

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, November 2023*



Queensland

**No.
A BILL for**

An Act to amend the City of Brisbane Act 2010, the City of Brisbane Regulation 2012, the Local Government Act 2009, the Local Government Regulation 2012, the Local Government Electoral Act 2011, the Queen's Wharf Brisbane Act 2016 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023

Contents

		Page
Part 1	Preliminary	
1	Short title	10
Part 2	Amendment of City of Brisbane Act 2010	
2	Act amended	10
3	Amendment of s 21 (Assessment)	10
4	Amendment of s 107 (Councillors liable for improper disbursements)	10
5	Amendment of s 123 (Approving an inspection program)	11
6	Amendment of s 166 (Filling a vacancy in the office of another councillor)	11
7	Insertion of new s 169A	11
	169A Councillor training	11
8	Amendment of s 170 (Giving directions to council staff)	13
9	Amendment of s 177C (Personal interests in ordinary business matters of council)	14
10	Amendment of s 177E (When councillor has prescribed conflict of interest—sponsored travel or accommodation benefits)	15
11	Amendment of s 177G (Who is a close associate of a councillor)	15
12	Amendment of s 177L (Interests that are not declarable conflicts of interest)	15
13	Amendment of s 177M (Who is a related party of a councillor)	16
14	Insertion of new s 177MA	16
	177MA Councillor must not participate in decisions unless authorised	16
15	Amendment of s 177N (Obligation of councillor with declarable conflict of interest)	17
16	Amendment of s 177R (Procedure if no quorum for deciding matter)	

Contents

	because of prescribed conflicts of interest or declarable conflicts of interest)	17
17	Amendment of s 177T (Duty to report another councillor's prescribed conflict of interest or declarable conflict of interest)	18
18	Amendment of s 177U (Obligation of councillor if conflict of interest reported under s 177T)	18
19	Amendment of s 198D (Dishonest conduct of councillor or councillor advisor)	19
20	Amendment of s 220 (Substituted service)	19
21	Amendment of s 238 (Delegation of council powers)	19
22	Amendment of sch 2 (Dictionary)	20
Part 3	Amendment of City of Brisbane Regulation 2012	
23	Regulation amended	21
24	Amendment of s 178 (Councillors)	21
25	Amendment of s 242D (Public availability of agendas)	23
26	Amendment of s 242H (Recording of reasons for particular decisions)	23
27	Amendment of s 242J (Closed meetings)	24
Part 4	Amendment of Local Government Act 2009	
28	Act amended	24
29	Amendment of s 19 (Assessment)	24
30	Amendment of s 87 (Community forums)	24
31	Amendment of s 88 (Members of a community forum)	25
32	Amendment of s 110 (Councillors liable for improper disbursements)	25
33	Amendment of s 120 (Precondition to remedial action)	25
34	Amendment of s 122 (Removing a councillor)	26
35	Amendment of s 134 (Approving an inspection program)	27
36	Amendment of s 150B (Overview of chapter)	27
37	Amendment of s 150C (Definitions for chapter)	29
38	Insertion of new s 150CAB	29
	150CAB Application of chapter	29
39	Amendment of s 150F (Department's chief executive to make model procedures)	29
40	Insertion of new s 150IA	30
	150IA Dealing with unsuitable meeting conduct of chairperson	30
41	Amendment of s 150J (Unsuitable meeting conduct that becomes inappropriate conduct)	31
42	Amendment of s 150K (What is inappropriate conduct)	31

		Contents
43	Amendment of s 150L (What is misconduct)	32
44	Replacement of s 150M (Application to former councillors)	33
	150M Dealing with particular conduct if councillor elected or appointed after vacating office	33
45	Amendment of s 150Q (Further information about complaints) .	34
46	Insertion of new ch 5A, pt 3, divs 3A and 3B	35
	Division 3A Preliminary assessments	
	150SA Application of division	35
	150SB Period for making complaint or giving notice or information	35
	150SC Assessor may ask for information	36
	150SD Preliminary assessment of complaints, notices or information	37
	150SE Notice of preliminary assessment	39
	Division 3B Assessor may initiate assessments	
	150SF Assessor may make preliminary assessment on own initiative	41
47	Replacement of s 150T (Assessor must investigate conduct of councillor)	42
	150T Assessor must investigate conduct of councillor	42
48	Omission of s 150U (Assessor may initiate investigation)	43
49	Amendment of s 150W (Decision about conduct)	43
50	Amendment of s 150Y (Decision to take no further action)	43
51	Amendment of s 150AA (Notice and opportunity for councillor to respond)	44
52	Amendment of s 150AC (Referral of suspected inappropriate conduct)	45
53	Amendment of s 150AE (Local government must adopt investigation policy)	45
54	Insertion of new s 150AEA	46
	150AEA Local government may decide not to start, or to discontinue, investigation	47
55	Amendment of s 150AF (Investigating suspected inappropriate conduct)	47
56	Insertion of new s 150AFA	48
	150AFA Local government must make summary of investigation report publicly available	48

Contents

57	Insertion of new s 150AGA	50
	150AGA Local government must make investigation report publicly available	50
58	Amendment of s 150AH (Disciplinary action against councillor) .	52
59	Insertion of new s 150AHA	52
	150AHA Notice to assessor	52
60	Amendment of s 150AK (Copy of application must be given to councillor)	53
61	Insertion of new s 150AKA	53
	150AKA Withdrawing application	53
62	Amendment of s 150AL (Conduct tribunal must conduct hearing)	54
63	Amendment of s 150AM (Constitution of conduct tribunal)	55
64	Amendment of s 150AR (Disciplinary action against councillor) .	55
65	Amendment of s 150AS (Notices and publication of decisions and orders)	56
66	Insertion of new ss 150ATA and 150ATB	57
	150ATA Parties to a proceeding for review	57
	150ATB Assessor must help QCAT	58
67	Insertion of new ch 5A, pt 3, div 8	59
	Division 8 Vexatious complainants	
	150AWA Vexatious complainants	59
	150AWB Declaration may be varied or revoked	61
	150AWC Application for permission to make a complaint	61
68	Omission of ch 5A, pt 4, div 7 (Review)	62
69	Insertion of new ch 5A, pt 4A	62
	Part 4A Review	
	Division 1 Preliminary	
	150COA Definitions for part	62
	Division 2 Internal review	
	150CO Who may apply for review	63
	150CP Application for review	63
	150CQ Review decision	63
	Division 3 External review	
	150CR External review by QCAT	64
	150CS No power to stay review decision	65
70	Amendment of s 150CU (Functions)	65

71	Amendment of s 150DB (Conflict of interest)	65
72	Amendment of s 150DC (Vacancy of office)	66
73	Amendment of s 150DE (Assessor not subject to outside direction)	66
74	Amendment of s 150DL (Functions)	66
75	Omission of s 150DLA (Referral of alleged misconduct to assessor)	67
76	Amendment of s 150DM (Membership of conduct tribunal)	67
77	Insertion of new s 150DMA	67
	150DMA President’s functions	67
78	Amendment of s 150DN (Appointment of president and casual members)	68
79	Amendment of s 150DR (Vacancy of office)	69
80	Amendment of s 150DS (Acting president)	69
81	Amendment of s 150DT (Conflict of interest)	69
82	Amendment of s 150DU (Costs of conduct tribunal to be met by local government)	70
83	Amendment of s 150DX (Local governments to keep and publish register)	70
84	Amendment of s 150DY (Content of register—decisions)	71
85	Omission of s 150DZ (Content of register—dismissed complaints)	72
86	Amendment of s 150EB (Annual report)	72
87	Amendment of s 150EF (Personal interests in ordinary business matters of a local government)	73
88	Amendment of s 150EH (When councillor has prescribed conflict of interest—sponsored travel or accommodation benefits)	75
89	Amendment of s 150EJ (Who is a close associate of a councillor)	75
90	Amendment of s 150EO (Interests that are not declarable conflicts of interest)	75
91	Amendment of s 150EP (Who is a related party of a councillor) .	76
92	Insertion of new s 150EPA	76
	150EPA Councillor must not participate in decisions unless authorised	76
93	Amendment of s 150EQ (Obligation of councillor with declarable conflict of interest)	77
94	Amendment of s 150EU (Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest)	77
95	Amendment of s 150EW (Duty to report another councillor’s prescribed conflict of interest or declarable conflict of interest)	77
96	Amendment of s 150EX (Obligation of councillor if conflict of interest	

Contents

	reported under s 150EW)	78
97	Insertion of new s 169A	78
	169A Councillor training	78
98	Amendment of s 170 (Giving directions to local government staff)	80
99	Amendment of s 201D (Dishonest conduct of councillor or councillor advisor)	80
100	Amendment of s 239 (Substituted service)	81
101	Amendment of s 257 (Delegation of local government powers) .	81
102	Insertion of new ch 9, pt 18	81
	Part 18 Transitional provisions for Local Government (Councillor Conduct) and Other Legislation Amendment Act 2023	
	343 Definitions for part	82
	344 Part does not apply to particular conduct	82
	345 Continued application of former definitions inappropriate conduct and misconduct for chapter 5A	82
	346 Existing investigations by assessor	83
	347 Existing investigations by a local government	84
	348 Existing investigations by the conduct tribunal	86
	349 Existing referrals by conduct tribunal if investigation not started	87
	350 Particular conduct tribunal applications to be withdrawn	88
	351 Preliminary assessments for particular former councillors	90
	352 References to inappropriate conduct	90
	353 Declarations about persons who made complaints before commencement	91
	354 Review by QCAT of particular decisions made by the conduct tribunal	91
103	Amendment of sch 4 (Dictionary)	91
Part 5	Amendment of Local Government Regulation 2012	
104	Regulation amended	93
105	Amendment of s 186 (Councillors)	93
106	Insertion of new s 239C	95
	239C When summary of investigation report or investigation report must be made publicly available	95
107	Amendment of s 254D (Public availability of agendas)	96
108	Amendment of s 254H (Recording of reasons for particular decisions)	96

109	Amendment of s 254J (Closed meetings)	97
110	Amendment of sch 8 (Dictionary)	97
Part 6	Amendment of Local Government Electoral Act 2011	
111	Act amended	97
112	Amendment of s 34 (Procedure if number of candidates not more than number required)	97
113	Amendment of s 45 (Direction that poll be conducted by postal ballot)	98
113A	Amendment of s 126 (Requirement for candidate to operate dedicated account)	98
113B	Amendment of s 127 (Requirement for group of candidates to operate dedicated account)	98
113C	Amendment of s 127B (Payment of amount of electoral expenditure by credit card prohibited)	98
114	Replacement of s 202 (Local governments responsible for expenditure incurred by electoral commission)	99
	202 Electoral commission may recover expenditure incurred for conducting elections	99
Part 7	Amendment of Queen's Wharf Brisbane Act 2016	
115	Act amended	100
116	Amendment of s 42 (Interpretation for part)	100
117	Insertion of new ch 5, pt 1, div 4	100
	Division 4 Conversion of State tenures to State freehold	
	57A Definitions for division	100
	57B Application of Land Act to division	101
	57C Land to be converted	102
	57D Converting to State freehold	102
118	Amendment of sch 2 (Dictionary)	103
Part 8	Other amendments	
119	Legislation amended	104
Schedule 1	Other amendments	105
	Acquisition of Land Act 1967	105
	Animal Management (Cats and Dogs) Act 2008	105
	City of Brisbane Act 2010	105
	Environmental Protection Act 1994	107
	First Home Owner Grant and Other Home Owner Grants Act 2000	107
	Local Government Act 2009	107
	South-East Queensland Water (Distribution and Retail Restructuring)	

Contents

Act 2009	111
Transport Infrastructure Act 1994	112
Water Act 2000	112

2023

A Bill

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An Act to amend the *City of Brisbane Act 2010*, the *City of Brisbane Regulation 2012*, the *Local Government Act 2009*, the *Local Government Regulation 2012*, the *Local Government Electoral Act 2011*, the *Queen's Wharf Brisbane Act 2016* and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Local Government (Councillor Conduct) and Other Legislation Amendment Act 2023*.

