after the chief executive officer knows of the interest or correct particulars.

Maximum penalty—85 penalty units.

- (3) Subsection (4) applies if a senior executive employee knows—
- (a) of an interest that must be recorded in a register of interests under section 291 in relation to the employee or a person who is related to the employee; or
- (b) that particulars of an interest recorded in a register under section 291 in relation to the employee or a person who is related to the employee are no longer correct.
- (4) The senior executive employee must, in the approved form, inform the chief executive officer of the interest or the correct particulars within 30 days after the employee knows of the interest or correct particulars.

Maximum penalty—85 penalty units.

*Note—*

See the Act, section 171B about the obligation of a councillor to correct the register of interests.

### **293 Who may inspect a register of interests**

- (1) A register of interests of a councillor may be inspected by the public.
- (2) Subsection (3) applies to a register of interests of—
- (a) chief executive officers; or
- (b) senior executive employees; or

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- (c) persons who are related to a councillor, chief executive officer or senior executive employee.
- (3) The register of interests is only open to inspection by the following persons—
  - (a) a councillor;
  - (b) the chief executive officer;
  - (c) another person permitted by law to have access to information in the register.
- (4) To remove any doubt, it is declared that subsection (3) does not operate to allow a councillor or chief executive officer of one local government to inspect a register of interests of another local government.

## **294 Access to particular registers of interests**

- (1) This section applies to the register of interests of—
  - (a) the chief executive officer; or
  - (b) a senior executive employee; or
  - (c) a person who is related to a councillor, the chief executive officer or a senior executive employee.
- (2) A person seeking access to the register of interests must apply in writing to—
  - (a) for the register of interests of the chief executive officer or persons who are related to the chief executive officer—the mayor; or
  - (b) otherwise—the chief executive officer.
- (3) The chief executive officer or mayor must record—
  - (a) the name and home or business address of each person given access to a register of interests by the chief executive officer or mayor; and
  - (b) the day the access is given.

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- (4) If the chief executive officer or mayor gives access to a register of interests, the chief executive officer or mayor must, as soon as practicable, inform the person to whom the register of interests relates of the day the access was given.

## **295 Publication of register of interests of councillors**

- (1) The local government must ensure a copy of the register of interests of councillors may be inspected by the public—
- (a) at the local government’s public office; and
  - (b) on its website.
- (2) The copy of the register of interests must—
- (a) include a change to the register of interests as soon as practicable, but no later than 5 business days, after the change is made; and
  - (b) be in a form that is reasonably accessible and transparent.

*Example for paragraph (b)—*

a consolidated version of the register of interests

## **296 Queries on contents of register of interests**

- (1) A person who suspects on reasonable grounds that a register of interests does not contain particulars that should be in the register may inform—
- (a) if the suspicion relates to the register of interests of the chief executive officer or persons who are related to the chief executive officer—the mayor; or
  - (b) otherwise—the chief executive officer.
- (2) The chief executive officer or mayor must immediately inform the following person (the *informed person*)—
- (a) if the register of interests relates to a councillor or a person who is related to a councillor—the councillor;

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- (b) if the register of interests relates to the mayor or a person who is related to the mayor—the mayor;
  - (c) if the register of interests relates to the chief executive officer or a person who is related to the chief executive officer—the chief executive officer;
  - (d) if the register of interests relates to a senior executive employee or a person who is related to the senior executive employee—the senior executive employee.
- (3) The informed person must, within 30 days of being informed, establish whether the register of interests should be amended to make it a true record of fact.
- (4) If the informed person establishes that the register of interests does not need to be amended, the person must—
- (a) complete a statutory declaration stating that the particulars in the register of interests are a true record of fact; and
  - (b) give the statutory declaration to—
    - (i) if the informed person is the chief executive officer—the mayor; or
    - (ii) otherwise—the chief executive officer.

## **297 Improper disclosure of registers of interests**

- (1) A person must not knowingly disclose information obtained from a register of interests if it is not a true copy, or a fair summary, of the contents of the register of interests.

Maximum penalty—85 penalty units.

- (2) A person must not knowingly disclose information obtained from a register of interests of the following persons, other than to a person mentioned in section 293(3)—
- (a) a chief executive officer;
  - (b) a senior executive employee;



- (c) a person related to a councillor, chief executive officer or senior executive employee.

Maximum penalty—85 penalty units.

## Chapter 9 Other provisions

### Part 1 Way to hold a hearing

#### 298 Procedural rules for hearings—Act, s 213

For section 213(3) of the Act, a hearing must be held in public unless the investigator directs the hearing is to be held in private.

#### 299 Witness fees—Act, s 214

For section 214(4)(a) of the Act, the witness fees prescribed are the allowances for witnesses and other persons prescribed under the QCAT Act.

*Note—*

For the witness fees prescribed under the QCAT Act, see the *Queensland Civil and Administrative Tribunal Regulation 2009*, part 4.

### Part 2 Superannuation

#### 300 Local government entities—Act, s 216A

For the Act, section 216A, definition *local government entity*, each of the entities mentioned in schedule 6 is prescribed.

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**301 Persons eligible for membership of the scheme—Act, s 218**

For section 218(2)(i) of the Act, a person mentioned in schedule 7 is prescribed.

**302 Prescribed amount of yearly contributions—Act, s 220**

- (1) For the Act, section 220(3), the yearly contribution that an employer must make is the amount equal to—
  - (a) for a special permanent employee—11% of the employee's salary; or
  - (b) for a standard permanent employee—12% of the employee's salary.
- (2) For the Act, section 220(5), the yearly contribution that the Brisbane City Council must make as an employer for a BCC permanent employee is the amount equal to 14% of the employee's salary.
- (3) However, the yearly contribution that the Brisbane City Council must make as an employer for a BCC permanent employee who is 70 years or older is nil.

**303 Prescribed amount of yearly contributions—Act, s 220A**

- (1) For the Act, section 220A(2), definition *prescribed employee*, paragraph (b), a person who is a BCC permanent employee is prescribed.
- (2) For the Act, section 220A(3), the yearly contribution that an employee must make is the amount equal to—
  - (a) for a special permanent employee of a local government (other than the Brisbane City Council) or a local government entity—5% of the employee's salary; or
  - (b) for a standard permanent employee of a local government (other than the Brisbane City Council) or a local government entity—6% of the employee's salary; or

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- (c) for a prescribed employee of the Brisbane City Council who is an accumulation benefit member within the meaning of section 216A of the Act—5% of the employee's salary; or
  - (d) for a prescribed employee of the Brisbane City Council who is a defined benefit member within the meaning of section 216A of the Act—the amount stated in the trust deed.
- (3) However, the yearly contribution that a BCC permanent employee must make if the employee is 70 years or older is nil.

**304 Interest payable on outstanding contributions—Act, s 224**

For section 224(4)(a) of the Act, the annual rate of interest is 14%.

## **Part 3 Delegation of powers**

**305 Particulars to be contained in register of delegations—Act, s 260**

- (1) For section 260(1) of the Act, the particulars prescribed for a register of delegations are—
- (a) the name or title of the person, or the name of the committee, to whom powers are delegated; and
  - (b) a description of the powers delegated, including the provisions under a Local Government Act permitting or requiring the exercise of the powers; and
  - (c) if the delegation was by the local government—a summary of the resolution by which powers are delegated, including—
    - (i) the date of the resolution; and

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- (ii) a summary of any conditions to which the delegation is subject; and
  - (iii) if the resolution is numbered—its number.
- (2) The chief executive officer may include any other information in the register the chief executive officer considers appropriate.

