

Local Government (De-amalgamation Implementation) Amendment Regulation (No. 1) 2013

Explanatory notes for Subordinate Legislation No.177

made under the

Local Government Act 2009

General Outline

Short title

The short title of the regulation is the *Local Government (De-amalgamation Implementation) Amendment Regulation (No. 1) 2013*

Authorising law

Sections 260F and 270 of the *Local Government Act 2009*.

Policy objectives and the reasons for them

The four new local government areas of Douglas, Livingstone, Noosa and Mareeba will be established on 1 January 2014 following the de-amalgamation of the local government areas of Cairns, Rockhampton, Sunshine Coast and Tablelands. The *Local Government (De-amalgamation Implementation) Regulation 2013* (De-amalgamation Regulation) provides for matters relevant to the de-amalgamations.

Part 2 of the De-amalgamation Regulation governs the conduct of fresh elections for the election of the mayor and councillors for each of the four new local governments. The elections must be conducted as if the new local governments have come into existence. Minor amendments will remove reference to ‘fresh elections’ and instead refer to ‘elections’ for the new local governments and clarify that the elections must be conducted as if the new local governments and the new local government areas have come into existence.

It is intended that the new local government elections be conducted as if they were quadrennial elections under the *Local Government Electoral Act 2011* (LGEA). An amendment will clarify the policy intent, including provisions relating to the Court of Disputed Returns, the Court of Appeal, and the functions, powers or obligations of a person that are to apply with respect to the new local government elections.

Section 18 of the LGEA provides a cut off day for compiling the voters rolls for quadrennial elections and by-elections. There is currently no provision which governs when a voters roll must be closed for an election required to implement de-amalgamation. An amendment is required to provide a cut off day for compiling the voters rolls for the new local government elections.

Currently, section 9 of the De-amalgamation Regulation provides for the Minister to fix a day for the elections by gazette notice but does not provide for publication of the election day. Amendments are proposed to set out the notification requirements to be followed once the day for the elections is fixed. This amendment is required specifically for the new local government elections as there is no legislative requirement under the LGEA to publish the day of a quadrennial election as the specific date for normal quadrennial elections is already set.

In summary, the objectives of the amendment regulation are to:

- remove reference to ‘fresh elections’ and instead refer to ‘elections’ for the new local governments and clarify that the elections must be conducted as if the new local governments and the new local government areas have come into existence;
- clarify that the elections for the four new de-amalgamating local governments are to be conducted as if the elections were quadrennial elections under the LGEA;
- provide a cut off day for compiling the voters rolls for the elections; and
- set out the notification requirements of the returning officer after the day for the elections is fixed.

Achievement of policy objectives

The amendment regulation achieves the policy objectives by:

- removing reference to ‘fresh elections’ and instead referring to ‘elections’ for the new local governments;
- clarifying the elections must be conducted as if the new local governments and the new local government areas have come into existence;
- clarifying the new local government elections must be conducted under the LGEA as if they were quadrennial elections for a local government. This includes specific provisions for the Court of Disputed Returns, under the LGEA, to hear and decide applications about disputed election results for the new local government elections and for the Court of Appeal, under the LGEA, to hear and decide any resultant appeals. Also, the same functions, powers or obligations of a person under the LGEA in relation to quadrennial elections are to apply to a person in relation to the new local government elections;
- providing the voters rolls for the elections must be compiled at least 5 days, but not more than 7 days, after the publication in a newspaper by the returning officer of the day of the elections, or a later day fixed by the Minister by gazette notice; and
- providing the returning officer must, as soon as practicable after the election day is fixed, publish in a newspaper circulating generally in each of the new local government areas and in other ways considered appropriate, notice of the election day and the cut off day for the voters rolls. This is consistent with the notification requirements under the LGEA for by-elections.

Consistency with policy objectives of authorising law

The general regulation-making power under the *Local Government Act 2009* (LGA) is section 270. Further, section 260F of the LGA provides a specific head of power for a regulation to implement the de-amalgamations.

The amendment regulation is consistent with the policy objectives of the LGA.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The costs to Government as a result of the proposed amendments are negligible.

Consistency with fundamental legislative principles

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

Consultation

The Electoral Commission of Queensland supports the proposed amendments to the De-amalgamation Regulation.

The Office of Best Practice Regulation, Queensland Competition Authority was consulted in relation to the proposed amendments and confirmed that a Regulatory Impact Statement is not required.