Part 2 Amendment of City of Brisbane Act 2010

2 Act amended

This part amends the *City of Brisbane Act 2010*.

Note—

See also the amendments in schedule 1.

3 Amendment of s 21 (Assessment)

(1) Section 21(6)(a)—

omit.

(2) Section 21(6)(b) and (c)—

renumber as section 21(6)(a) and (b).

4 Amendment of s 107 (Councillors liable for improper disbursements)

Section 107(2)—

omit, insert—

(2) The council must, within 14 days after the

disbursement is made, publish a notice of the disbursement—

- (a) on the council’s website; and
- (b) in other ways the council considers appropriate.

5 Amendment of s 123 (Approving an inspection program)

(1) Section 123(6)(a) and (b)—

omit, insert—

- (a) on the council’s website; and
- (b) in other ways the council considers appropriate.

(2) Section 123(9), ‘in the newspaper’—

omit, insert—

under subsection (6)

6 Amendment of s 166 (Filling a vacancy in the office of another councillor)

Section 166(6)(a)(i) and (ii)—

omit, insert—

- (i) on the council’s website; and
- (ii) in other ways the chief executive officer considers appropriate; and

7 Insertion of new s 169A

After section 169—

insert—

169A Councillor training

- (1) A councillor must complete approved councillor training about the responsibilities of councillors

[s 7]

under section 14.

- (2) The training must be completed by the councillor—
 - (a) within the period prescribed by regulation; or
 - (b) if the department’s chief executive extends the period for the councillor—within the extended period.
- (3) The department’s chief executive may extend the period under subsection (2)(b) only if the department’s chief executive is satisfied it would be appropriate in the circumstances.

Example of when an extension may be appropriate in the circumstances—

the councillor is unable to complete the training due to unavoidable absence

- (4) The department’s chief executive must publish a notice about the approved councillor training on the department’s website within the period prescribed by regulation.
- (5) Also, the department’s chief executive must give a written notice about the approved councillor training—
 - (a) to the council and each councillor within the period prescribed by regulation; and
 - (b) if a councillor is appointed or elected to fill a vacancy in the office of another councillor—to the council and the councillor within 20 business days after the councillor is appointed or elected.
- (6) A notice under subsections (4) and (5) must state the following—
 - (a) a description of the approved councillor training;

- (b) the requirements for successful completion of the training;
 - (c) for a notice given under subsection (5)—when the training must be completed by the councillor.
- (7) A regulation may prescribe requirements for the training required under this section, including—
- (a) the format of the training; and
 - (b) requirements about how the training may be successfully completed.
- (8) In this section—
- approved councillor training*** means training that—
- (a) meets the requirements prescribed by regulation under subsection (7); and
 - (b) is approved by the department’s chief executive.

8 Amendment of s 170 (Giving directions to council staff)

- (1) Section 170(3), note—

omit.

- (2) Section 170—

insert—

- (4) The mayor or another councillor must not give a direction in contravention of subsection (2) or (3).

Note—

Contravention of this subsection is misconduct under the Local Government Act that could result in disciplinary action being taken against the councillor under that Act. See the Local Government Act, sections 150L(1)(c)(iv), 150AQ and 150AR.

[s 9]

9 Amendment of s 177C (Personal interests in ordinary business matters of council)

(1) Section 177C(1)(c)—

omit, insert—

- (c) is solely, or relates solely to, the preparation, adoption or amendment of a budget for the council; or
- (ca) is solely, or relates solely to, preparing, adopting or amending a document prescribed by regulation that the council is required to prepare or adopt under a local government related law; or
- (cb) is solely, or relates solely to—
 - (i) the making of a donation to a religious, charitable or non-profit institution or organisation, unless a councillor, or close associate or related party of a councillor, receives a benefit because of the donation that is more than merely a benefit relating to reputation; or
 - (ii) a councillor representing the council in an official capacity at an event held by a government agency or an entity that is wholly owned by the council; or
- (cc) is solely, or relates solely to, employment-related or upgraded travel or accommodation undertaken or used by a councillor, or close associate or related party of a councillor; or

(2) Section 177C(1)(ca) to (d)—

renumber as section 177C(1)(d) to (g).

(3) Section 177C—

insert—

(4) In this section—

government agency means—

- (a) the State, a government entity or another local government; or
- (b) another Australian government or an entity of another Australian government; or
- (c) a local government of another State.

(4) Section 177C(2A) to (4)—

renumber as section 177C(3) to (5).

10 Amendment of s 177E (When councillor has *prescribed conflict of interest*—sponsored travel or accommodation benefits)

Section 177E(2), definition *employment-related or upgraded*—
omit.

11 Amendment of s 177G (Who is a *close associate* of a councillor)

Section 177G(2)—

omit, insert—

- (2) However, the person is a close associate of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the person's involvement in the matter.

12 Amendment of s 177L (Interests that are not declarable conflicts of interest)

Section 177L(1)—

insert—

[s 13]

- (g) the conflict of interest arises solely because—
 - (i) the councillor is, or has been, a member of a group of candidates for an election or a previous election with another councillor; or
 - (ii) the same political party endorsed the candidature of the councillor and another councillor for an election or a previous election; or
 - (iii) the councillor has been elected or appointed at the same time, or has held office during the same period, as another councillor.

13 Amendment of s 177M (Who is a *related party* of a councillor)

Section 177M(2)—

omit, insert—

- (2) However, the person is a related party of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the person's involvement in the matter.

14 Insertion of new s 177MA

After section 177M—

insert—

177MA Councillor must not participate in decisions unless authorised

If a councillor has a declarable conflict of interest in a matter, the councillor must not participate in a decision relating to the matter unless the councillor participates in the decision—

- (a) in compliance with a decision made under section 177P; or
- (b) under an approval given under section 177S.

Note—

Contravention of this section is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(iv) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

15 **Amendment of s 177N (Obligation of councillor with declarable conflict of interest)**

- (1) Section 177N(2), from ‘councillor—’—

omit, insert—

councillor must immediately inform the meeting of the declarable conflict of interest, including the particulars stated in subsection (4).

- (2) Section 177N(3)(a)—

omit.

- (3) Section 177N(3)(b) and (c)—

renumber as section 177N(3)(a) and (b).

- (4) Section 177N(3), note, ‘150L(1)(c)(v)’—

omit, insert—

150L(1)(c)(iv)

- (5) Section 177N(5)—

omit.

16 **Amendment of s 177R (Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest)**

- (1) Section 177R(2)(c), after ‘to the matter’—

[s 17]

insert—

unless this Act or another Act provides that the council must decide the matter

- (2) Section 177R(4), ‘177N(2)(a) or (3)(a)’—

omit, insert—

177MA

17 Amendment of s 177T (Duty to report another councillor’s prescribed conflict of interest or declarable conflict of interest)

- (1) Section 177T(1)(b), ‘177N(2)(a) or (3)(a)’—

omit, insert—

177MA

- (2) Section 177T(3), note, ‘150L(1)(c)(v)’—

omit, insert—

150L(1)(c)(iv)

- (3) Section 177T—

insert—

- (4) If the belief or suspicion relates to more than 1 councillor, subsections (2) and (3) must be complied with in relation to each councillor separately.

18 Amendment of s 177U (Obligation of councillor if conflict of interest reported under s 177T)

- (1) Section 177U—

insert—

- (2A) If subsection (2) must be complied with in relation to a belief or suspicion about more than 1 councillor, a decision under subsection (2)(b) must be made in relation to each councillor

separately.

- (2) Section 177U(2A) to (4)—
renumber as section 177U(3) to (5).

19 Amendment of s 198D (Dishonest conduct of councillor or councillor advisor)

- (1) Section 198D(2), definition *relevant integrity provision*, paragraph (a)—
insert—
(ia) section 177MA;
- (2) Section 198D(2), definition *relevant integrity provision*, paragraph (a)(ia) to (viii)—
renumber as paragraph (a)(iii) to (ix).

20 Amendment of s 220 (Substituted service)

Section 220(3)(a) and (b)—

omit, insert—

- (a) publishing a notice that contains a copy of the document on the council’s website; or
- (b) publishing a notice that contains a summary of the document in—
- (i) a newspaper that is circulating generally throughout the State; and
- (ii) the gazette.

21 Amendment of s 238 (Delegation of council powers)

Section 238(2), from ‘about a’ to ‘150AG’—

omit, insert—

about an investigation or a councillor’s conduct under the Local Government Act, section

[s 22]

150AEA or 150AG

22 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

insert—

employment-related or upgraded travel or accommodation, for a person, means—

- (a) travel or accommodation paid for by the State or a local government; or
- (b) travel or accommodation paid for by LGAQ Ltd for the purpose of a councillor attending a meeting of the policy executive established under the constitution of LGAQ Ltd; or
- (c) travel or accommodation that is—
 - (i) undertaken or used by the person in the course of the person's employment; and
 - (ii) is contributed to, whether financially or non-financially, by the person's employer; or
- (d) if the person is a director of a corporation—travel or accommodation that is—
 - (i) undertaken or used by the person in the course of carrying out the person's duties as a director; and
 - (ii) is contributed to, whether financially or non-financially, by the corporation; or
- (e) if the travel is airline travel—an upgrade to the travel given by the provider of the travel for no charge; or

Example—

a free air travel upgrade to business class

- (f) an upgrade to the accommodation given by the provider of the accommodation for no charge.

Example—

a free accommodation upgrade to a larger room

LGAQ Ltd means the Local Government Association of Queensland Ltd ABN 11 010 883 293.

Part 3 **Amendment of City of Brisbane Regulation 2012**

23 **Regulation amended**

This part amends the *City of Brisbane Regulation 2012*.

24 **Amendment of s 178 (Councillors)**

- (1) Section 178(1)(d)—

insert—

- (ia) orders made under the Local Government Act, section 150IA(2)(b);

- (2) Section 178(1)(d)(ia) to (iii)—

renumber as section 178(1)(d)(ii) to (iv).

- (3) Section 178(1)(e)(ii) and (f)(viii), ‘inappropriate conduct’—

omit, insert—

conduct breach

- (4) Section 178(1)(f)(v) and (vi)—

omit.

