

Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019

Explanatory notes for SL 2019 No. 228

made under the

Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019

General Outline

Short title

Proclamation to commence the remaining provisions of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*.

Authorising law

Section 2 of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*.

Policy objectives and the reasons for them

The objective of the Proclamation is to commence the remaining provisions of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019* (the Belcarra Stage 2 Act).

On 30 October 2019, the Belcarra Stage 2 Bill received assent. The Belcarra Stage 2 Act amends the *City of Brisbane Act 2010* (COBA), *Local Government Act 2009* (LGA), *Local Government Electoral Act 2011* (LGEA), *Referendums Act 1997* and *Right to Information Act 2009* (RTI Act) to continue the Government's rolling local government reform agenda to improve integrity, transparency, diversity and consistency in the local government system, decision-making and local government elections.

The remaining provisions of the Belcarra Stage 2 Act will commence on 18 November 2019, 20 January 2020 or 30 March 2020.

The Proclamation will commence the following amendments on 18 November 2019:

- amendments to the COBA and LGA to improve councillor access to advice and information relating to their respective local governments that might be needed to carry out their responsibilities and to make informed decisions in the public interest, including information across all wards for councillors of Brisbane City Council
- amendments to the LGA to repeal the responsibility of mayors (other than Brisbane City Council) to prepare a budget to present to the local government
- amendments to the LGA to provide that the responsibilities of mayors (other than Brisbane City Council) include directing the chief executive officer in accordance with a resolution, or a document adopted by resolution, of the local government
- amendments to the COBA and RTI Act to remove the right to information access exemption for Brisbane City Council's Establishment and Coordination Committee
- amendments to the LGEA to:
 - implement the Government's policy in relation to Recommendation 3 of the Crime and Corruption Commission's report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government* (Belcarra Report) to require candidates to disclose details of their interests on their nomination form
 - implement the Government's response to Recommendation 15 of the Belcarra Report to require that a nomination form for a candidate must contain information about the candidate's dedicated account
 - require the Electoral Commission Queensland (ECQ) to publish election information in relation to first preference votes and the distribution of preferences and to provide elector information to particular persons on request, for a purpose related to an election
 - provide that the returning officer may arrange a place as a polling booth, for electors to cast a pre-poll vote, that is within or outside of the local government area, or division of the local government area, where an election is to be held to provide greater flexibility to arrange polling booths which are more convenient for voters casting pre-poll votes
 - provide for a definition of 'silent elector' which references the relevant provisions of the *Electoral Act 1992*
- other minor clarifying and consequential amendments and amendments to conform with current drafting practices.

The Proclamation will commence the following amendments on 20 January 2020:

- amendments to the LGEA to implement the Government's policy in relation to the Belcarra Report:
 - Recommendation 2 to require disclosure of electoral expenditure by candidates, groups of candidates, registered political parties and third parties
 - Recommendations 5 and 15 to:
 - prohibit specified campaign activities unless the activity relates to candidates who are members of a group of candidates or endorsed by the same political party and amend the LGA and COBA to provide that this offence is an integrity offence
 - provide that groups of candidates for an election must give a record of membership to the electoral commission during the period starting 30 days after the polling day for the quadrennial election if the last election was a quadrennial election or otherwise, the day after polling day for the last election and ending at noon on the last day for receipt of nominations for the election

- require that a record of membership in a group of candidates must contain information about the group's dedicated account
 - Recommendations 6, 18 and 19 to require additional details for disclosures about gifts, loans and third-party expenditure
 - Recommendation 8 to require gift recipients to notify donors of the donor's disclosure obligations
 - Recommendation 10 to require prospective notification to proposed donors of recipients' disclosure obligations
- amendments to the LGEA to:
 - mandate that the ECQ publishes returns and other documents on its website
 - amend the definition of 'candidate' under the LGEA to provide for election gift disclosure requirements for sitting councillors and others within the new definition of candidate and amend the disclosure period for election expenditure by third parties
 - amend the definition of 'gift' to align with the *Electoral Act 1992* as recommended by the report of the independent panel *A review of the conduct of the 2016 local government elections, the referendum and the Toowoomba South by-election* (Soorley Report)
 - provide that a donor to a candidate, group of candidates, registered political party or third party must disclose the source of a gift or loan
 - provide for an offence of publishing false or misleading information about a gift
- amendments to the LGA, COBA and LGEA to provide that an elected councillor's office becomes vacant if a summary return about gifts, loans and electoral expenditure is not given to the ECQ within specified periods
- other minor and technical amendments and amendments to conform with current drafting practices.

The Proclamation will commence the following amendments on 30 March 2020:

- amendments to the COBA and LGA to apply the LGA's State intervention provisions and Councillor conduct framework to Brisbane City Council
- amendments to the LGA to clarify that a proposed 'local government change' could include multi-member divisions.

Achievement of policy objectives

The policy objective is achieved by fixing 18 November 2019, 20 January 2020 and 30 March 2020 as the commencement dates for the remaining uncommenced provisions of the Belcarra Stage 2 Act.

Consistency with policy objectives of authorising law

The Proclamation is consistent with the policy objectives of the Belcarra Stage 2 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 of implementation of the Proclamation are to commence the operation of uncommenced reforms in the Bill to implement the Government's policy in relation to particular recommendations of the Belcarra Report and Soorley Report and to improve accountability, transparency, integrity and consistency in the local government system, decision-making and local government elections.

The costs associated with commencing the remaining provisions of the Bill will be met through normal budgetary processes.

Consistency with fundamental legislative principles

The Proclamation is consistent with the fundamental legislative principles.

Consultation

The Local Government Association of Queensland, the Office of the Independent Assessor, the ECQ and the Brisbane City Council have been consulted on the commencement dates.

There are no objections to the proposed Proclamation being made.

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.