

Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018

Explanatory notes for SL 2018 No. 150

made under the

Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018

General Outline

Short title

Proclamation to commence certain provisions of the *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018*.

Authorising law

Section 2 of the *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018*.

Policy objectives and the reasons for them

The *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018* (the Act) was assented to on 21 May 2018 and section 2 provides that parts 3 and 5 and part 4, division 3 commence on a day to be fixed by proclamation.

The objective of the Proclamation is to fix 2 October 2018 as the commencement date for parts 3 and 5 of the Act.

Parts 3 and 5 of the Act amend the *Electoral Act 1992* (EA) and the *Local Government Electoral Act 2011* (LGEA), respectively, to implement the Government's response to recommendation 20 of the Crime and Corruption Commission's report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government*.

The amendments prohibit the making of political donations by property developers to candidates in State or local government elections, groups of candidates in local government elections, third parties, political parties, councillors and Members of State Parliament.

The amendments will, on commencement:

- make it unlawful for a prohibited donor to make a political donation or solicit someone to make a political donation on their behalf;
- make it unlawful for a person to make a political donation on behalf of a prohibited donor or to solicit, on behalf of a prohibited donor, another person to make a political donation;
- make it unlawful for a person to accept a political donation that was made (wholly or in part) by or on behalf of a prohibited donors.

Parts 3 and 5 of the Act contain transitional arrangements for the ban on political donations by property developers. The transitional arrangements are contained in section 20 and 34 of the Act and insert new section 427 into the EA and new section 212 into the LGEA.

These sections provide that donations made on or after 12 October 2017 (the date of introduction of the Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017) but before commencement, that would be unlawful for the recipient to accept after commencement, will need to be repaid by the recipient within 30 days after the commencement. Failure to repay the amount within this period is an offence with a maximum penalty of 400 penalty units or 2 years imprisonment.

These transitional arrangements also provide that, if a person contravenes the requirement to repay the amount of the donation, the State may recover from the person an amount equal to twice the amount of the donation if the person knew it was unlawful to accept the prohibited donation, or otherwise an amount equal to the amount of the donation (see new section 276 EA and new section 113C LGEA).

Also, from commencement, the Act enables a person to apply to the electoral commissioner for a determination that the person, or another entity, is not a prohibited donor (see new section 277 EA and new section 113D LGEA).

Achievement of policy objectives

The policy objective is achieved by fixing 2 October 2018 as the commencement date for parts 3 and 5 of the Act.

Consistency with policy objectives of authorising

The Proclamation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

There are no alternative means of achieving the purpose of the Proclamation.

Benefits and costs of implementation

The benefits and costs of implementation were outlined in the explanatory notes to the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018.

Consistency with fundamental legislative principles

The Proclamation is consistent with the fundamental legislative principles.

Consultation

The Local Government Association of Queensland and the Electoral Commission of Queensland were consulted on the proposal to proclaim parts 3 and 5 of the Act into force on 2 October 2018.

A self-assessment by the Department of Local Government, Racing and Multicultural Affairs has determined that a Regulatory Impact Statement is not required as the regulatory proposal is excluded under category (g) of the *Queensland Government Guide to Better Regulation* – regulatory proposals that are of a machinery nature.