[s 24]

- (5) Section 178(1)(f)(vii), ‘section 150AF(4)(a)’—
omit, insert—
section 150AF(3)(a)
- (6) Section 178(1)(f)(ix), ‘inappropriate conduct’—
omit, insert—
a conduct breach
- (6A) Section 178(1)(f)(vii) to (ix)—
renumber as section 178(1)(f)(v) to (vii).
- (7) Section 178(1)—
insert—
- (g) the total number of referral notices given to the council under the Local Government Act, section 150AC(1) during the financial year; and
 - (h) for suspected conduct breaches the subject of a referral notice mentioned in paragraph (g)—
 - (i) the total number of suspected conduct breaches; and
 - (ii) the total number of suspected conduct breaches for which an investigation was not started or was discontinued under the Local Government Act, section 150AEA; and
 - (i) the number of decisions made by the council under the Local Government Act, section 150AG(1) during the financial year; and
 - (j) the number of matters not decided by the end of the financial year under the Local Government Act, section 150AG(1); and

(k) the average time taken by the council in making a decision under the Local Government Act, section 150AG(1).

(8) Section 178(2), definition *councillor*—
omit.

25 **Amendment of s 242D (Public availability of agendas)**

Section 242D(6), definition *related report*—
omit, insert—

related report, for a council meeting—

- (a) means a report or other document relating to an item on the agenda for the meeting that is made available to councillors or committee members for the purposes of the meeting; but
- (b) does not include a summary of an investigation report or an investigation report required to be made publicly available under the Local Government Act, section 150AFA or 150AGA.

26 **Amendment of s 242H (Recording of reasons for particular decisions)**

(1) Section 242H—
insert—

(1A) Also, this section applies if a decision is made at a council meeting about a conduct breach under the Local Government Act, section 150AG that is inconsistent with a recommendation made by the entity who conducted the investigation into the conduct.

(2) Section 242H(1A) to (3)—
renumber as section 242H(2) to (4).

[s 27]

27 Amendment of s 242J (Closed meetings)

Section 242J(3)—

insert—

- (j) an investigation report given to the council under the Local Government Act, chapter 5A, part 3, division 5.

Part 4 Amendment of Local Government Act 2009

28 Act amended

This part amends the *Local Government Act 2009*.

Note—

See also the amendments in schedule 1.

29 Amendment of s 19 (Assessment)

- (1) Section 19(6)(a)—

omit.

- (2) Section 19(6)(b) and (c)—

renumber as section 19(6)(a) and (b).

30 Amendment of s 87 (Community forums)

- (1) Section 87(5), ‘in a newspaper circulating generally in its local government area’—

omit.

- (2) Section 87—

insert—

- (5A) The information must be published—

-
- (a) on the indigenous regional council's website; and
 - (b) in other ways the council considers appropriate.
- (3) Section 87(5A) and (6)—
renumber as section 87(6) and (7).

31 Amendment of s 88 (Members of a community forum)

Section 88(2)(b), from 'advertised'—

omit, insert—

advertised—

- (i) on the indigenous regional council's website; and
- (ii) in other ways the council considers appropriate.

32 Amendment of s 110 (Councillors liable for improper disbursements)

Section 110(2)—

omit, insert—

- (2) The local government must, within 14 days after the disbursement is made, publish a notice of the disbursement—
 - (a) on the local government's website; and
 - (b) in other ways the local government considers appropriate.

33 Amendment of s 120 (Precondition to remedial action)

(1) Section 120—

insert—

[s 34]

- (3A) For subsection (3)(a), if the power the Minister proposes to exercise relates to a failure by a councillor to comply with a councillor training provision, the notice must state—
- (a) for a failure to comply within the period required under the councillor training provision—that the Minister proposes to suspend the councillor until the councillor complies with the training provision; or
 - (b) for a failure to comply within 1 year after the period required under the councillor training provision—that the Minister proposes to dismiss the councillor.
- (2) Section 120(3A) to (6)—
renumber as section 120(4) to (7).
- (3) Section 120—
insert—
- (8) In this section—
councillor training provision means section 169A or the *City of Brisbane Act 2010*, section 169A.

34 Amendment of s 122 (Removing a councillor)

- (1) Section 122, heading, ‘Removing’—
omit, insert—
- Suspending or removing**
- (2) Section 122(1)—
insert—
- (ca) the Minister reasonably believes that a councillor has not complied with the councillor’s obligation to complete training under a councillor training provision; or

- (3) Section 122(1)(ca) and (d)—

renumber as section 122(1)(d) and (e).

- (4) Section 122—

insert—

- (4) A councillor suspended for a failure to comply with a councillor training provision is not entitled to be paid remuneration as a councillor other than the remuneration necessary for the councillor to comply with the councillor training provision.

- (5) In this section—

councillor training provision see section 120(8).

remuneration, as a councillor, includes allowances, expenses, superannuation contributions and access to facilities and equipment provided by the local government.

35 Amendment of s 134 (Approving an inspection program)

- (1) Section 134(6)(a) and (b)—

omit, insert—

(a) on the local government’s website; and

(b) in other ways the local government considers appropriate.

- (2) Section 134(9), ‘in the newspaper’—

omit, insert—

under subsection (6)

36 Amendment of s 150B (Overview of chapter)

- (1) Section 150B(1)(c), before ‘investigating’—

insert—

assessing,

[s 36]

- (2) Section 150B(1)(d), ‘inappropriate conduct’—
omit, insert—
a conduct breach
- (3) Section 150B(1)(e), before ‘investigate’—
insert—
assess,
- (4) Section 150B(2)(b) and (c)—
omit, insert—
- (b) that the conduct of chairpersons at local government meetings that does not meet appropriate standards of behaviour may be dealt with by the other councillors at the meeting; and
 - (c) that the assessor must make a preliminary assessment of complaints, notices or information relating to the conduct of councillors; and
 - (ca) that the assessor, after making a preliminary assessment, may refer a suspected conduct breach of a councillor to the local government to be dealt with; and
 - (cb) that the assessor, after investigating a councillor’s conduct, may apply to the conduct tribunal to decide—
 - (i) whether the councillor engaged in misconduct, or a conduct breach that is connected to misconduct; and
 - (ii) if the conduct tribunal decides the councillor engaged in misconduct or a conduct breach, the action to be taken to discipline the councillor; and
- (5) Section 150B(2)(ca) to (d)—
renumber as section 150B(2)(d) to (f).

37 Amendment of s 150C (Definitions for chapter)

- (1) Section 150C, definition *inappropriate conduct*—
omit.
- (2) Section 150C—
insert—

conduct breach see section 150K.

investigation report, for an investigation, means a report about the investigation prepared under the local government's investigation policy.

local government official means—

- (a) a councillor; or
- (b) the chief executive officer of a local government; or
- (c) the chief executive officer under the *City of Brisbane Act 2010*.

38 Insertion of new s 150CAB

After section 150CAA—

insert—

150CAB Application of chapter

This chapter does not apply in relation to a person who was, but is no longer, a councillor unless the person has engaged in conduct that is suspected corrupt conduct.

39 Amendment of s 150F (Department's chief executive to make model procedures)

- (1) Section 150F(2)—
insert—

[s 40]

- (aa) how the councillors at a local government meeting may deal with the chairperson's unsuitable meeting conduct; and
- (2) Section 150F(2)(b), 'the suspected inappropriate conduct'—
omit, insert—
 - a suspected conduct breach
- (3) Section 150F(2)(aa) and (b)—
renumber as section 150F(2)(b) and (c).

40 Insertion of new s 150IA

After section 150I—

insert—

150IA Dealing with unsuitable meeting conduct of chairperson

- (1) This section applies if, during a local government meeting, a councillor reasonably believes the conduct of the chairperson of the meeting is unsuitable meeting conduct.
- (2) The councillors at the meeting, other than the chairperson, may, by resolution—
 - (a) decide whether the conduct is unsuitable meeting conduct; and
 - (b) if the conduct is unsuitable meeting conduct—make an order reprimanding the chairperson for the conduct.
- (3) If minutes are not required for the meeting, details of the order must be recorded in another way prescribed by regulation.

Note—

See also sections 150DX and 150DY about recording orders under this section in the councillor conduct register.

41 Amendment of s 150J (Unsuitable meeting conduct that becomes inappropriate conduct)

(1) Section 150J, ‘inappropriate conduct’—

omit, insert—

a conduct breach

(2) Section 150J, after ‘councillor’—

insert—

, including the chairperson,

(3) Section 150J(b), after ‘150AG’—

insert—

as if an investigation had been conducted

42 Amendment of s 150K (What is *inappropriate conduct*)

(1) Section 150K, heading, ‘*inappropriate conduct*’—

omit, insert—

a conduct breach

(2) Section 150K(1), (2) and (4), ‘inappropriate conduct’—

omit, insert—

a conduct breach

(3) Section 150K(2)(b)—

omit, insert—

(b) for conduct of a councillor, including the chairperson, at local government meetings—it is part of a course of conduct leading to orders for unsuitable meeting conduct being made against the councillor on 3 occasions within a period of 1 year.

(4) Section 150K(3)—

omit, insert—

[s 43]

- (3) For subsection (2)(b)—
 - (a) the conduct that led to the orders being made, taken together, is the conduct breach; and
 - (b) orders for the councillor’s unsuitable meeting conduct include any orders made against the councillor as the chairperson of a local government meeting.

43 Amendment of s 150L (What is *misconduct*)

- (1) Section 150L(1)(b)(i)—
omit, insert—
 - (i) non-compliance with an Act by the councillor; or
- (2) Section 150L(1)(c)(ii)—
omit.
- (3) Section 150L(1)(c)(iv), from ‘150EQ’ to ‘170(3)’—
omit, insert—
150EPA, 150EQ, 150EW, 150EZ, 170(4)
- (4) Section 150L(1)(c)(v), from ‘170(3)’ to ‘177I’—
omit, insert—
170(4), 173(3), 177H, 177I, 177MA
- (5) Section 150L(1)(c)(iii) to (v)—
renumber as section 150L(1)(c)(ii) to (iv).
- (6) Section 150L(2)(a), ‘inappropriate conduct’—
omit, insert—
conduct breaches

44 Replacement of s 150M (Application to former councillors)

Section 150M—

omit, insert—

150M Dealing with particular conduct if councillor elected or appointed after vacating office

- (1) This section applies if—
- (a) the conduct (the *relevant conduct*) of a person who is a councillor is the subject of—
 - (i) a complaint, notice or information and the assessor starts a preliminary assessment (the *initial assessment*) under division 3A of the complaint, notice or information; or
 - (ii) an investigation by the assessor or a local government (the *initial investigation*) under division 4 or 5; or
 - (iii) an application by the assessor (the *initial application*) under section 150AJ; and
 - (b) the person's office as councillor is vacated—
 - (i) for an initial assessment—before a decision is made under section 150SD; or
 - (ii) for an initial investigation—before a decision is made in relation to the investigation under division 4 or 5; or
 - (iii) for an initial application—before the application about the relevant conduct is decided under division 6; and

[s 45]

- (c) within 12 months after the office is vacated, the person is elected or appointed as a councillor for a new term of office.
- (2) As soon as practicable after the person is elected or appointed—
 - (a) if subsection (1)(a)(i) applies—the assessor must make a new preliminary assessment under division 3A of the complaint, notice or information relating to the relevant conduct of the councillor as if the initial assessment had not been started; or
 - (b) if subsection (1)(a)(ii) applies—the assessor or local government must investigate the relevant conduct of the councillor under division 4 or 5 as if the initial investigation had not been started; or
 - (c) if subsection (1)(a)(iii) applies—the assessor must apply to the conduct tribunal under section 150AJ in relation to the relevant conduct of the councillor as if the initial application had not been made.
- (3) For an investigation under subsection (2)(b), the assessor or local government may consider any information obtained during the initial investigation of the relevant conduct.

