



Queensland

Local Government (De-amalgamation Polls) Regulation 2013

Explanatory Notes for SL 2013 No. 15

made under the

Local Government Act 2009

State Penalties Enforcement Act 1999

General outline

Short title

Local Government (De-amalgamation Polls) Regulation 2013.

Authorising law

Sections 260B and 270 of the *Local Government Act 2009*

Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

De-amalgamation Polls

The appointment of the Queensland Boundaries Commissioner (the Commissioner) to review local government de-amalgamation proposals was a key commitment outlined in the Queensland Government's First 100 Day Action Plan and Empowering Queensland Local Government policy.

On 21 September 2012, the Minister for Local Government announced that de-amalgamation proposals from five former shires would be referred to the Commissioner for review. The proposals were from Douglas, Isis,

Livingstone, Mareeba and Noosa. The Commissioner worked with Queensland Treasury Corporation over several months to closely scrutinise the financial and logistical aspects of each proposal.

On 28 November 2012, the Commissioner provided a report on each of the five de-amalgamation proposals to the Minister. On 6 December 2012, the Minister announced polls of affected voters would be conducted in the former Douglas, Livingstone, Mareeba and Noosa local government areas in line with the government's views that whenever possible it should be the local communities that control their destinies.

Part 5A of the *Local Government Act 2009* (LGA) is about a de-amalgamation of a local government area. Section 260B of the LGA provides that the Minister may ask the Electoral Commission of Queensland (ECQ) to conduct a poll about the implementation of a de-amalgamation proposal, and the ECQ must conduct a poll of the voters in the affected part of a local government area.

The affected part of a local government area is the area that is proposed to be de-amalgamated from the rest of the local government area and to be governed by its own local government. Section 260B(5) provides that the poll must be conducted by ballot taken in compliance with the requirements prescribed under a regulation.

The objective of the *Local Government (De-amalgamation Polls) Regulation 2013* (the Regulation) is to set out the requirements for the running of the polls, including matters in relation to electoral officers, voters rolls, polling booths, ballot papers, casting and counting of votes and notification of poll results.

The Regulation prescribes 9 March 2013 as the date that each de-amalgamation poll must be held and prescribes the question to be asked of affected voters at the polls.

State Penalties Enforcement Regulation 2000 (SPER)

Section 260C of the LGA provides a maximum penalty of one penalty unit (\$110) for a failure to vote at the de-amalgamation polls. The objective of the Regulation in this regard is to amend the SPER to attach an infringement notice for this offence. The proposed infringement notice fine is one penalty unit. The proposed fine deviates from the usual 10% of a maximum penalty to align the infringement notice fine under the LGA section 260C with the infringement notice fines under *Local Government*

Electoral Act 2011 and *Electoral Act 1992* for failing to vote. The administering authority for the LGA section 260C infringement notice is the ECQ. The Regulation also makes a minor consequential amendment to the SPER to update an outdated reference to the repealed *City of Brisbane (Operations) Regulation 2010*.

Achievement of policy objectives

The Regulation achieves the policy objectives by outlining the procedures and requirements to be followed for the de-amalgamation polls with respect to electoral officers, voters rolls, polling booths, ballot papers, casting and counting of votes and notification of poll results. The Regulation also provides the date that the polls will be held and the question to be asked of affected voters at the polls. In addition, the Regulation attaches an infringement notice fine of one penalty unit to the failure to vote at a de-amalgamation poll offence under section 260C of the LGA.

Consistency with policy objectives of authorising law

The policy objectives of the Regulation are consistent with the objectives of the LGA which 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 prescribes the requirements for the conduct of polls about de-amalgamation to ensure the transparent running of the polls and could not be achieved without legislation. Also, an infringement notice fine could not be attached to the failure to vote offence without an amendment to the SPER.

Benefits and costs of implementation

The costs to government as a result of the proposed regulation are expected to be minimal. The costs of the de-amalgamation polls are to be met by affected councils.

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

The Electoral Commission of Queensland and the Department of the Premier and Cabinet was consulted on the proposed Regulation. Queensland Treasury and Trade (Office of State Revenue) was consulted on the proposed amendments to the SPER.

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.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Local Government, Community Recovery and Resilience.

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