## **Part 4**

# **Process for resolving administrative action complaints**

### **306 Process for resolving administrative action complaints—Act, s 268**

- (1) This section provides, for section 268(4) of the Act, the process for resolving complaints about administrative actions of a local government made by affected persons.
- (2) A local government must adopt—
  - (a) a complaints management process that effectively manages complaints from their receipt to their resolution; and
  - (b) written policies and procedures supporting the complaints management process.
- (3) A *complaints management process* is a process for resolving complaints about administrative actions of a local government that—
  - (a) covers all administrative action complaints made to the local government; and
  - (b) requires the local government to quickly and efficiently respond to complaints in a fair and objective way; and

- (c) includes the criteria considered when assessing whether to investigate a complaint; and
  - (d) requires the local government to inform an affected person of the local government's decision about the complaint and the reasons for the decision, unless the complaint was made anonymously.
- (4) The local government must—
- (a) record all administrative action complaints; and
  - (b) ensure the public may inspect the complaints management process (including the related policies and procedures) at the local government's public office and on its website; and
  - (c) ensure internal reports are occasionally provided to senior management about the operation of the complaints management process; and
  - (d) ensure mechanisms are in place to—
    - (i) identify, analyse and respond to complaint trends; and
    - (ii) monitor the effectiveness of the complaints management process (by monitoring the time taken to resolve complaints, for example).
- (5) To remove any doubt, it is declared that, in deciding if a complaint is an administrative action complaint, it is irrelevant—
- (a) how quickly the complaint was resolved; or
  - (b) to which area of a local government the complaint was made; or
  - (c) whether the complaint was a written or verbal complaint; or
  - (d) whether or not the complaint was made anonymously.

*Note—*

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Under section 187 a local government must include particular information relating to the complaints management process in the local government's annual report.

## **Part 5                      Other provisions**

### **307      LGAQ Ltd.—Act, s 287**

For section 287(2) of the Act, the corporation prescribed is the Local Government Association of Queensland Ltd. ABN 11 010 883 293.

## **Part 6                      Reporting missing local government property**

### **307A   Reporting missing local government property**

- (1) This section applies if—
  - (a) a local government becomes aware that property of, or received by, the local government is missing; and
  - (b) the property has a total value of \$1000 or more.
- (2) The local government must immediately give written notice to the auditor-general.
- (3) Also, if the local government suspects the property may have been stolen, the local government must immediately give written notice to a police officer.

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## Chapter 10 Grants commission

### 308 What ch 10 is about

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

### 309 Recommendations

- (1) In preparing recommendations to the Minister about the allocation of the financial assistance amount, the grants commission may inform itself in any way it considers appropriate.
- (2) The *financial assistance amount* is the amount the State is entitled to receive from the Commonwealth under the Local Government (Financial Assistance) Act for financial assistance for local government purposes.
- (3) The grants commission may ask for submissions from any local governing body within the meaning of section 228(5) of the Act.
- (4) When the grants commission makes a recommendation to the Minister, the Minister may—
  - (a) accept the recommendation; or
  - (b) refer the recommendation back to the grants commission and ask it—
    - (i) to reconsider its recommendation or a part of it; or
    - (ii) to consider a matter raised by the Minister about the recommendation.
- (5) The Minister must give the grants commission reasons for asking it to do something under subsection (4)(b).
- (6) After doing what it is asked to do under subsection (4)(b), the grants commission must consider whether any change should

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

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

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

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

### **311 Public may attend public hearings**

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

## **Chapter 11 Repeal and transitional provisions**

### **Part 1 Repeal provision**

#### **312 Repeal**

The following regulations are repealed—



- Local Government (Beneficial Enterprises and Business Activities) Regulation 2010 SL No. 123
- Local Government (Finance, Plans and Reporting) Regulation 2010 SL No. 124
- Local Government (Operations) Regulation 2010 SL No. 125.

## Part 2 Transitional provisions

### 313 Definitions for pt 2

In this part—

*commencement* means the commencement of this part.

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

### 314 Implementation of particular local government changes

- (1) This section applies to a local government change mentioned in schedule 3, part 1 of the repealed Operations Regulation if, immediately before the commencement, the implementation of the local government change has not been finalised.
- (2) Schedule 3, part 2 of the repealed Operations Regulation continues to apply in relation to the local government change until the implementation of the change has been finalised despite the repeal of those provisions under this regulation.
- (3) In this section—

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

**315 Competitive neutrality complaints started before commencement**

- (1) This section applies if—
  - (a) before the commencement—
    - (i) a person made a competitive neutrality complaint in relation to a business entity under chapter 6 of the repealed Business Activities Regulation; and
    - (ii) a local government appointed a referee to investigate and report on the complaint; and
  - (b) at the commencement—
    - (i) the referee's investigation and report on the complaint has not been finalised; and
    - (ii) the complaint has not been withdrawn.
- (2) Chapter 6 of the repealed Business Activities Regulation continues to apply in relation to the competitive neutrality complaint despite the repeal of those provisions under this regulation.
- (3) Without limiting subsection (2)—
  - (a) the referee must continue to investigate and report on the competitive neutrality complaint; and
  - (b) the local government must comply with sections 146 and 148 of the repealed Business Activities Regulation.
- (4) To remove any doubt, it is declared that chapter 3, part 2, division 7 applies in relation to a competitive neutrality complaint about a business entity if—
  - (a) the complaint was made before the commencement; and
  - (b) at the commencement, a local government had not appointed a referee to investigate and report on the complaint.

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**316 References to QCA**

- (1) This section is about referring to the QCA particular decisions about competitive neutrality complaints made—
  - (a) before the commencement; and
  - (b) against business entities conducting business activities to which chapter 6, part 3 of the repealed Business Activities Regulation applied.
- (2) If the person who made the complaint has not already done so, the person may refer to the QCA—
  - (a) the referee's decision not to investigate the complaint; or
  - (b) the local government's response to the referee's recommendation about the complaint.
- (3) For the purpose of making the referral, or the QCA dealing with the referral, chapter 6, part 3 of the repealed Business Activities Regulation continues to apply despite the repeal of those provisions under this regulation.
- (4) Subsection (5) applies if—
  - (a) before the commencement, the person who made the complaint had referred a decision mentioned in subsection (2)(a) or (b) to the QCA under chapter 6, part 3 of the repealed Business Activities Regulation; and
  - (b) at the commencement, the QCA had not finished dealing with the complaint.
- (5) Chapter 6, part 3 of the repealed Business Activities Regulation continues to apply in relation to the complaint despite the repeal of those provisions under this regulation.

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## **Part 3                      Transition from WBWC to FCRC**

### **317      Definitions for pt 3**

In this part—

*FCRC* means Fraser Coast Regional Council.

*transfer day* means the day declared as the transfer day under section 319.

*transferring instrument* see section 321(1).

*WBWC* means Wide Bay Water Corporation ABN 98 380 729 010.

### **318      Purpose of this part**

The purpose of this part is to provide for a transition from WBWC to FCRC.

### **319      Minister may declare transfer day**

The Minister may, by gazette notice, declare a day to be the transfer day for this part.

### **320      Successor in law**

- (1) On the transfer day, FCRC becomes the successor in law of WBWC.
- (2) Without limiting subsection (1), proceedings by or against WBWC, or that could have been started by or against WBWC before the transfer day, may be continued or started by or against FCRC.