45 Amendment of s 150Q (Further information about complaints)

- (1) Section 150Q(1)(b) and (3), ‘investigate the conduct’—
omit, insert—
make a preliminary assessment of the complaint
- (2) Section 150Q(2), ‘a stated reasonable period’—
omit, insert—
10 business days after the notice is given

(3) Section 150Q(4)—

omit, insert—

- (4) If the assessor decides not to make a preliminary assessment under subsection (3), the assessor must give the person who made the complaint a notice that states the assessor has decided not to make the assessment because there is insufficient information to do so.

46 Insertion of new ch 5A, pt 3, divs 3A and 3B

Chapter 5A, part 3—

insert—

Division 3A Preliminary assessments

150SA Application of division

This division applies if—

- (a) a complaint about the conduct of a councillor is made or referred to the assessor under division 2; or
- (b) a notice about the conduct of a councillor is given to the assessor under division 3; or
- (c) information about the conduct of a councillor is given to the assessor under section 150AF(3).

150SB Period for making complaint or giving notice or information

A complaint, notice or information about the conduct of a councillor must be made or given to the assessor—

- (a) within 1 year after the conduct occurred; or

[s 46]

- (b) within 6 months after the conduct comes to the knowledge of the person who made the complaint or gave the information or notice, but within 2 years after the conduct occurred.

150SC Assessor may ask for information

- (1) This section applies if, in the assessor's opinion, the complaint, notice or information does not include sufficient information for the assessor to make a preliminary assessment of the complaint, notice or information.
- (2) The assessor may ask the following entities for any information the assessor requires to make a preliminary assessment of the complaint, notice or information—
 - (a) for a complaint made or referred under division 2—the local government; or
 - (b) for notice given under division 3—the local government or the local government official who gave the notice; or
 - (c) for a notice given under section 150AF(3)—the local government.

Note—

The assessor may ask a person who made a complaint for further information under section 150Q.

- (3) The assessor must state in the request that the information must be given to the assessor within 10 business days after the request is made.
- (4) The entity mentioned in subsection (2) must comply with the request.

150SD Preliminary assessment of complaints, notices or information

- (1) The assessor must make a preliminary assessment of the complaint, notice or information.
- (2) On the completion of the preliminary assessment, the assessor must dismiss the complaint or decide to take no further action for the notice or information if the assessor is satisfied that—
 - (a) dealing with the complaint, notice or information would not be in the public interest; or
 - (b) the complaint, notice or information was not made or given within the period required under section 150SB, unless—
 - (i) the conduct the subject of the complaint, notice or information is suspected corrupt conduct; or
 - (ii) the complaint, notice or information was not given within the period because of exceptional circumstances; or
 - (c) the conduct the subject of the complaint, notice or information—
 - (i) was engaged in by the councillor to comply with, honestly and without negligence, a guideline made by the department’s chief executive; or
 - (ii) relates solely to behaviour engaged in by the councillor in a personal capacity unless the conduct is suspected corrupt conduct; or
 - (iii) clearly does not constitute a conduct breach or misconduct; or
 - (d) the office of the councillor is vacated, unless the conduct is suspected corrupt conduct; or

[s 46]

- (e) for a complaint—the person who made the complaint is the subject of a declaration under section 150AWA, and the complaint is not permitted under a condition of the declaration or under section 150AWC.
- (3) Also, on the completion of the assessment, the assessor may dismiss the complaint or decide to take no further action for the notice or information if the assessor is satisfied—
- (a) the conduct has already been, is being, or may be dealt with by another entity; or
 - (b) the complaint, notice or information—
 - (i) is frivolous or vexatious; or
 - (ii) was made other than in good faith; or
Example for paragraph (b)(ii)—
 - a complaint made for a mischievous purpose or maliciously
 - (iii) lacks substance or credibility; or
 - (c) dealing with the complaint, notice or information would be an unjustifiable use of resources; or
 - (d) for a suspected conduct breach—at least 6 months have elapsed since the conduct the subject of the complaint, notice or information occurred, and it would not be in the public interest to take action under this part; or
 - (e) there is insufficient information to properly make a preliminary assessment of the complaint, notice or information.
- (4) If subsection (2) does not apply or the assessor does not, under subsection (3), dismiss or decide to take no further action for the complaint, notice or information, the assessor must decide—

- (a) if the assessor reasonably suspects the conduct the subject of the complaint, notice or information is a conduct breach—to refer the suspected conduct breach to the local government to deal with; or
 - (b) to investigate the conduct of the councillor; or
 - (c) not to deal with the complaint, notice or information and make any recommendation the assessor considers appropriate, including, for example, that the councillor attend training, counselling or mediation.
- (5) Without limiting the matters the assessor may consider in making a preliminary assessment, the assessor may have regard to the following—
- (a) any reasons for, or factors relevant to, the conduct;
Examples for paragraph (a)—
 - whether or not any training relating to the conduct has been completed by the councillor
 - the Aboriginal traditions or Island customs of the councillor
 - (b) any steps taken by the councillor to mitigate or remedy the effects of the conduct;
 - (c) the consequences, both financial and non-financial, resulting from the conduct.

150SE Notice of preliminary assessment

- (1) This section applies if the assessor decides—
 - (a) to dismiss the complaint or not take any further action for the notice or information under section 150SD(2) or (3); or
 - (b) not to deal with a complaint, notice or information under section 150SD(4)(c).

[s 46]

- (2) The assessor must, as soon as practicable after making the decision, give a notice that complies with subsection (4) to the following—
 - (a) for a complaint made or referred under division 2—the person who made the complaint, if the assessor has the person’s contact details;
 - (b) for a notice under division 3—the local government or the local government official who gave the notice;
 - (c) for information given under section 150AF(3)—the local government;
 - (d) if an action is taken under section 150SD(4)(c)—the councillor the subject of the complaint, notice or information.
- (3) If the councillor the subject of the complaint, notice or information does not receive a notice under this section—
 - (a) the councillor may ask the assessor for a copy of the notice; and
 - (b) the assessor may give the councillor a copy of the notice if the assessor considers it would be appropriate to do so.
- (4) The notice must—
 - (a) state the date the complaint was made or the notice or information was given; and
 - (b) briefly summarise the conduct the subject of the complaint, notice or information; and
 - (c) briefly state the decision and the reasons for the decision; and
 - (d) if an action is taken under section 150SD(4)(c)—state the action taken; and
 - (e) for a complaint dismissed because it is frivolous—advise the person who made the

complaint that, if the person makes the same or substantially the same complaint to the assessor again, the person commits an offence punishable by a fine of up to 85 penalty units.

Note—

For the offence mentioned in paragraph (e), see section 150AU.

Division 3B Assessor may initiate assessments

150SF Assessor may make preliminary assessment on own initiative

- (1) This section applies if—
- (a) the assessor is aware of information indicating a councillor may have engaged in conduct that may be a conduct breach or misconduct; and

Examples—

- a media report makes allegations of a conduct breach by the councillor
 - while investigating a councillor for alleged misconduct, the assessor receives information that indicates another councillor has engaged in the same conduct
- (b) the assessor has not received a complaint, notice or information about the conduct as mentioned in section 150SA; and
- (c) the assessor reasonably believes—
- (i) it is in the public interest to make a preliminary assessment of the information; and

[s 47]

- (ii) the conduct is not likely to involve corrupt conduct.
- (2) The assessor may, on the assessor's own initiative, make a preliminary assessment of the information about the councillor's conduct under division 3A.
- (3) This chapter applies in relation to the councillor's conduct as if the information were given to the assessor on the day the assessor became aware of the information.

47 Replacement of s 150T (Assessor must investigate conduct of councillor)

Section 150T—

omit, insert—

150T Assessor must investigate conduct of councillor

- (1) The assessor must investigate the conduct of a councillor under this division if—
 - (a) the assessor decides to investigate the conduct under section 150SD(4)(b); or
 - (b) the conduct is suspected corrupt conduct that is the subject of a complaint referred to the assessor by the Crime and Corruption Commission.

Note—

The Crime and Corruption Commission may decide, under chapter 2, part 3 of the *Crime and Corruption Act 2001*, to refer a complaint to the assessor to deal with, whether or not in cooperation with the commission.

- (2) If the office of the councillor is vacated during the investigation, the assessor must discontinue the investigation unless the assessor is satisfied the conduct is suspected corrupt conduct.

48 Omission of s 150U (Assessor may initiate investigation)

Section 150U—

omit.

49 Amendment of s 150W (Decision about conduct)

(1) Section 150W(1)(b), from ‘is inappropriate’ to ‘conduct to’—

omit, insert—

is a conduct breach—refer the suspected conduct breach to

(2) Section 150W(1)(d) and (e)—

omit, insert—

(d) if the assessor is reasonably satisfied the councillor’s conduct is a conduct breach and the conduct is connected to conduct of the councillor that the assessor is reasonably satisfied is misconduct—make an application to the conduct tribunal about the alleged misconduct and conduct breach; or

(e) not deal with the conduct and make any recommendation the assessor considers appropriate, including, for example, that the councillor attend training, counselling or mediation; or

(f) take no further action in relation to the councillor’s conduct under section 150Y.

(3) Section 150W(2)—

omit.

50 Amendment of s 150Y (Decision to take no further action)

(1) Section 150Y(b)(i) and (ii), ‘inappropriate conduct’—

omit, insert—

[s 51]

a conduct breach

(2) Section 150Y(b)—

insert—

(iv) taking further action would not be in the public interest.

51 Amendment of s 150AA (Notice and opportunity for councillor to respond)

(1) Section 150AA(1), from ‘to—’—

omit, insert—

to apply to the conduct tribunal about a councillor’s conduct.

(2) Section 150AA(2)(c), from ‘to—’—

omit, insert—

to apply to the conduct tribunal about the conduct; and

(3) Section 150AA(2)—

insert—

(ca) states the order that, in the assessor’s opinion, would be appropriate under section 150AR if the conduct tribunal decides the councillor has engaged in a conduct breach or misconduct; and

(4) Section 150AA(2)(ca) to (e)—

renumber as section 150AA(2)(d) to (f).

(5) Section 150AA(3), from ‘a decision’—

omit, insert—

the decision.

52 Amendment of s 150AC (Referral of suspected inappropriate conduct)

- (1) Section 150AC, heading, ‘inappropriate conduct’—
omit, insert—
conduct breach
- (2) Section 150AC(2)(b), ‘inappropriate conduct’—
omit, insert—
a conduct breach
- (3) Section 150AC(3) and (4)—
omit.

