



Queensland

# Local Government Regulation 2012

## Explanatory Notes for SL 2012 No. 236

made under the

*Local Government Act 2009*

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## General outline

### Short title

*Local Government Regulation 2012.*

### Authorising law

Section 270 of the *Local Government Act 2009*.

### Policy objectives and the reasons for them

For the 2012 State election the Queensland Government made an express commitment to revitalise the *City of Brisbane Act 2010* and the *Local Government Act 2009* to empower Queensland local councils. The Government's commitments in the "Six month action plan July-December 2012" and the *Empowering Queensland Local Government Election Policy* include the following:

- *Empowering Queensland Local Government Policy 1.1.5*: Recognising that local governments need to be autonomous, sustainable, efficient, responsible, accountable and responsive to local needs, with a clear role in enhancing economic, social and environmental quality of life in local communities;

- *Empowering Queensland Local Government Policy 4.4*: Ensuring that mayors and local councillors are clearly in charge of councils;
- *Empowering Queensland Local Government Policy 11.2.3*: Streamlining reporting and auditing regulation where local governments have demonstrated adequate financial planning and administration to reflect diversity of local governments, and take into account appropriate risk profiling;
- *Empowering Queensland Local Government Policy 19.1*: Recognising that local communities have the power to establish appropriate local laws, through a responsible, accountable local council.

The objective of the *Local Government Regulation 2012* is to complement the statutory reforms already made under the *Local Government and Other Legislation Amendment Act 2012* and to further implement the Government's local government election commitments, by removing unnecessary regulation and interference from the State government, streamlining processes and reporting requirements and reducing the volume of the statute book.

### **Achievement of policy objectives**

The *Local Government Regulation 2012* achieves the policy objectives by supporting the recent amendments to the *Local Government Act 2009* and implementing the Government's broader policy agenda of empowering local governments, by streamlining provisions and/or removing unnecessary regulatory duplication, red tape or prescription and replacing the *Local Government (Beneficial Enterprises and Business Activities) Regulation 2010*, the *Local Government (Finance, Plans and Reporting) Regulation 2010* and the *Local Government (Operations) Regulation 2010* with a single regulation.

A suite of amendments to the previous local government regulations and the unchanged provisions in the previous regulations to remain in force make up the new *Local Government Regulation 2012*.

### **Beneficial enterprise and corporatisation processes**

The *Local Government and Other Legislation Amendment Act 2012* repeals provisions in the *Local Government Act 2009* relating to the corporatisation of business activities. As a result, the corporatisation processes within the *Corporations Act 2001* (Cwlth) will apply to local governments seeking to establish corporations. Also, the Act reduces prescription applying when

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local governments carry out beneficial enterprises. The beneficial enterprise processes under the *Statutory Bodies Financial Arrangements Act 1982* will continue to apply to local governments. Accordingly, reforms under the proposed regulation include:

- removing prescription around local governments carrying out beneficial enterprises
- removing prescription concerning reform of significant businesses
- removing the power for a local government to corporatise a significant business under the *Local Government Act 2009*
- streamlining provisions regarding competitive neutrality complaints.

### **Financial management**

The *Local Government and Other Legislation Amendment Act 2012* cuts unnecessary red tape and streamlines provisions about the financial sustainability and accountability of local governments and clarifies matters regarding various contractual matters. Accordingly, reforms under the proposed regulation include streamlining provisions and/or removing unnecessary regulatory duplication, red tape or prescription in relation to:

- levying special rates or charges
- utility charges for water services
- amending a land record
- annual budget reporting requirements
- adoption and amendment of the budget
- relevant measures of financial sustainability
- annual report, corporate plan and operational plan reporting requirements
- the preparation and content of financial planning and accountability documents, including the long-term financial forecast and revenue statement
- local government policies, including removing the requirement for a community engagement policy
- councillor's discretionary funds
- internal and external auditing and reporting

- contracting procedures, including increasing financial thresholds
- long-term community plans and financial plans
- exemptions regarding disposal of valuable non-current assets
- publication requirements for contracts.

### **Operational matters**

The *Local Government and Other Legislation Amendment Act 2012* cuts unnecessary red tape and streamlines provisions regarding a number of operational matters within the jurisdiction of local governments. Accordingly, reforms under the proposed regulation include streamlining provisions and/or removing unnecessary regulatory duplication, red tape or prescription in relation to:

- local laws
- the operation of malls
- categorisation of local governments and councillor remuneration
- local government meeting requirements
- portability of long service leave entitlements
- equal opportunity of employment practices
- employee disciplinary action and related appeal rights.

The proposed regulation also facilitates the reinstatement of joint local government arrangements (including for Brisbane City Council) in line with the recent *Local Government Act 2009* amendments.

### **Consistency with policy objectives of authorising law**

Section 270 of the *Local Government Act 2009* is the general regulation-making power. The proposed regulation is consistent with the main objectives of the *Local Government Act 2009*, that is to ensure there is a system of local government in Queensland, that is accountable, effective, efficient and sustainable.

### **Inconsistency with policy objectives of other legislation**

The proposed regulation is consistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

The proposed regulation empowers local governments, removes unnecessary regulation and interference from the State government, and streamlines processes and reporting requirements which would not be achieved without legislative amendment.

## **Benefits and costs of implementation**

As the proposed regulation's objectives are to empower local governments and streamline processes, any costs to the Government are expected to be minimal.

## **Consistency with fundamental legislative principles**

The proposed regulation is considered to be consistent with the fundamental legislative principles, as defined in the *Legislative Standards Act 1992*.

## **Consultation**

No public consultation was undertaken during the development of the regulation as the Government has an electoral mandate to implement its announced policy commitments, outlined in the Government's *Empowering Queensland Local Government Election Policy* and its "Six month action plan July-December 2012".

The proposed regulation supports recent amendments to the *Local Government Act 2009*. These statutory reforms were widely consulted on and generally supported by the Local Government Association Queensland (LGAQ), Local Government Managers Australia (LGMA), Brisbane City Council (BCC), Logan City Council, Moreton Bay Regional Council and Gold Coast City Council and numerous government agencies.

The LGAQ, the LGMA, BCC, the Queensland Ombudsman, the Queensland Integrity Commissioner, the Crime and Misconduct Commission, the Queensland Water Commission, the Queensland Audit Office, Queensland Treasury and Trade and the Department of the Premier and Cabinet were consulted during the development of the proposed regulation.

In addition, the Minister for Local Government recently undertook visits to all 73 local governments across Queensland to ascertain their views about, and suggestions for, improvements to the local government portfolio legislation. Feedback provided by local governments during this process was considered during drafting of the regulation.

The Regulatory Review Branch of Queensland Treasury and Trade was consulted in relation to the proposed regulation and confirmed that a Regulatory Impact Statement is not required.

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#### ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Local Government.

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