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### 321 Instruments about WBWC

- (1) This section applies to an instrument applying to WBWC in force immediately before the transfer day (the *transferring instrument*).
- (2) A transferring instrument applies to FCRC in place of WBWC.
- (3) Without limiting subsection (2)—
  - (a) a transferring instrument to which, immediately before the transfer day, WBWC was a party is taken to be an instrument to which FCRC is a party in the same way WBWC was a party; and
  - (b) a transferring instrument given to, by or in favour of WBWC is taken to have been given to, by or in favour of FCRC in the same way it was given to, by or in favour of WBWC; and
  - (c) a transferring instrument that refers to WBWC is taken to refer to FCRC in the same way it referred to WBWC; and
  - (d) a transferring instrument under which money is, or may become, payable to or by WBWC is taken to be an instrument under which money is, or may become, payable to or by FCRC in the same way the money was, or might have become, payable to or by WBWC; and
  - (e) a transferring instrument under which property, other than money, is, or may become, liable to be transferred, conveyed or assigned to or by WBWC is taken to be an instrument under which property is, or may become, liable to be transferred, conveyed or assigned to or by FCRC in the same way the property was, or might have become, liable to be transferred, conveyed or assigned to or by WBWC.
- (4) In this section—
  - (a) includes an approval, licence or permit; but

- (b) does not include a contract.

### **322 Novation of WBWC contracts to FCRC**

- (1) This section applies to a contract—
  - (a) in force immediately before the transfer day; and
  - (b) to which WBWC is a party.
- (2) On the transfer day, the following apply despite any provision of the contract—
  - (a) FCRC is taken to be a party to the contract instead of WBWC;
  - (b) FCRC assumes WBWC's liabilities and rights under the contract;
  - (c) a reference in the contract to WBWC is taken to be a reference to FCRC;
  - (d) changes to the contract that are necessary for, or incidental to, the matters in paragraphs (a) to (c) are taken to have been made.
- (3) Subsection (2), or any thing done under it, does not—
  - (a) discharge or otherwise affect the contract or the performance of the contract by another party to it; or
  - (b) fulfil a condition allowing a person to terminate the contract or be released, wholly or partly, from the contract or a liability under it.
- (4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to any matter under subsection (2)—
  - (a) the advice is taken to have been obtained; and
  - (b) the consent or notice is taken to have been given.
- (5) In this section—  
*contract* includes—

- (a) an agreement, deed or other instrument, whether or not for consideration; but
- (b) does not include a licence, permit or approval.

### **323 Contractual rights are unaffected**

Nothing done under this part will—

- (a) place WBWC or FCRC in breach of a document, including a document that prohibits or regulates—
  - (i) the transfer of any right or liability; or
  - (ii) the disclosure of any information; or
- (b) fulfil any condition that—
  - (i) allows a person to terminate, or modify the operation or effect of, a document or obligation; or
  - (ii) requires an amount to be paid before its stated maturity; or
- (c) release a surety or other obligee wholly or partly, from an obligation.

### **324 Preservation of rights of employees**

- (1) At the beginning of the transfer day an employee of WBWC is transferred to FCRC.
- (2) On the transfer mentioned in subsection (1)—
  - (a) the employee retains and is entitled to all rights that have accrued to the employee because of the person's employment with WBWC; and
  - (b) the employee's service as an employee of WBWC is taken to be service of a like nature in FCRC for deciding the employee's rights as an employee of FCRC.
- (3) Employment of the person by FCRC under subsection (2) does not—

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- (a) affect the employee's benefits, entitlements or remuneration; or
  - (b) prejudice the employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (c) interrupt continuity of service; or
  - (d) constitute a termination, retrenchment or redundancy; or
  - (e) entitle the employee to a payment or other benefit merely because the person is no longer employed by the WBWC.
- (4) To remove any doubt, an employee of WBWC is taken to be employed by FCRC on the same terms and conditions as applied before the transfer.

### **325 Transfer of WBWC assets and WBWC liabilities to FCRC**

- (1) At the beginning of the transfer day—
- (a) WBWC is divested of all WBWC assets and released from all WBWC liabilities; and
  - (b) WBWC assets become the assets of FCRC; and
  - (c) WBWC liabilities are assumed by FCRC.

- (2) In this section—

***WBWC asset*** means an asset that, immediately before the transfer day, is an asset of WBWC.

***WBWC liability*** means a liability that, immediately before the transfer day, is a liability of WBWC.

### **326 Existing delegations made to WBWC**

- (1) This section applies to a delegation—
- (a) made to WBWC under an Act; and
  - (b) in force at the beginning of the transfer day.



- (2) On the transfer day, the delegation continues in force as a delegation to FCRC until the earlier of the following—
  - (a) it is revoked;
  - (b) it would, if WBWC had not been dissolved, have ended.
- (3) Subsection (2) does not stop the delegation being amended while it continues in force under subsection (2).

### **327 Registration of transferred assets**

- (1) This section applies to the registrar of titles or other person responsible for keeping a register for dealings about an asset, liability or instrument that, under section 325(1)(b), becomes an asset of FCRC.
- (2) The registrar or person must, if asked by FCRC in the appropriate form, and on payment of any fee, record a transfer of the asset, liability or instrument to FCRC.
- (3) In this section—

*registrar of titles* means a public official or authority responsible for registering title to land and dealings affecting land.

### **328 Dissolution of WBWC**

- (1) This section takes effect immediately after FCRC becomes the successor in law of WBWC.
- (2) WBWC is dissolved and the members of the board of WBWC cease to hold office.

## **Chapter 12 Transitional provisions for Queensland Independent Remuneration Tribunal Act 2013**

### **329 Definitions for ch 12**

In this chapter—

*previous section 245* means section 245 as in force immediately before 9 August 2013.

*previous section 246* means section 246 as in force immediately before 9 August 2013.

*relevant period* means the period—

- (a) starting on 1 July 2013; and
- (b) ending on 30 June 2014.

### **330 Purpose of ch 12**

The purpose of this chapter is to stop any variation of a councillor's salary during the relevant period.

### **331 When omission of previous section 245 has effect**

For this chapter, the omission of previous section 245 under the *Queensland Independent Remuneration Tribunal Act 2013*, section 86 is taken to have effect on 1 July 2013.

### **332 Provision about remuneration during relevant period**

- (1) A person who is a councillor on or after 1 July 2013 is taken to have been entitled, during the relevant period, only to the remuneration payable to the councillor under the remuneration schedule published by the tribunal under previous section 246 and in effect as at 1 July 2013.
- (2) This section applies despite—

- (a) previous section 245; and
- (b) any other Act or law as in force before 9 August 2013.

**333 Remuneration schedule published under previous section 246 after 1 July 2013 of no effect**

A remuneration schedule published by the tribunal under previous section 246 after 1 July 2013 is of no effect.

**334 Decisions of tribunal in relation to new local governments to be established after de-amalgamations**

- (1) This section applies to the following decisions made by the tribunal under the *Local Government (De-amalgamation Implementation) Regulation 2013*, section 11(1)—
  - (a) for each new local government, the category of local government to which the new local government belongs;
  - (b) for each category decided under paragraph (a), the remuneration payable to a councillor, mayor or deputy mayor of a new local government in the category.
- (2) The decisions are taken to be part of the remuneration schedule published by the tribunal under previous section 246 and in effect as at 1 July 2013.
- (3) To remove any doubt, it is declared that, for the period starting on 1 January 2014 and ending on 30 June 2014, a councillor, mayor or deputy mayor of a new local government is entitled only to the remuneration payable to the person under the decisions of the tribunal mentioned in subsection (1).
- (4) In this section—

***new local government*** means each of the following local governments that comes into existence on 1 January 2014—

  - (a) Douglas Shire Council;
  - (b) Livingstone Shire Council;
  - (c) Noosa Shire Council;
  - (d) Mareeba Shire Council.