53 Amendment of s 150AE (Local government must adopt investigation policy)

- (1) Section 150AE(1) and (2)(a), ‘inappropriate conduct’—
omit, insert—
conduct breaches
- (2) Section 150AE(2)—
insert—
(ca) require the local government to prepare a report about each investigation; and
- (3) Section 150AE(2)—
insert—
(e) include a procedure about when the local government may decide not to start, or to discontinue, an investigation under section 150AEA.
- (4) Section 150AE(2)(ca) to (e)—
renumber as section 150AE(2)(d) to (f).
- (5) Section 150AE(3)—
omit, insert—

[s 54]

- (3) The policy must require the local government—
- (a) to give the councillor information about the suspected conduct, including details about the evidence of the conduct; and
 - (b) to give the councillor a notice if an investigation is not started or is discontinued; and
 - (c) for conduct the subject of a complaint—to give the person who made the complaint, if the contact details of the person are known, a notice if an investigation is not started or is discontinued; and
 - (d) to give the councillor the preliminary findings of the investigation before preparing an investigation report about the investigation; and
 - (e) to allow the councillor to give evidence or a written submission to the local government about the suspected conduct and preliminary findings; and
 - (f) to consider any evidence and written submission given by the councillor in preparing the investigation report for the investigation; and
 - (g) to include in the investigation report—
 - (i) if evidence is given by the councillor—a summary of the evidence; and
 - (ii) if the councillor gives a written submission—a full copy of the written submission.

54 Insertion of new s 150AEA

After section 150AE—

insert—

150AEA Local government may decide not to start, or to discontinue, investigation

- (1) The local government may decide not to start, or to discontinue, an investigation about a councillor's conduct after receiving a referral notice if—
 - (a) for conduct the subject of a complaint—
 - (i) the complainant withdraws the complaint or consents to the investigation not being started or being discontinued; or
 - (ii) the complainant does not comply with a request by the local government for further information; or
 - (b) there is insufficient information to investigate the conduct.
- (2) Also, the local government must discontinue an investigation if the office of the councillor is vacated during the investigation.
- (3) If an investigation is discontinued under this section, the local government must not make a decision under section 150AG.

55 Amendment of s 150AF (Investigating suspected inappropriate conduct)

- (1) Section 150AF, heading, 'inappropriate conduct'—

omit, insert—

conduct breach

- (2) Section 150AF(1), 'The'—

omit, insert—

Subject to section 150AEA, the

[s 56]

(3) Section 150AF(2) and (3)—

omit, insert—

(2) In conducting the investigation, the local government must comply with the investigation policy.

(4) Section 150AF(4)(a), from ‘further’—

omit, insert—

a preliminary assessment under division 3A; and

(5) Section 150AF(4)—

renumber as section 150AF(3).

56 Insertion of new s 150AFA

After section 150AF—

insert—

150AFA Local government must make summary of investigation report publicly available

- (1) This section applies if an investigation report about an investigation is given to the local government to assist in the making of a decision at a local government meeting under section 150AG.
- (2) However, this section does not apply in relation to a decision by the Establishment and Coordination Committee under the *City of Brisbane Act 2010*.
- (3) Before making the decision, the local government must—
 - (a) prepare a summary of the investigation report; and
 - (b) make the summary publicly available on or before the day and time prescribed by regulation.
- (4) The summary must include—

- (a) the name of the councillor whose conduct has been investigated; and
 - (b) a description of the alleged conduct; and
 - (c) a statement of the facts established by the investigation; and
 - (d) a description of how natural justice was afforded to the councillor during the conduct of the investigation; and
 - (e) a summary of the findings of the investigation; and
 - (f) any recommendations made by the entity that investigated the conduct.
- (5) However, the following information must not be made publicly available—
- (a) if the investigation relates to the conduct of a councillor that was the subject of a complaint—
 - (i) the name of the person who made the complaint or any other person, other than the councillor; or
 - (ii) information that could reasonably be expected to result in identifying a person mentioned in subparagraph (i);
 - (b) if a person, other than the councillor, provided information for the purposes of the investigation including, for example, by giving an interview or making a submission or affidavit—
 - (i) the name of the person; or
 - (ii) information that could reasonably be expected to result in identifying the person or any other person, other than the councillor;

[s 57]

- (c) any other information the local government is entitled or required to keep confidential under a law.

Examples for paragraph (c)—

- documents subject to legal professional privilege
- information that is part of a public interest disclosure under the *Public Interest Disclosure Act 2010*

57 Insertion of new s 150AGA

After section 150AG—

insert—

150AGA Local government must make investigation report publicly available

- (1) After making a decision under section 150AG, the local government must make the investigation report for the investigation publicly available—
- (a) if the decision is made at a local government meeting—on or before the day and time prescribed by regulation; or
- (b) otherwise—within 10 business days after the decision is made.
- (2) However, the following information contained in the investigation report must not be made publicly available—
- (a) if the investigation relates to the conduct of a councillor that was the subject of a complaint—
- (i) the name of the person who made the complaint or any other person, other than the councillor; or

- (ii) information that could reasonably be expected to result in identifying a person mentioned in subparagraph (i);
- (b) if a person, other than the councillor, provided information for the purposes of the investigation including, for example, by giving an interview or making a submission or affidavit—
 - (i) the name of the person; or
 - (ii) information that could reasonably be expected to result in identifying the person or any other person, other than the councillor;
- (c) the submission or affidavit of, or a record or transcript of information provided orally by, a person mentioned in paragraph (b), including, for example, a transcript of an interview;
- (d) any other information the local government is entitled or required to keep confidential under a law.

Examples for paragraph (d)—

- documents subject to legal professional privilege
 - information that is part of a public interest disclosure under the *Public Interest Disclosure Act 2010*
- (3) The information mentioned in subsection (2)(a) must not be made publicly available even if the information—
 - (a) is required to be declared under section 150EQ or the *City of Brisbane Act 2010*, section 177N; or
 - (b) is otherwise required to be disclosed or made publicly available under this Act or the *City of Brisbane Act 2010*.

[s 58]

- (4) Despite subsections (2)(a) and (3), the report made publicly available must include the name of the person who made the complaint if—
 - (a) the person is a councillor or the chief executive officer of the local government; and
 - (b) the person’s identity as the complainant was disclosed at the meeting at which the report for the investigation was considered.

58 Amendment of s 150AH (Disciplinary action against councillor)

- (1) Section 150AH(1)(b)(i), from ‘admission’—

omit, insert—

apology, in the way decided by the local government, for the conduct;

- (2) Section 150AH(1)(b)(vii), ‘inappropriate conduct’—

omit, insert—

conduct breach

- (3) Section 150AH(2)—

omit.

59 Insertion of new s 150AHA

After section 150AH—

insert—

150AHA Notice to assessor

- (1) The local government must give the assessor a notice complying with subsection (2) as soon as practicable after the local government—

- (a) decides not to start, or to discontinue, an investigation of the councillor's conduct under section 150AEA; or
 - (b) makes a decision about whether or not the councillor has engaged in a conduct breach under section 150AG.
- (2) The notice must state—
- (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) if an order is made under section 150AH—details about the order.

60 Amendment of s 150AK (Copy of application must be given to councillor)

(1) Section 150AK(1)—

omit, insert—

- (1) As soon as practicable after making the application, the assessor must give a copy of the application to the councillor.

(2) Section 150AK(2), from 'at least' to 'starts'—

omit, insert—

, including, for example, by giving the copy to the local government to give to the councillor

(3) Section 150AK(3)—

omit.

61 Insertion of new s 150AKA

After section 150AK—

insert—

150AKA Withdrawing application

- (1) The assessor may, at any time before the

[s 62]

application has been decided, withdraw the application, in whole or in part, if the assessor is satisfied the withdrawal is in the public interest.

- (2) Also, if the office of the councillor is vacated before the application is decided, the assessor must withdraw the application.
- (3) If the application is withdrawn under this section, as soon as practicable—
 - (a) give a notice to the conduct tribunal that states the application is withdrawn in whole or in part and the reasons for the withdrawal; and
 - (b) give a copy of the notice to—
 - (i) if the application relates to the conduct of a councillor that was the subject of a complaint—the person who made the complaint, if the assessor has the person’s contact details; and
 - (ii) the councillor; and
 - (iii) the local government.

62 Amendment of s 150AL (Conduct tribunal must conduct hearing)

- (1) Section 150AL, heading, after ‘must’—

insert—

give notice to parties and

- (2) Section 150AL—

insert—

- (2) The conduct tribunal must, at least 14 days before the application is heard, give the parties a notice that states the day, time and place of the hearing of the application.
- (3) If the conduct tribunal is unable to give the notice

to the councillor, the conduct tribunal may take other reasonable steps to ensure the councillor is aware of the day, time and place of the hearing, including, for example, by giving the notice to the local government to give to the councillor.

63 Amendment of s 150AM (Constitution of conduct tribunal)

- (1) Section 150AM(a), from ‘at least’—
omit, insert—
not more than 3 members of the conduct tribunal chosen by the president; or
- (2) Section 150AM(b), from ‘councillor’—
omit, insert—
councillor—1 member chosen by the president.

64 Amendment of s 150AR (Disciplinary action against councillor)

- (1) Section 150AR(1)(b)(i), from ‘admission’—
omit, insert—
apology, in the way decided by the conduct tribunal, for the conduct;
- (2) Section 150AR(1)(b)(v), ‘inappropriate conduct’—
omit, insert—
conduct breach
- (3) Section 150AR(2) and (3), ‘inappropriate conduct’—
omit, insert—
a conduct breach
- (4) Section 150AR(5)—
omit.

[s 65]

65 Amendment of s 150AS (Notices and publication of decisions and orders)

- (1) Section 150AS(1)(a), ‘inappropriate conduct’—
omit, insert—
a conduct breach
- (2) Section 150AS(1)(b), ‘inappropriate conduct’—
omit, insert—
conduct breach
- (3) Section 150AS(2)(b), ‘briefly states the’—
omit.
- (4) Section 150AS(2)(b)—
insert—
(v) the department’s chief executive; and
- (5) Section 150AS(2)(c)—
omit, insert—
(c) give a publication notice for the decision to the department’s chief executive.
- (6) Section 150AS(5)—
omit, insert—
 - (5) The conduct tribunal must not give another entity any information that is part of a public interest disclosure under the *Public Interest Disclosure Act 2010*, unless giving the information is required or permitted by another Act.
 - (6) The conduct tribunal must include the councillor’s name in a publication notice if the tribunal decided the councillor engaged in—
 - (a) for an application that relates to alleged misconduct and an alleged conduct breach—misconduct or conduct breach (or both); or

(b) for an application that relates only to alleged misconduct—misconduct.

(7) In this section—

publication notice, for a decision about a councillor means, a notice mentioned in subsection (2)(b) that has the following removed—

- (a) the name of the councillor, or information that could reasonably be expected to result in identifying the councillor, unless the councillor agrees or subsection (6) applies in relation to the decision;
- (b) if the conduct was the subject of a complaint—the name of the person who made the complaint;
- (c) the name of any other person;
- (d) information that could reasonably be expected to result in identifying a person mentioned in paragraph (b) or (c);
- (e) information the conduct tribunal considers is not in the public interest to include in the notice.

66 Insertion of new ss 150ATA and 150ATB

After section 150AT—

insert—

150ATA Parties to a proceeding for review

The parties to a proceeding for a review under section 150AT are—

- (a) the assessor; and
- (b) the councillor; and

[s 66]

- (c) any other person mentioned in the QCAT Act, section 40(1), other than the conduct tribunal.