# Schedule 1 Prescribed information about local governments

sections 4 to 7

Column 1	Column 2	Column 3	Column 4	Column 5
Name of local government area	Class	Area map	Number of councillors assigned to each division	Total number of councillors (including mayor)
Aurukun	shire	LGRB 2	area not divided	5
Balonne	shire	LGRB 3	area not divided	7
Banana	shire	LGRB 4 edition 2	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1	7
Barcaldine	region	LGRB edition 2	area not divided	7
Barcoo	shire	LGRB 6	area not divided	5
Blackall-Tambo	region	LGB 8	area not divided	7
Boulia	shire	LGRB 9	area not divided	5
Bulloo	shire	LGRB 10	area not divided	5
Bundaberg	region	LGB 11	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
Burdekin	shire	LGRB 12	area not divided	7
Burke	shire	LGRB 13	area not divided	5

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Name of local government area</b>	<b>Class</b>	<b>Area map</b>	<b>Number of councillors assigned to each division</b>	<b>Total number of councillors (including mayor)</b>
Cairns	region	LGB 14 edition 2	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
Carpentaria	shire	LGRB 15	area not divided	7
Cassowary Coast	region	LGRB 16 edition 2	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1	7
Central Highlands	region	LGRB 25	area not divided	9
Charters Towers	region	LGRB 17 edition 2	area not divided	7
Cherbourg	shire	LGRB 18	area not divided	5
Cloncurry	shire	LGRB 19	area not divided	5
Cook	shire	LGRB 20 edition 2	area not divided	7
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 edition 2	area not divided	7

## Schedule 1

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Name of local government area</b>	<b>Class</b>	<b>Area map</b>	<b>Number of councillors assigned to each division</b>	<b>Total number of councillors (including mayor)</b>
Fraser Coast	region	LGB 28 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
Gladstone	region	LGRB 29	area not divided	9
Gold Coast	city	LGB 30 edition 2	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	15
Goondiwindi	region	LGRB 31	area not divided	7
Gympie	region	LGB 32 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	9
Hinchinbrook	shire	LGRB 33	area not divided	7
Hope Vale	shire	LGRB 34	area not divided	5

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Name of local government area</b>	<b>Class</b>	<b>Area map</b>	<b>Number of councillors assigned to each division</b>	<b>Total number of councillors (including mayor)</b>
Ipswich	city	LGB 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
Isaac	region	LGB 36	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1 division 7—1 division 8—1	9
Kowanyama	shire	LGRB 37	area not divided	5
Lockhart River	shire	LGRB 38	area not divided	5
Lockyer Valley	region	LGRB 39	area not divided	7
Logan	city	LGB 40 edition 2	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	13
Longreach	region	LGB 41	area not divided	7
Mackay	region	LGRB 42	area not divided	11
Mapoon	shire	LGRB 43	area not divided	5
Maranoa	region	LGRB 59 edition 2	area not divided	9

## Schedule 1

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Name of local government area</b>	<b>Class</b>	<b>Area map</b>	<b>Number of councillors assigned to each division</b>	<b>Total number of councillors (including mayor)</b>
McKinlay	shire	LGRB 44	area not divided	5
Moreton Bay	region	LGB 50 edition 2	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	13
Mornington	shire	LGRB 45	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
North Burnett	region	LGRB 49 edition 2	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1	7
Northern Peninsula Area	region	LGRB 51	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1	6
Palm Island	shire	LGRB 52	area not divided	5
Paroo	shire	LGRB 53	area not divided	5
Porpuraaw	shire	LGRB 54	area not divided	5
Quilpie	shire	LGRB 55	area not divided	5



<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Name of local government area</b>	<b>Class</b>	<b>Area map</b>	<b>Number of councillors assigned to each division</b>	<b>Total number of councillors (including mayor)</b>
Redland	city	LGB 56	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
Richmond	shire	LGRB 57	area not divided	6
Rockhampton	region	LGB 58	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
Scenic Rim	region	LGRB 7 edition 5	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1	7
Somerset	region	LGB 60 edition 2	area not divided	7
South Burnett	region	LGB 61	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1	7
Southern Downs	region	LGRB 62 edition 2	area not divided	9

## Schedule 1

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Name of local government area</b>	<b>Class</b>	<b>Area map</b>	<b>Number of councillors assigned to each division</b>	<b>Total number of councillors (including mayor)</b>
Sunshine Coast	region	LGB 63 edition 2	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	13
Tablelands	region	LGRB 64 edition 2	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1 division 7—1 division 8—1	9
Toowoomba	region	LGRB 65	area not divided	11
Torres	shire	LGRB 66	area not divided	5
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

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Name of local government area</b>	<b>Class</b>	<b>Area map</b>	<b>Number of councillors assigned to each division</b>	<b>Total number of councillors (including mayor)</b>
Townsville	city	LGB 68	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
Western Downs	region	LGRB 22 edition 2	area not divided	9
Whitsunday	region	LGB 69	division 1—1 division 2—1 division 3—1 division 4—1 division 5—1 division 6—1	7
Winton	shire	LGRB 70	area not divided	6
Woorabinda	shire	LGRB 71	area not divided	5
Wujal Wujal	shire	LGB 72	area not divided	5
Yarrabah	shire	LGRB 73	area not divided	5

## **Schedule 2      Aboriginal shire councils**

section 4(3)

Cherbourg  
Doomadgee  
Hope Vale  
Kowanyama  
Lockhart River  
Mapoon  
Napranum  
Palm Island  
Pormpuraaw  
Woorabinda  
Wujal Wujal  
Yarrabah

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## Schedule 3      **Implementing local government changes relating to changes of the boundaries of local government areas**

section 13B

### Part 1                      **Implementation**

#### 1      **Change in external boundaries of the Ipswich and Somerset areas**

- (1) The part of lot 2 on plan RP164048 within the Somerset Regional Council's local government area on 30 May 2013 is excluded from the Somerset Regional Council's local government area and included in the Ipswich City Council's local government area.
- (2) The local government change mentioned in subsection (1) takes effect on 31 May 2013.

*Note—*

A copy of the change commission's report titled 'Report on a change to the external boundaries of the Ipswich City Council and Somerset Regional Council' dated April 2013 can be viewed on the website of the Electoral Commission of Queensland.

### Part 2                      **Facilitation of implementation**

#### 2      **Definitions for pt 2**

In this part—

***current local government***, for a relevant area, means the local government for the area immediately after the transfer day.

*former local government*, for a relevant area, means the local government for the area immediately before the transfer day.

*relevant area* means an area that, under a local government change mentioned in part 1, is excluded from a local government's local government area and included in another local government's local government area.

*transfer day*, for a relevant area, means the day the local government change relating to the area takes effect under part 1.

### **3 Unfinished actions of former local government**

- (1) This section applies to an action started by the former local government for a relevant area that—
  - (a) relates to the relevant area; and
  - (b) has not been finalised before the transfer day.
- (2) The action is taken to have been started by the current local government for the relevant area.
- (3) In this section—

*action* means the performance of a function or the exercise of a power, including, for example, the following—

- (a) making a decision on, or considering, an application about land;
- (b) taking action in relation to an amount of rates for land;
- (c) making a demand for payment of an amount of rates;
- (d) making a requirement under an Act.

### **4 Assets and public works in the relevant area**

Any assets and public works in a relevant area belonging to the former local government for the relevant area immediately before the transfer day belong, from the transfer day, to the current local government for the relevant area.

*Example of what may be an asset belonging to a local government—*  
material associated with a road or bridge

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## 5 Application fees

- (1) This section applies to an application made to the former local government for a relevant area that—
  - (a) relates to the relevant area; and
  - (b) was made under an Act or planning scheme; and
  - (c) has not been decided immediately before the transfer day.
- (2) As soon as practicable after the transfer day, the former local government for the relevant area must pay the fee received for the application to the current local government for the relevant area.

## 6 Planning scheme for the relevant area

- (1) The planning scheme of a former local government for a relevant area (the *existing planning scheme*) continues to apply to the relevant area after the transfer day until the current local government for the relevant area amends its planning scheme or makes a new planning scheme.
- (2) The existing planning scheme must be implemented, administered and enforced, in relation to the relevant area, by the current local government for the relevant area as if the existing planning scheme were part of the current local government's planning scheme.

## 7 References in documents to former local government

In a document relating to a relevant area, a reference to the former local government for the relevant area may, as appropriate, be taken to be a reference to the current local government for the relevant area.

## 8 Duty to assist with change to boundaries of local government areas

- (1) The former local government for a relevant area and the current local government for the relevant area must do all acts

and other things necessary to help in the implementation of the change of the boundaries of their local government areas.

- (2) Without limiting subsection (1), the former local government for the relevant area must give the current local government for the relevant area the records necessary to enable compliance with this schedule.



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## Schedule 4 Pricing provisions

schedule 8, definition *pricing provisions*

### 1 Definition for sch 4

In this schedule—

*relevant activity*, of a local government, means—

- (a) a significant business activity of the local government to which full cost pricing applies; or
- (b) a business activity of the local government to which the code of competitive conduct applies.

### 2 Required revenue for deciding charges

In deciding charges to persons for goods or services provided in conducting a relevant activity, a local government must ensure the projected total revenue from conducting the activity is enough to cover the projected total costs of conducting the activity for—

- (a) if the relevant activity is an activity to which the code of competitive conduct applies—a period of more than 1 year but not more than 5 years; or
- (b) otherwise—each financial year in which the activity is conducted.

### 3 Different charges for commercial reasons

- (1) A charge may be decided for providing particular goods or services in conducting a relevant activity that is, for commercial reasons, an appropriate charge for the goods or services provided.
- (2) For subsection (1), a charge is, for commercial reasons, an appropriate charge if it could reasonably be charged if the goods or services were provided by an entity conducting the

relevant activity with the primary object of making a profit from conducting the activity.

#### **4 Total costs of conducting relevant activity**

- (1) For this schedule, the total costs of conducting a relevant activity include each of the following—
  - (a) the operational costs incurred in conducting the activity;
  - (b) administrative and overhead costs;
  - (c) the cost of resources used in conducting the activity;
  - (d) depreciation;
  - (e) equivalents for Commonwealth or State taxes a local government is not liable to pay because it is a local government;
  - (f) equivalents for the cost of funds advantage a local government obtains over commercial interest rates because of State guarantees on borrowings;
  - (g) return on capital.
- (2) The total costs must be adjusted for other advantages and disadvantages of a local government conducting the relevant activity that are not eliminated.
- (3) Subsection (2) does not apply for a relevant activity to which commercialisation applies.

#### **5 Allocation of administrative and overhead costs**

For section 4(1)(b), a local government must make a reasonable allocation of its administrative and overhead costs to each relevant activity, having regard to all of a local government's relevant activities.

#### **6 Cost of resources used in conducting activity**

- (1) For section 4(1)(c), if resources are provided by or to a local government for conducting an activity, the cost of resources used in conducting the activity may be taken to be—

- 
- (a) if the resources have an identifiable cost—the cost of the resources; or
  - (b) if paragraph (a) does not apply and the resources are readily available on the open market—the price at which the resources can be obtained on the market.
- (2) If subsection (1)(b) applies, the local government must ensure the terms on which the cost is based are similar to the terms on which they are made available in conducting the relevant activity.

## **7 Depreciation**

- (1) For section 4(1)(d), depreciation of an asset used in conducting a relevant activity must be based on the depreciable amount for the asset allocated over its useful life.
- (2) However, a local government may decide to base the depreciation on an amount decided by the local government to be appropriate in the circumstances.

## **8 Equivalent amounts for taxes local government is not liable to pay**

- (1) This section applies for section 4(1)(e) for working out the equivalent amount for a Commonwealth or State tax a local government is not liable to pay because it is a local government.
- (2) The equivalent amount must be worked out—
  - (a) for a tax to which a tax equivalents manual applies—by applying the general principles provided for in the manual; or
  - (b) if paragraph (a) does not apply—by estimating the amount a private sector business conducting the relevant activity would calculate to be its liability to the tax.
- (3) Subsection (2)(a) does not, of itself, require the local government to comply with a process or other requirement under the tax equivalents manual.

- (4) However, the local government must keep, for 7 years from the day the equivalent amount is worked out, details of the calculations made in working out the equivalent amount.
- (5) This section does not apply for a relevant activity to which commercialisation applies.

## **9 Guarantees by State**

- (1) This section applies for section 4(1)(f) in relation to a relevant activity that is a business activity to which the code of competitive conduct applies.
- (2) If the State guarantees repayment of a debt of a local government attributed to the relevant activity, the local government must, in conducting the activity, take account of amounts equivalent to the cost of funds advantage the local government obtains over commercial interest rates because of the guarantee.

## **10 Return on capital**

- (1) This section applies for section 4(1)(g).
- (2) The amount for the return on the capital used by a local government in conducting a relevant activity must be decided using the rate at which, in the local government's opinion, a comparable private sector business conducting the activity would be able to obtain the capital in the market.
- (3) In deciding the rate under subsection (2), the local government must have regard to the split the local government considers appropriate, for the type of business activity, between equity and loan capital and the return appropriate to each.
- (4) However, the amount for the return on the capital used in conducting a business activity for the first year in which the business activity is a relevant activity may be the amount the local government decides.
- (5) In this section—

*capital used in conducting a business activity* means the total value, decided using an accepted accountancy method, of the assets used for the business activity less the liabilities attributable to the activity.

## **Schedule 5      Financial and non-financial particulars for registers of interests**

section 291(1)

### **1      Definitions for sch 5**

In this schedule—

***controlling interest***, in shares in a corporation, for a person, means the person is able—

- (a) to dispose of, or to exercise control over the disposal of, the shares; or
- (b) if the shares are voting shares—to exercise, or to control the exercise of, a voting power attached to the shares.

***debenture*** see the Corporations Act, section 9.

***holding company***, for a corporation, see the Corporations Act, section 9.

***nominee corporation*** means a corporation whose principal business is holding marketable securities as a trustee or nominee.

***relevant person*** means any of the following persons—

- (a) a councillor;
- (b) a chief executive officer;
- (c) a senior executive employee;
- (d) a person who is related to a councillor, chief executive officer or senior executive employee.