150ATB Assessor must help QCAT

- (1) In a proceeding for a review under section 150AT—
 - (a) the QCAT Act, section 21 does not apply in relation to the conduct tribunal for the proceeding; and
 - (b) the assessor must use the assessor's best endeavours to help QCAT so that it can make its decision on the review.
- (2) Without limiting subsection (1)(b), the assessor must provide the following to QCAT and the councillor within a reasonable period of not more than 28 days after the application is made under section 150AT—
 - (a) the notice about the decision given to the assessor under section 150AS;
 - (b) any document or thing in the assessor's possession or control that may be relevant to QCAT's review of the decision.
- (3) If QCAT considers there are additional documents or things in the assessor's possession or control that may be relevant to QCAT's review of the decision, QCAT may, by written notice, require the assessor to provide the documents or things.
- (4) The assessor must comply with a notice given under subsection (3) within the period stated in the notice.
- (5) A requirement under this section that the assessor give QCAT information or a document or other thing applies despite any provision in an Act

prohibiting or restricting the disclosure of the information or the information contained in the document or thing.

Notes—

- 1 Under the QCAT Act, section 66, QCAT may make an order prohibiting the publication of the information, or the information contained in the document or thing, other than in the way and to the persons stated in the order.
- 2 Under the QCAT Act, section 90(2), QCAT may direct a hearing, or a part of a hearing, in which the information, or information contained in the document or thing, is disclosed to be held in private.

67 Insertion of new ch 5A, pt 3, div 8

After section 150AW—

insert—

Division 8 Vexatious complainants

150AWA Vexatious complainants

- (1) The assessor may declare that a person is a vexatious complainant for the period, of not more than 4 years, stated in the declaration.
- (2) The assessor may make the declaration in relation to a person only if the assessor is satisfied that—
 - (a) the person has repeatedly made complaints under this chapter; and
 - (b) at least 3 of the complaints made by the person—
 - (i) have been dismissed by the assessor as being frivolous or vexatious complaints under section 150SD(3)(b) or 150X; or
 - (ii) have been made other than in good faith.

[s 67]

- (3) Before making the declaration, the assessor must—
 - (a) give the person a reasonable opportunity to make a submission about the proposed declaration; and
 - (b) consider any submission made by the person.
- (4) If the assessor decides to make the declaration, the assessor must give the person an information notice about the decision.
- (5) The assessor may publish a notice, in the way the assessor considers appropriate, that states—
 - (a) the name of the person; and
 - (b) the person has been declared a vexatious complainant; and
 - (c) the reasons for the declaration; and
 - (d) the day the declaration ends.
- (6) For subsection (2)(b)(ii), complaints made other than in good faith include, for example, the following—
 - (a) complaints made for a mischievous purpose or made maliciously;
 - (b) complaints that are an abuse of process for making complaints under this chapter;
Example—
making a complaint after an avoidable delay for a mischievous purpose
 - (c) complaints made to harass, annoy or cause detriment;
 - (d) complaints made on grounds that lack substance or credibility.
- (7) In this section—
make, a complaint to the assessor, means—

- (a) make a complaint to the assessor under section 150O; or
- (b) make a complaint to a government entity that is required, under section 150P, to refer the complaint to the assessor.

150AWB Declaration may be varied or revoked

- (1) The assessor may, for a declaration in effect under section 150AWA, shorten the period for which the declaration is in effect or revoke the declaration.
- (2) Also, a person the subject of a declaration under section 150AWA may apply to the assessor to shorten the period for which the declaration is in effect or revoke the declaration.
- (3) As soon as practicable after receiving the application, the assessor must—
 - (a) decide the application; and
 - (b) give the person a notice stating the decision and the reasons for the decision.
- (4) If the assessor decides to refuse the application, the notice must be an information notice about the decision.

150AWC Application for permission to make a complaint

- (1) A person the subject of a declaration under section 150AWA may apply to the assessor for permission to make a complaint.
- (2) As soon as practicable after receiving the application, the assessor must—
 - (a) decide the application; and

[s 68]

- (b) give the person a notice stating the decision and the reasons for the decision.
- (3) If the assessor decides to refuse the application, the notice must be an information notice about the decision.

68 Omission of ch 5A, pt 4, div 7 (Review)

Chapter 5A, part 4, division 7—

omit.

69 Insertion of new ch 5A, pt 4A

Chapter 5A—

insert—

Part 4A Review

Division 1 Preliminary

150COA Definitions for part

In this part—

affected person, in relation to a decision, means, a person who is given, or is entitled to be given, an information notice under section 150AWA, 150AWB, 150AWC or 150CC.

applicant, for a review decision, see section 150CR(1).

internal review, of an original decision, see section 150CO.

original decision means a decision made under section 150AWA, 150AWB, 150AWC or 150CC.

review decision, of an original decision, see

section 150CQ(2).

Division 2 Internal review

150CO Who may apply for review

An affected person for an original decision may apply to the assessor for a review (an *internal review*) of the decision.

150CP Application for review

- (1) The application must—
 - (a) be made within 30 days after—
 - (i) if the affected person is given an information notice about the decision—the person is given the information notice; or
 - (ii) otherwise—the affected person otherwise becomes aware of the decision; and
 - (b) be in writing; and
 - (c) be supported by enough information to enable the assessor to decide the application.
- (2) The assessor may extend the time for making the application if, within the 30-day period applying under subsection (1), the affected person asks the assessor to extend the time.

150CQ Review decision

- (1) Unless the assessor made the original decision personally, the assessor must ensure the application is not dealt with by—

[s 69]

- (a) the person who made the original decision; or
 - (b) a person in a less senior office in the Office of the Independent Assessor than the person who made the original decision.
- (2) Within 90 days after the application is made, the assessor must review the original decision and make a decision (the *review decision*)—
 - (a) confirming the original decision; or
 - (b) amending the original decision; or
 - (c) substituting another decision for the original decision.
- (3) The assessor must make the review decision on the material that led to the original decision and any other material the assessor considers relevant.
- (4) The assessor must, as soon as practicable after making the review decision, give the affected person notice of the review decision.
- (5) If the review decision is not the decision sought by the affected person, the notice must be a QCAT information notice.

Division 3 External review

150CR External review by QCAT

- (1) This section applies in relation to a person (the *applicant*) who is given, or is entitled to be given, a QCAT information notice for a review decision.
- (2) If the applicant is dissatisfied with a review decision made by the assessor, the applicant may apply, as provided under the QCAT Act, to QCAT for a review of the review decision.

150CS No power to stay review decision

If an applicant applies to QCAT for a review of a review decision, QCAT may not—

- (a) stay the operation of the review decision; or
- (b) grant an injunction in the proceeding for the review.

70 Amendment of s 150CU (Functions)

- (1) Section 150CU(1)(a), from ‘investigate’ to ‘inappropriate conduct’—

omit, insert—

assess, investigate and deal with the conduct of councillors if it is alleged or suspected to be a conduct breach

- (2) Section 150CU(1)(b), from ‘advice, training’ to ‘inappropriate conduct’—

omit, insert—

advice and information to councillors, local government employees and other persons about dealing with alleged or suspected conduct breaches

- (3) Section 150CU(1)(d), before ‘investigate’—

insert—

assess or

71 Amendment of s 150DB (Conflict of interest)

Section 150DB(1), from ‘impartial’ to ‘into’—

omit, insert—

impartial preliminary assessment of, or investigation into,

[s 72]

72 Amendment of s 150DC (Vacancy of office)

Section 150DC(c), from ‘for’—

omit, insert—

because the person—

- (i) is mentally or physically incapable of satisfactorily performing the assessor’s functions; or
- (ii) has performed the assessor’s functions incompetently or inefficiently; or

73 Amendment of s 150DE (Assessor not subject to outside direction)

(1) Section 150DE(a), ‘an’—

omit, insert—

a preliminary assessment or

(2) Section 150DE(b), after ‘to’—

insert—

preliminary assessments or

74 Amendment of s 150DL (Functions)

(1) Section 150DL, heading—

omit, insert—

150DL Conduct tribunal’s functions

(2) Section 150DL(1)(a)—

omit, insert—

- (a) to hear and decide an application made by the assessor under chapter 5A, part 3, division 6; and

(3) Section 150DL(2)—

omit.

- (4) Section 150DL(3)—
renumber as section 150DL(2).

75 Omission of s 150DLA (Referral of alleged misconduct to assessor)

Section 150DLA—
omit.

76 Amendment of s 150DM (Membership of conduct tribunal)

- (1) Section 150DM—
insert—
(aa) the deputy president; and
- (2) Section 150DM(aa) and (b)—
renumber as section 150DM(b) and (c).

77 Insertion of new s 150DMA

After section 150DM—
insert—

150DMA President's functions

The functions of the president include—

- (a) managing the business of the conduct tribunal to ensure it operates efficiently; and
- (b) selecting members to constitute the conduct tribunal for an application under part 3, division 6; and
- (c) issuing practice directions under section 150DV; and
- (d) managing the members of the tribunal including by—

[s 78]

- (i) ensuring members are adequately and appropriately trained to enable the conduct tribunal to perform its functions effectively and efficiently; and
- (ii) for hearing a matter in which more than 1 member constitutes the conduct tribunal, regardless of whether the tribunal is constituted by the president—selecting 1 of the members to be the chairperson of the tribunal for the matter.

78 Amendment of s 150DN (Appointment of president and casual members)

- (1) Section 150DN, heading, after ‘president’—

insert—

, deputy president

- (2) Section 150DN(1) and (2)—

omit, insert—

- (1) The Governor in Council may appoint—
 - (a) a person to be the president of the conduct tribunal; and
 - (b) a person to be the deputy president of the conduct tribunal; and
 - (c) the number of persons the Governor in Council considers appropriate to be casual members of the conduct tribunal.
- (2) The president, deputy president and members of the conduct tribunal are appointed under this Act and not the *Public Sector Act 2022*.

79 Amendment of s 150DR (Vacancy of office)

Section 150DR(c), from ‘for misbehaviour’—

omit, insert—

because the person—

- (i) is mentally or physically incapable of satisfactorily performing the member’s functions; or
- (ii) has performed the member’s functions carelessly, incompetently or inefficiently; or
- (iii) has engaged in conduct that would result in dismissal from the public service if the member were a public service officer; or

80 Amendment of s 150DS (Acting president)

(1) Section 150DS(1), from ‘Minister’ to ‘president’—

omit, insert—

deputy president may act as the president for a period of not more than 6 months

(2) Section 150DS(2)—

omit, insert—

- (2) The Minister may appoint a casual member to act as the president for no more than 3 months in a 12-month period if—
 - (a) the office of deputy president is vacant; or
 - (b) the deputy president is absent or can not perform the duties of the office because of a conflict of interest or for any other reason.

81 Amendment of s 150DT (Conflict of interest)

(1) Section 150DT(1), ‘or investigation of’—

omit.

[s 82]

(2) Section 150DT(4)—

omit, insert—

(4) If both the president and deputy president give the Minister a notice about a conflict of interest in relation to a matter, the Minister must nominate a casual member to act as the president in relation to the matter.

82 Amendment of s 150DU (Costs of conduct tribunal to be met by local government)

(1) Section 150DU(1)—

omit, insert—

(1) A local government must pay the costs of the conduct tribunal for a hearing under part 3, division 6 about the misconduct or conduct breach of a councillor.