***securities*** see the Corporations Act, section 9.

***subsidiary***, for a corporation, see the Corporations Act, section 9.

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**2 Shareholding or controlling interest in corporation**

The particulars required for each corporation in which a relevant person is a shareholder or has a controlling interest in shares are—

- (a) the corporation's name; and
- (b) if the shareholding or interest is a controlling interest in the corporation—details of the shareholdings of the corporation in any other corporation; and
- (c) if the shareholding or interest is held in a proprietary company that is the holding company of another corporation—
  - (i) details of the holding company's investments; and
  - (ii) the name of any corporation that is a subsidiary of the holding company; and
  - (iii) the name of any corporation that is a subsidiary of any corporation that is the holding company's subsidiary; and
  - (iv) if the relevant person is a councillor or a person related to a councillor—the investments or other interests in property held by the subsidiaries; and
- (d) if the relevant person is a councillor, or a person related to a councillor, and the shareholding or interest is held in a proprietary company—the investments or other interests in property, other than those mentioned in paragraph (c)(iv), held by the company.

**3 Officer of corporation**

The particulars required for each corporation of which a relevant person is an officer are—

- (a) the corporation's name; and
- (b) the nature of the office held; and
- (c) the nature of the corporation's activities.

#### **4 Beneficial interest in trust or nominee corporation**

The particulars required for each family or business trust or nominee corporation in which a relevant person holds a beneficial interest are—

- (a) the name of, or a description sufficient to identify, the trust, or the corporation's name; and
- (b) the nature of the activities of the trust or corporation; and
- (c) the nature of the interest.

#### **5 Self managed superannuation fund**

(1) This section applies to each self managed superannuation fund for which a councillor or a person related to a councillor is—

- (a) a trustee; or
- (b) if the trustee of the fund is a corporation—a director of the trustee.

(2) The particulars required for each self managed superannuation fund are—

- (a) the name or a description of the fund; and
- (b) the nature of the activities of the fund; and
- (c) the investments or other interests in property held, of which the councillor or person is aware, by the fund.

(3) In this section—

*director* see the Corporations Act, section 9.

*self managed superannuation fund* see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10.

#### **6 Trustee for trust**

The particulars required for each family or business trust of which a relevant person is a trustee are—



- (a) the name of, or a description sufficient to identify, the trust; and
- (b) the nature of the trust's activities; and
- (c) the name of each beneficiary of the trust, or, if the trust is a discretionary trust, each class of persons who may benefit under the trust.

## **7 Partnership and joint venture**

The particulars required for each partnership or joint venture in which a relevant person has an interest are—

- (a) the name of, or a description sufficient to identify, the partnership or joint venture; and
- (b) the nature of the partnership's or joint venture's activities; and
- (c) the nature of the interest.

## **8 Land**

The particulars required for all land in which a relevant person has an interest are—

- (a) the suburb or locality of the land; and
- (b) the approximate size of the land; and
- (c) the purpose for which the land is, and is intended to be, used; and
- (d) the nature of the interest.

## **9 Liability**

- (1) The particulars required for each liability, other than department store and credit card accounts, of a relevant person, trust or private company are—
  - (a) the nature of the liability; and
  - (b) the name of the creditor.
- (2) However, subsection (1) does not apply if the debt—

- (a) is for an amount of \$10000 or less; or
- (b) arises from the supply of goods or services supplied in the ordinary course of—
  - (i) the relevant person's business; or
  - (ii) the business of the trust or private company.
- (3) In this section—

*private company* means a proprietary company in which a relevant person holds securities.

*trust* means a trust of which a relevant person is a beneficiary.

## 10 Debentures and similar investments

The particulars required for each debenture or similar investment held by a relevant person are—

- (a) the nature of the investment; and
- (b) the name of the corporation in which the investment is made; and
- (c) the nature of the business of the corporation.

## 11 Savings and investment accounts

The particulars required for each savings or investment account of a relevant person held with a financial institution are—

- (a) the nature of the account; and
- (b) the name of the institution.

## 12 Gifts totalling more than \$500

- (1) The particulars required for each gift, or all gifts totalling, more than \$500 in amount or value given to a relevant person by another person (a *donor*) are—
  - (a) the donor's name; and
  - (b) a description of the gift.

- 
- (2) Subsection (1) does not apply to a gift from a donor who is—
    - (a) a person who is related to the relevant person; or
    - (b) someone else who is related by blood or marriage to the relevant person; or
    - (c) the relevant person's friend.
  - (3) However, the relevant person must be satisfied there can not be the perception of a conflict of interest, financial or otherwise, relating to the gift that could conflict with a duty the person has under the Act.
  - (4) A *gift* is—
    - (a) the transfer of money, other property or other benefit—
      - (i) without consideration; or
      - (ii) for a consideration substantially less than full consideration; or
    - (b) a loan of money or other property made on a permanent or indefinite basis, other than an overdraft facility.

### 13 Sponsored hospitality benefit

- (1) The particulars required for each sponsored hospitality benefit received by a relevant person are—
  - (a) the source of the contribution for the travel or accommodation; and
  - (b) the purpose of the benefit.
- (2) A person receives a *sponsored hospitality benefit* if—
  - (a) the person, other than in an official capacity—
    - (i) undertakes travel; or
    - (ii) uses accommodation; and
  - (b) a contribution, whether financial or non-financial, for the cost of the travel or accommodation is made by another person.
- (3) However, a person does not receive a sponsored hospitality benefit if—

- (a) the contribution mentioned in subsection (2)(b) was made by the person's spouse, other family member or friend; and
- (b) there could not be a perception of a conflict of interest, financial or otherwise, relating to the contribution.

**14 Membership of political party, body or association, or trade or professional organisation**

The particulars required for each political party, body or association, or trade or professional organisation, of which a relevant person is a member are its name and address.

**15 Other assets with value of more than \$5000**

- (1) The particulars required for each other asset of a relevant person with a value of more than \$5000 are sufficient details of the asset to identify it.
- (2) This section does not apply to the following—
  - (a) household and personal effects;
  - (b) a motor vehicle used mainly for personal use;
  - (c) superannuation entitlements.

**16 Other sources of income of more than \$500 a year**

The particulars required for each other source of income of more than \$500 a year received by the following are sufficient details of the income to identify it—

- (a) a relevant person;
- (b) a proprietary company, or trust, in which the relevant person holds securities.

**17 Other financial or non-financial interests**

- (1) The particulars required for each other interest of a relevant person are sufficient details of the interest to identify it.
- (2) In this section—

*interest*, of the relevant person, means a financial or non-financial interest—

- (a) of which the relevant person is aware; and
- (b) that raises, appears to raise, or could raise, a conflict between the relevant person's duty under the Act and the holder of the interest.

## **Schedule 6      Prescribed local government entities**

section 300

Burdekin Cultural Complex Board Inc.  
Central Queensland Local Government Association Inc.  
Central SEQ Distributor-Retailer Authority  
Central Western Queensland Remote Area Planning and Development Board  
Empire Theatres Pty Ltd ACN 086 482 288  
Gladstone Airport Corporation ABN 27 300 231 899  
Gold Coast Arts Centre Pty Ltd ACN 850 607 874 66  
Herbert River Improvement Trust  
Local Buy Pty Ltd ACN 090 446 487  
Local Government Association of Queensland Ltd. ABN 11 010 883 293  
Northern SEQ Distributor-Retailer Authority  
Queensland Water Directorate  
Southern SEQ Distributor-Retailer Authority  
Sunshine Coast Events Centre Pty Ltd ACN 127 655 510  
Wide Bay Water Corporation

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## Schedule 7      Prescribed members of LG super scheme

### section 301

- 1 a person who was a member of City Super immediately before the scheme merged with the LG super scheme
- 2 a person who is an employee of the following—
  - (a) Resolute Information Technology; or
  - (b) the Local Government Managers Australia (QLD) Inc.
- 3 a person who—
  - (a) is an employee of South East Queensland Water Corporation Limited ACN 088 729 766; and
  - (b) was, immediately before 17 March 2000, an employee of the South East Queensland Water Board established under the repealed *South East Queensland Water Board Act 1979*; and
  - (c) was a member of the LG super scheme
- 4 a person—
  - (a) who was—
    - (i) a member of the LG super scheme; or
    - (ii) of a type mentioned in item 2 or 3; and
  - (b) who has stopped being a member or person of that type; and
  - (c) whose benefit under the LG super scheme or related persons scheme has not been fully paid out, withdrawn or transferred from the scheme
- 5 a person who is an employee of an entity that is wholly or partly owned by the Brisbane City Council
- 6 a person who is an employee of an entity that is controlled by the Brisbane City Council

Schedule 7

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- 7 a person who is an employee of an entity with which the Brisbane City Council contracts for services
- 8 a person who is an employee of an entity that is an 'Associated Employer' under the trust deed
- 9 a person who was transferred to an entity established under the *South East Queensland Water (Restructuring) Act 2007*, section 6(1)(a) to (c), under a transfer notice under that Act
- 10 a person who was transferred to a distributor-retailer within the meaning of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, under a transition document under that Act



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## Schedule 8 Dictionary

## section 2

**2-part charge** see section 41(4).

**2-part charge assessment** see section 41(3).

**2-year averaged value** see section 75(1).

**3-year averaged value** see section 76(1).

**5-year corporate plan**, for a local government, means its 5-year corporate plan adopted under section 165.

**accrued right to long service leave**, for chapter 8, part 3, division 2, see section 284(2).

**advertising spending policy** see section 197(1).

**annual budget**, for a local government, means its annual budget under chapter 5, part 2, division 3.

**annual implementation plan**, for a local government, see section 94(11).

**annual report**, for a local government, means its annual report under chapter 5, part 3, division 3.

**area map** means a map showing the boundaries of a local government area.

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

**auditor-general's observation report** see section 213(3).

**BCC permanent employee** means an employee whose employment with Brisbane City Council is subject to an industrial instrument and who is, under the trust deed, a permanent employee of the Brisbane City Council.

**business entity** means—

- (a) a local government to the extent it carries on the business activity, including a business unit of a local government; or

(b) a corporatised business entity.

***categorisation officer*** means a person appointed under section 83.

***change of owner notice***, for chapter 4, part 13, division 3, see section 160.

***City Super*** means the Brisbane City Council Superannuation Plan established as the Brisbane City Council Occupational Superannuation Plan under a deed of trust dated 24 January 1989.

***commercial business unit*** see section 27(2).

***community financial report***, for a provision about a local government, means its community financial report under section 179.

***community grants policy*** see section 195.

***community organisation*** means—

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

***community service obligation*** see section 24.

***community titles Act*** means—

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

***competitive advantage*** see section 22(3).

***competitive disadvantage*** see section 22(5).

***complainant*** see section 45(2)(b)(i).

***complaints management process*** see section 306(3).

**concession**, for rates or charges, means a concession granted under chapter 4, part 10.

**contracting activities**, for chapter 6, see section 216(2).

**contracting plan** see section 220(3).

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

**corporatised business entity** means a company registered under the Corporations Act that is owned or controlled by a local government.

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

**current local government**, for schedule 3, part 2, see schedule 3, part 2, section 1.

**differential general rates** see section 80(2).

**discount period** see section 130(2).

**distributor-retailer** see the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 8.

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

- (a) the due date stated in the rate notice by which the rates or charges must be paid; or
- (b) if a concession defers payment of the rates or charges under section 121(b)—the due date stated in the agreement to defer payment of the rates or charges under the concession; or
- (c) if a concession accepts a transfer of unencumbered land in full or part payment of the rates or charges under section 121(c)—the due date stated in the agreement to accept the transfer.

**entertainment and hospitality policy** see section 196(1).

**expenses reimbursement policy** see section 249(2).

**financial assistance amount** see section 309(2).

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

***financial statement*** see section 176.

***foreshore*** means land between the high-water mark and low-water mark during ordinary spring tides.

***former employer***, for chapter 8, part 3, division 2, see section 284(3)(b).

***former employment***, for chapter 8, part 3, division 2, see section 284(3)(b).

***former local government***, for schedule 3, part 2, see schedule 3, part 2, section 1.

***government agency*** is—

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

***interested parties***, for chapter 4, part 12, division 3, are—

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

***internal audit plan*** see section 207(2).

***investigation notice*** see section 49(2).

***key principles of commercialisation*** see section 28.

***land record*** see section 154(2).

***Land Valuation Act*** means the *Land Valuation Act 2010*.

***large-sized contractual arrangement*** see section 224(3).

***market value***, of land, for chapter 4, part 12, division 3, see section 137.

***medium-sized contractual arrangement*** see section 224(2).

***meeting***, for chapter 8, part 2, division 3, see section 271(2).

**meter** includes any measuring device.

**new employer**, for chapter 8, part 3, division 2, see section 284(3)(a).

**new employment**, for chapter 8, part 3, division 2, see section 284(3)(a).

**new owner**, for chapter 4, part 13, division 3, see section 160.

**notice** means a written notice.

**notice of intention to acquire**, for land, see section 149(3).

**notice of intention to sell**, for land, see section 140(4).

**objection notice** see section 90(4).

**overall plan** see section 94(7).

**overdue**, for rates or charges, see section 132.

**pensioner** means a person who is the holder of a pensioner concession card issued by the department of the Commonwealth responsible for administering the *Social Security Act 1991* (Cwlth) or the *Veterans' Entitlements Act 1986* (Cwlth).

**preferred supplier arrangement** means a preferred supplier arrangement under section 233.

**pre-qualified supplier** see section 232(4).

**prescribed accounting standard** see section 177.

**previous owner**, for chapter 4, part 13, division 3, see section 160.

**pricing provisions** means the provisions in schedule 4.

**private sector business** means a business in the private sector.

**procurement policy** see section 198(1).

**QCA** means the Queensland Competition Authority established under the QCA Act.

**QCA Act** means the *Queensland Competition Authority Act 1997*.

**rateable value** see section 74(2).

**rate notice** see section 104(2).

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

**rating category** see section 81(1).

**rating category statement** see section 88(4).

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

**related** see section 289(2).

**relevant area**, for schedule 3, part 2, see schedule 3, part 2, section 1.

**relevant business activity** see section 40(2).

**relevant measures of financial sustainability** see section 169(5).

**remuneration schedule** see section 246(2).

**salary**, of an employee, means the employee's salary under the trust deed.

**significant contract** see section 220(3)(g).

**special permanent employee** means a permanent employee who, immediately before 1 July 1995, was required to make superannuation contributions under the repealed *Local Government Superannuation Act 1985* at the rate of 5% of the employee's salary.

**standard permanent employee** means a permanent employee who—

- (a) immediately before 1 July 1995, was required to make superannuation contributions under the repealed *Local Government Superannuation Act 1985* at the rate of 6% of the employee's salary; or
- (b) immediately before the repeal of the *Local Government (Community Government Areas) Act 2004*, was a permanent employee of a community government under that Act; or
- (c) started employment on or after 1 July 1995.