(2) Section 150DU(2), from ‘hearing’—

omit, insert—

hearing.

83 Amendment of s 150DX (Local governments to keep and publish register)

(1) Section 150DX(1)(a), after ‘councillors’—

insert—

, including the chairperson,

(2) Section 150DX(1)—

insert—

(aa) decisions not to start, or to discontinue, investigations of suspected conduct breaches of councillors under section 150AEA;

-
- (3) Section 150DX(1)(b), ‘inappropriate conduct’—
omit, insert—
conduct breaches
 - (4) Section 150DX(1)(c), ‘inappropriate conduct’—
omit, insert—
a conduct breach
 - (5) Section 150DX(1)(d) and (e)—
omit.
 - (6) Section 150DX(1)(aa) to (c)—
renumber as section 150DX(1)(b) to (d).

84 Amendment of s 150DY (Content of register—decisions)

- (1) Section 150DY(1)—
insert—
 - (aa) a decision by the local government to make an order against the chairperson under section 150IA for unsuitable meeting conduct;
- (2) Section 150DY(1)(b), ‘inappropriate conduct’—
omit, insert—
conduct breach
- (3) Section 150DY(1)—
insert—
 - (ba) a decision by the local government under section 150AEA not to start, or to discontinue, an investigation of a matter the subject of a referral notice;
- (4) Section 150DY(1)(c), ‘inappropriate conduct’—
omit, insert—

[s 85]

conduct breach

(5) Section 150DY(1)(d)—

omit.

(6) Section 150DY(1)(aa) to (c)—

renumber as section 150DY(1)(b) to (e).

(7) Section 150DY(2), note—

omit, insert—

Note—

See section 150AS(2)(b) and (4) for the conduct tribunal's obligation to give the local government a notice about a decision of the conduct tribunal.

(8) Section 150DY(3)(a), 'inappropriate conduct'—

omit, insert—

a conduct breach

(9) Section 150DY(4)—

omit insert—

(4) A summary of the decision included in the register must not include the name of any person, or information that could reasonably be expected to result in identifying a person, other than the name of the councillor under subsection (2)(b) and (3).

85 Omission of s 150DZ (Content of register—dismissed complaints)

Section 150DZ—

omit.

86 Amendment of s 150EB (Annual report)

Section 150EB(2)(a)(ii) to (vii)—

omit, insert—

- (ii) decisions under section 150SD or 150W in relation to preliminary assessments or investigations;
- (iii) investigations conducted by the office;
- (iv) requests for further information under section 150SC that have not been complied with;
- (v) decisions not to start, or to discontinue, investigations under section 150AEA;
- (vi) decisions under section 150AG in relation to suspected conduct breaches;
- (vii) matters relating to suspected conduct breaches of councillors for which a decision has not yet been made under section 150AG, other than matters mentioned in subparagraph (v);
- (viii) suspected corrupt conduct notified by the assessor to the Crime and Corruption Commission;
- (ix) decisions about whether councillors engaged in misconduct or conduct breaches made by the conduct tribunal;
- (x) decisions made under sections 150AWA, 150AWB and 150AWC; and

87 Amendment of s 150EF (Personal interests in ordinary business matters of a local government)

(1) Section 150EF(1)(c)—

omit, insert—

- (c) is solely, or relates solely to, the preparation, adoption or amendment of a budget for the local government; or
- (ca) is solely, or relates solely to, preparing, adopting or amending a document

[s 87]

prescribed by regulation that the local government is required to prepare or adopt under a Local Government Act; or

(cb) is solely, or relates solely to—

(i) the making of a donation to a religious, charitable or non-profit institution or organisation, unless a councillor, or close associate or related party of a councillor, receives a benefit because of the donation that is more than merely a benefit relating to reputation; or

(ii) a councillor representing the local government in an official capacity at an event held by a government agency or an entity that is wholly owned by the local government; or

(cc) is solely, or relates solely to, employment-related or upgraded travel or accommodation undertaken or used by a councillor, or close associate or related party of a councillor; or

(2) Section 150EF(1)(ca) to (d)—

renumber as section 150EF(1)(d) to (g).

(3) Section 150EF—

insert—

(4) In this section—

government agency means—

(a) the State, a government entity or another local government; or

(b) another Australian government or an entity of another Australian government; or

(c) a local government of another State.

-
- (4) Section 150EF(2A) to (4)—
renumber as section 150EF(3) to (5).

88 Amendment of s 150EH (When councillor has *prescribed conflict of interest*—sponsored travel or accommodation benefits)

Section 150EH(2), definition *employment-related or upgraded*—
omit.

89 Amendment of s 150EJ (Who is a *close associate* of a councillor)

Section 150EJ(2)—
omit, insert—

- (2) However, the person is a close associate of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the person's involvement in the matter.

90 Amendment of s 150EO (Interests that are not declarable conflicts of interest)

Section 150EO(1)—
insert—

- (g) the conflict of interest arises solely because—
- (i) the councillor is, or has been, a member of a group of candidates for an election or a previous election with another councillor; or
 - (ii) the same political party endorsed the candidature of the councillor and another councillor for an election or a previous election; or

[s 91]

(iii) the councillor has been elected or appointed at the same time, or has held office during the same period, as another councillor.

91 Amendment of s 150EP (Who is a *related party* of a councillor)

Section 150EP(2)—

omit, insert—

(2) However, the person is a related party of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the person's involvement in the matter.

92 Insertion of new s 150EPA

After section 150EP—

insert—

150EPA Councillor must not participate in decisions unless authorised

If a councillor has a declarable conflict of interest in a matter, the councillor must not participate in a decision relating to the matter unless the councillor participates in the decision—

- (a) in compliance with a decision made under section 150ES; or
- (b) under an approval given under section 150EV.

Note—

Contravention of this section is misconduct that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(iii). Also, this section is a relevant integrity provision for the offence against section 201D—see section 201D(2), definition *relevant integrity provision*.

93 Amendment of s 150EQ (Obligation of councillor with declarable conflict of interest)

(1) Section 150EQ(2), from ‘councillor—’—

omit, insert—

councillor must immediately inform the meeting of the declarable conflict of interest, including the particulars stated in subsection (4).

(2) Section 150EQ(3)(a)—

omit.

(3) Section 150EQ(3)(b) and (c)—

renumber as section 150EQ(3)(a) and (b).

(4) Section 150EQ(5)—

omit.

94 Amendment of s 150EU (Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest)

(1) Section 150EU(2)(c), after ‘to the matter’—

insert—

unless this Act or another Act provides that the local government must decide the matter

(2) Section 150EU(4), ‘150EQ(2)(a) or (3)(a)’—

omit, insert—

150EPA

95 Amendment of s 150EW (Duty to report another councillor’s prescribed conflict of interest or declarable conflict of interest)

(1) Section 150EW(1)(b), ‘150EQ(2)(a) or (3)(a)’—

omit, insert—

[s 96]

150EPA

(2) Section 150EW—

insert—

- (4) If the belief or suspicion relates to more than 1 councillor, subsections (2) and (3) must be complied with in relation to each councillor separately.

96 **Amendment of s 150EX (Obligation of councillor if conflict of interest reported under s 150EW)**

(1) Section 150EX—

insert—

- (2A) If subsection (2) must be complied with in relation to a belief or suspicion about more than 1 councillor, a decision under subsection (2)(b) must be made in relation to each councillor separately.

(2) Section 150EX(2A) to (4)—

renumber as section 150EX(3) to (5).

97 **Insertion of new s 169A**

After section 169—

insert—

169A Councillor training

- (1) A councillor must complete approved councillor training about the responsibilities of councillors under section 12.
- (2) The training must be completed by the councillor—
- (a) within the period prescribed by regulation;
or

- (b) if the department's chief executive extends the period for the councillor—within the extended period.
- (3) The department's chief executive may extend the period under subsection (2)(b) only if the department's chief executive is satisfied it would be appropriate in the circumstances.

Example of when an extension may be appropriate in the circumstances—

the councillor is unable to complete the training due to unavoidable absence

- (4) The department's chief executive must publish a notice about the approved councillor training on the department's website within the period prescribed by regulation.
- (5) Also, the department's chief executive must give a notice about the approved councillor training—
 - (a) to each local government and each councillor of the local government within the period prescribed by regulation; and
 - (b) if a councillor is appointed or elected to fill a vacancy in the office of another councillor—to the local government and the councillor within 20 business days after the councillor is appointed or elected.
- (6) A notice under subsections (4) and (5) must state the following—
 - (a) a description of the approved councillor training;
 - (b) the requirements for successful completion of the training;
 - (c) for a notice given under subsection (5)—when the training must be completed by the councillor.
- (7) A regulation may prescribe requirements for the

[s 98]

training required under this section, including—

- (a) the format of the training; and
- (b) requirements about how the training may be successfully completed.

(8) In this section—

approved councillor training means training that—

- (a) meets the requirements prescribed by regulation under subsection (7); and
- (b) is approved by the department's chief executive.

98 Amendment of s 170 (Giving directions to local government staff)

(1) Section 170(3), note—

omit.

(2) Section 170—

insert—

(3A) The mayor or another councillor must not give a direction in contravention of subsection (2) or (3).

Note—

Contravention of this subsection is misconduct that could result in disciplinary action being taken against the councillor. See sections 150L(1)(c)(iii), 150AQ and 150AR.

(3) Section 170(3A) and (4)—

renumber as section 170(4) and (5).

99 Amendment of s 201D (Dishonest conduct of councillor or councillor advisor)

(1) Section 201D(2), definition *relevant integrity provision*, paragraph (a)—

insert—

(iia) section 150EPA;

(2) Section 201D(2), definition *relevant integrity provision*, paragraph (a)(iia) to (viii)—

renumber as paragraph (a)(iii) to (ix).

100 Amendment of s 239 (Substituted service)

Section 239(3)(a) and (b)—

omit, insert—

- (a) publishing a notice that contains a copy of the document on the local government's website; or
- (b) publishing a notice that contains a summary of the document in—
 - (i) a newspaper that is circulating generally throughout the State; and
 - (ii) the gazette.

101 Amendment of s 257 (Delegation of local government powers)

Section 257(2), from 'about a' to '150AG'—

omit, insert—

about an investigation or a councillor's conduct under section 150AEA or 150AG

102 Insertion of new ch 9, pt 18

Chapter 9—

insert—

Part 18

Transitional provisions for Local Government (Councillor Conduct) and Other Legislation Amendment Act 2023

343 Definitions for part

In this part—

amending Act means the *Local Government (Councillor Conduct) and Other Legislation Amendment Act 2023*.

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

former councillor means a person mentioned in former section 150M.

new, for a provision of this Act, means the provision as in force from the commencement.

344 Part does not apply to particular conduct

This part does not apply in relation to conduct engaged in by a councillor if section 322 applies in relation to the conduct.

345 Continued application of former definitions *inappropriate conduct* and *misconduct* for chapter 5A

- (1) This section applies in relation to conduct engaged in by a councillor before the commencement.
- (2) In deciding how to deal with the conduct under chapter 5A, the assessor, a local government official, the local government and the conduct

tribunal must apply—

- (a) the definition of inappropriate conduct under former section 150K, including in relation to new chapter 5A, as if a reference to a conduct breach were a reference to inappropriate conduct under that section; and
- (b) the definition of misconduct as defined under former section 150L.