**State encumbrance** see section 138(2).

- statement of estimated financial position*** see section 205(2).
- strategic approach*** see section 217(2).
- tax*** see section 25(4).
- tax equivalent*** see section 25(3).
- tax equivalents manual*** see section 25(2).
- teleconferencing*** see section 276(1).
- transfer day***, for schedule 3, part 2, see schedule 3, part 2, section 1.
- trust fund*** see section 200(2).
- trust money*** see section 200(3).
- valuable non-current asset*** see section 224(6).
- valuable non-current asset contract*** see section 224(5).
- value***, of land, see section 72.
- water service*** see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

## 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 7 November 2013. Future amendments of the *Local Government Regulation 2012* 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 version
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 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		



## 4 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3237 0466 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
1	none	14 December 2012	
Current as at		Amendments included	Notes
1 February 2013		2013 SL No. 10	
8 February 2013		2013 SL No. 16	
31 May 2013		2013 SL No. 86	
26 July 2013		2013 SL No. 148	
9 August 2013		2013 Act No. 32	
7 November 2013		2013 Act No. 60	

## 5 List of legislation

### *Regulatory impact statements*

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

### *Explanatory notes*

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

### **Local Government Regulation 2012 SL No. 236**

made by the Governor in Council on 13 December 2012

notfd gaz 14 December 2012 pp 548–52

commenced on date of notification

[exp 1 September 2023](#) (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

**Local Government Legislation Amendment Regulation (No. 1) 2013 SL No. 10 pts 1, 3**

notfd gaz 1 February 2013 pp 192–4  
commenced on date of notification

**Local Government Legislation Amendment Regulation (No. 2) 2013 SL No. 16 pts 1, 3**

notfd gaz 8 February 2013 pp 222–3  
commenced on date of notification

**Local Government (De-amalgamation Implementation) Regulation 2013 SL No. 48 ss 1–2, pt 7**

notfd gaz 12 April 2013 pp 514–15  
ss 1–2 commenced on date of notification  
remaining provisions commence 1 January 2014 (see s 2)

**Local Government Amendment Regulation (No. 1) 2013 SL No. 86**

notfd gaz 31 May 2013 pp 160–5  
ss 1–2 commenced on date of notification  
remaining provisions commenced 31 May 2013 (see s 2)

**Local Government Legislation Amendment Regulation (No. 3) 2013 SL No. 148 pts 1, 3**

notfd gaz 26 July 2013 pp 912–13  
commenced on date of notification

**Queensland Independent Remuneration Tribunal Act 2013 No. 32 ss 1–2, pt 7, div 5**

date of assent 13 August 2013  
ss 1–2 commenced on date of assent  
remaining provisions commenced 9 August 2013 (see s 2)

**Local Government and Other Legislation Amendment Act 2013 No. 60 ss 1, 33 sch 1**

date of assent 7 November 2013  
commenced on date of assent

## 6 List of annotations

### Definitions

s 2 amd 2013 SL No. 86 s 4

### CHAPTER 2—LOCAL GOVERNMENTS

#### PART 2—CHANGING A LOCAL GOVERNMENT AREA, NAME OR REPRESENTATION

#### Division 3—Implementing particular local government changes

div 3 (ss 13A–13B) ins 2013 SL No. 86 s 5

#### Applying the competitive neutrality principle

s 33 amd 2013 SL No. 86 s 6

**Activity statement**

s 35            amd 2013 SL No. 148 s 5

**CHAPTER 3—THE BUSINESS OF LOCAL GOVERNMENTS****PART 4—LEVY ON KURANDA RAIL LINE**

pt 4 (ss 65–70) exp 30 June 2021 (see s 70)

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

s 132            amd 2013 SL No. 86 s 7

**Application of proceeds of sale**

s 146            amd 2013 SL No. 16 s 5

**Preparation and content of budget**

s 169            amd 2013 SL No. 148 s 6

**Councillors**

s 186            amd 2013 SL No. 10 s 7

**Other contents**

s 190            amd 2013 SL No. 10 s 8

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

s 236            amd 2013 SL No. 10 s 9

**Establishing categories of local governments**

s 241            amd 2013 Act No. 32 s 84

**Deciding maximum amounts of remuneration**

prov hdg        amd 2013 Act No. 32 s 85(1)

s 244            amd 2013 Act No. 32 s 85(2)–(6)

**Varying remuneration**

s 245            om 2013 Act No. 32 s 86

**Remuneration schedule**

s 246            amd 2013 Act No. 32 s 87

**Remuneration payable to councillors**

s 247            sub 2013 Act No. 32 s 88

**Submission to vary remuneration in exceptional circumstances**

s 248            sub 2013 Act No. 32 s 88

**Prescribed integrity offence—Act, s 153**

s 253            om 2013 Act No. 60 s 33 sch 1

**Minutes**

s 272            amd 2013 SL No. 10 s 10

**Contents of registers of interests**

s 291            amd 2013 SL No. 86 s 8

**Obligation of chief executive officer and senior executive employees to correct register of interests**

**prov hdg** sub 2013 Act No. 60 s 33 sch 1  
**s 292** amd 2013 Act No. 60 s 33 sch 1

**CHAPTER 9—OTHER PROVISIONS**

**PART 2—SUPERANNUATION**

**Local government entities—Act, s 216A**

**s 300** amd 2013 SL No. 86 s 9

**Persons eligible for membership of the scheme—Act, s 218**

**s 301** amd 2013 SL No. 86 s 10

**PART 6—REPORTING MISSING LOCAL GOVERNMENT PROPERTY**

**pt 6 (s 307A)** ins 2013 SL No. 10 s 11

**CHAPTER 11—REPEAL AND TRANSITIONAL PROVISIONS**

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**pt 3 (ss 317–328)** ins 2013 SL No. 16 s 6

**CHAPTER 12—TRANSITIONAL PROVISIONS FOR QUEENSLAND INDEPENDENT REMUNERATION TRIBUNAL ACT 2013**

**ch 12 (ss 329–334)** ins 2013 Act No. 32 s 89

**SCHEDULE 1—PRESCRIBED INFORMATION ABOUT LOCAL GOVERNMENTS**

amd 2013 SL No. 86 s 11

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**sch 3** ins 2013 SL No. 86 s 13

**PART 1—IMPLEMENTATION**

**pt 1 (s 1)** ins 2013 SL No. 86 s 13

**PART 2—FACILITATION OF IMPLEMENTATION**

**pt 2 (ss 2–8)** ins 2013 SL No. 86 s 13

**SCHEDULE 4—PRICING PROVISIONS**

**sch hdg** amd 2013 SL No. 86 s 14(1)

**sch 4** (prev sch 3) renum 2013 SL No. 86 s 12

**Definition for sch 4**

**s 1 prov hdg** amd 2013 SL No. 86 s 14(2)

**SCHEDULE 5—FINANCIAL AND NON-FINANCIAL PARTICULARS FOR REGISTERS OF INTERESTS**

(prev sch 4) renum 2013 SL No. 86 s 12

**Definitions for sch 5**

**s 1 prov hdg** amd 2013 SL No. 86 s 15

**SCHEDULE 6—PRESCRIBED LOCAL GOVERNMENT ENTITIES**

(prev sch 5) renum 2013 SL No. 86 s 12

**SCHEDULE 7—PRESCRIBED MEMBERS OF LG SUPER SCHEME**

(prev sch 6) renum 2013 SL No. 86 s 12

**SCHEDULE 8—DICTIONARY**

(prev sch 7) renum 2013 SL No. 86 s 12

def *current local government* ins 2013 SL No. 86 s 16(1)

def *former local government* ins 2013 SL No. 86 s 16(1)

def *pricing provisions* amd 2013 SL No. 86 s 16(2)

def *relevant area* ins 2013 SL No. 86 s 16(1)

def *senior executive employee* om 2013 SL No. 148 s 7

def *transfer day* ins 2013 SL No. 86 s 16(1)

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