346 Existing investigations by assessor

- (1) This section applies if—
 - (a) before the commencement—
 - (i) the assessor was required to investigate the conduct of a councillor the subject of a complaint, notice or information under former section 150T(1)(a), (b) or (c); or
 - (ii) the assessor was required to investigate the conduct of a councillor that was not suspected corrupt conduct under former section 150T(1)(e); or
 - (iii) the assessor, on the assessor's own initiative, has or could have investigated the conduct of a councillor under former section 150U; and
 - (b) immediately before the commencement, the assessor had not made a decision about the conduct under former section 150W.
- (2) On the commencement—
 - (a) if an investigation had not started before the commencement—the assessor is not required to start the investigation under former chapter 5A, part 3, division 4; and

[s 102]

- (b) if an investigation had been started before the commencement—the investigation is taken never to have been started; and
 - (c) the assessor must make a preliminary assessment of the matter under new chapter 5A, part 3, division 3A or section 150SF as if it were a matter mentioned in section 150SA.
- (3) In making the preliminary assessment or conducting any further investigation of the matter—
- (a) new chapter 5A, part 3, division 3A applies, other than new sections 150SB and 150SD(2)(b) and (3)(d); and
 - (b) the assessor may consider information obtained by the assessor during any investigation of the councillor’s conduct before the commencement.

347 Existing investigations by a local government

- (1) This section applies if—
- (a) before the commencement, the assessor had given a local government a referral notice about a councillor’s conduct under former section 150AC; and
 - (b) immediately before the commencement, the local government had not made a decision about the conduct the subject of the notice under former section 150AG.
- (2) The local government must continue to investigate and make a decision in relation to the conduct under former chapter 5A, part 3, division 5.
- (3) However—

- (a) new section 150AEA applies in relation to the investigation about the conduct; and
 - (b) new section 150AF(3)(a) applies in relation to information obtained in investigating the conduct; and
 - (c) new section 150AH(1)(b)(i) applies in relation to the order the local government may make about the conduct under section 150AH; and
 - (d) new section 150AHA applies in relation to a decision mentioned in that section relating to the investigation.
- (4) Also, if, before a decision about the conduct is made under section 150AG, an investigation policy is adopted by the local government in compliance with new section 150AE, the local government must, from the day the policy is adopted—
- (a) comply with the investigation policy in investigating and making a decision about the conduct under new chapter 5A, part 3, division 5; and
 - (b) comply with new section 150AFA in relation to an investigation report about the conduct; and
 - (c) if an investigation report is prepared under new section 150AFA—comply with new section 150AGA in relation to the investigation report.
- (5) On and from the commencement, the local government must not start, or must discontinue, an investigation of conduct under former chapter 5A, part 3, division 5 if—
- (a) the councillor was a former councillor when the conduct was referred to the local government; or

[s 102]

- (b) the conduct relates solely to behaviour engaged in by the councillor in a personal capacity.
- (6) If subsection (5) applies, the local government must, as soon as practicable after the commencement, give a notice to the following advising that the investigation has not been started or has been discontinued—
 - (a) the assessor;
 - (b) the councillor or former councillor who engaged in the conduct;
 - (c) if the conduct is the subject of a complaint—the person who made the complaint, if the local government has the person’s contact details.

348 Existing investigations by the conduct tribunal

- (1) This section applies if—
 - (a) before the commencement, the conduct tribunal started an investigation of the conduct of a councillor at the request of a local government as mentioned in section 150DL(1)(a)(i); and
 - (b) immediately before the commencement, the conduct tribunal had not—
 - (i) completed the investigation; or
 - (ii) referred the conduct to the assessor under former section 150DLA.
- (2) Former sections 150DL, 150DLA and 150DU continue to apply in relation to the investigation as if the amending Act had not been enacted.
- (3) However, if section 150DLA applies—
 - (a) despite former section 150DLA(2), the conduct tribunal must refer the conduct to

the assessor for a preliminary assessment under part 3, division 3A; and

- (b) new chapter 5A, part 3 applies in relation to the conduct as if the referral were information given to the assessor about the conduct of the councillor mentioned in new section 150SA(c).

349 Existing referrals by conduct tribunal if investigation not started

- (1) This section applies if—
 - (a) before the commencement, the conduct tribunal had referred alleged conduct of a councillor to the assessor under former section 150DLA; and
 - (b) immediately before the commencement, the assessor had not started an investigation of the councillor's conduct under former chapter 5A, part 3, division 4.
- (2) On the commencement, the assessor must make a preliminary assessment of the referral under new chapter 5A, part 3, division 3A as if the referral were information given to the assessor about the conduct of the councillor mentioned in new section 150SA(c).
- (3) In making the preliminary assessment or conducting any further investigation of the matter the subject of the referral—
 - (a) new chapter 5A, part 3, division 3A applies, other than new sections 150SB and 150SD(2)(b) and (3)(d); and
 - (b) the assessor may consider any information obtained by the conduct tribunal during the investigation of the councillor's conduct before the commencement.

350 Particular conduct tribunal applications to be withdrawn

- (1) This section applies if—
 - (a) before the commencement, the assessor had applied to the conduct tribunal in relation to conduct engaged in by a councillor, including a former councillor, under former section 150AJ; and
 - (b) immediately before the commencement, the conduct tribunal had not made a decision under section 150AQ; and
 - (c) 1 or more of the following circumstances applies—
 - (i) the councillor was a former councillor when the application was made;
 - (ii) after the commencement, the office of the councillor is vacated;
 - (iii) the conduct relates solely to behaviour engaged in by the councillor in a personal capacity, unless the conduct is suspected corrupt conduct;
 - (iv) the conduct relates solely to a contravention of the acceptable requests guidelines mentioned in former section 150L(1)(c)(ii);
 - (v) the councillor or person was the chairperson of a local government meeting and the councillor's conduct relates solely to the councillor performing the role of chairperson at the meeting;
 - (vi) the conduct relates to a conflict of interest matter mentioned in new section 150EF(1)(c), (d), (e) or (f) or 150EO(1)(g) or the *City of Brisbane*

Act 2010, new section 177C(1)(c), (d), (e) or (f) or 177L(1)(g);

(vii) the conduct relates to a conflict of interest matter that involves a close associate of the councillor who, because of the commencement of the amending Act, section 11 or 89, stopped being a close associate;

(viii) the conduct relates to a conflict of interest matter that involves a related party of the councillor who, because of the commencement of the amending Act, section 13 or 91, stopped being a related party.

- (2) The assessor must, before the application is decided, withdraw—
- (a) if a circumstance mentioned in subsection (1)(c)(i), (ii) or (iv) applies—the application; or
 - (b) otherwise—the part of the application relating to the circumstance.
- (3) If the application, or part of the application, is withdrawn under subsection (2), the assessor must, as soon as practicable—
- (a) give a notice to the conduct tribunal advising of the withdrawal; and
 - (b) give a copy of the notice to—
 - (i) if the application relates to conduct the subject of a complaint—the person who made the complaint, if the assessor has the person’s contact details; and
 - (ii) the councillor or former councillor; and
 - (iii) the local government.

[s 102]

351 Preliminary assessments for particular former councillors

- (1) This section applies if—
 - (a) before the commencement—
 - (i) the assessor, a local government or the conduct tribunal had started an investigation of the conduct of a former councillor; or
 - (ii) the assessor had made an application under former section 150AJ in relation to the conduct of a former councillor; and
 - (b) on or after the commencement, the investigation is discontinued under section 347(5) or the referral is withdrawn under section 350(1)(c)(i) and (2); and
 - (c) within 12 months after the commencement the former councillor is elected or appointed as a councillor for a new term of office.
- (2) The assessor must make a preliminary assessment under new chapter 5A, part 3, division 3A of the matter as if it were information given to the assessor about the conduct of the councillor mentioned in new section 150SA(c).
- (3) New chapter 5A applies in relation to the conduct as if the complaint, notice or information were made or given to the assessor on the day the new term of office starts.

352 References to inappropriate conduct

Subject to this part, a reference in an Act or document to inappropriate conduct may, if the context permits, be taken to be a reference to a conduct breach.

353 Declarations about persons who made complaints before commencement

- (1) For a declaration under new section 150AWA that a person is a vexatious complainant, the assessor may, for section 150AWA(2)(b), consider a complaint made by the person before the commencement.
- (2) However, a declaration can not be made for a person solely in relation to complaints made by the person before the commencement.

354 Review by QCAT of particular decisions made by the conduct tribunal

New sections 150ATA and 150ATB apply in relation to an application for review of a decision made after the commencement, whether the decision the subject of the review is made before or after the commencement.

103 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definition *inappropriate conduct*—
omit.
- (2) Schedule 4—
insert—

affected person, for chapter 5A, part 4A, see section 150COA.

applicant, for chapter 5A, part 4A, see section 150CR(1).

conduct breach, for chapter 5A, see section 150K.

deputy president, of the conduct tribunal, means the person appointed as the deputy president of the conduct tribunal under section 150DN(2).

[s 103]

employment-related or upgraded travel or accommodation, for a person, means—

- (a) travel or accommodation paid for by the State or a local government; or
- (b) travel or accommodation paid for by LGAQ Ltd for the purpose of a councillor attending a meeting of the policy executive established under the constitution of LGAQ Ltd; or
- (c) travel or accommodation that is—
 - (i) undertaken or used by the person in the course of the person’s employment; and
 - (ii) is contributed to, whether financially or non-financially, by the person’s employer; or
- (d) if the person is a director of a corporation—travel or accommodation that is—
 - (i) undertaken or used by the person in the course of carrying out the person’s duties as a director; and
 - (ii) is contributed to, whether financially or non-financially, by the corporation; or
- (e) if the travel is airline travel—an upgrade to the travel given by the provider of the travel for no charge; or

Example—

a free air travel upgrade to business class

- (f) an upgrade to the accommodation given by the provider of the accommodation for no charge.

Example—

a free accommodation upgrade to a larger room

internal review, for chapter 5A, part 4A, see section 150CO.

investigation report, for chapter 5A, see section 150C.

LGAQ Ltd means the Local Government Association of Queensland Ltd ABN 11 010 883 293.

local government official, for chapter 5A, see section 150C.

original decision, for chapter 5A, part 4A, see section 150COA.

publicly available means available for inspection by the public at a local government's public office and on its website.

review decision, for chapter 5A, part 4A, see section 150CQ(2).

- (3) Schedule 4, definition *casual member*, '150DN(2)'—
omit, insert—

150DN(1)(c)

Part 5 Amendment of Local Government Regulation 2012

104 Regulation amended

This part amends the *Local Government Regulation 2012*.

105 Amendment of s 186 (Councillors)

- (1) Section 186(1)(d)—

insert—

(ia) orders made under section 150IA(2)(b) of the Act;

[s 105]

- (2) Section 186(1)(d)(ia) to (iii)—
renumber as section 186(1)(d)(ii) to (iv).
- (3) Section 186(1)(e)(ii) and (f)(viii), ‘inappropriate conduct’—
omit, insert—
conduct breach
- (4) Section 186(1)(f)(v) and (vi)—
omit.
- (5) Section 186(1)(f)(vii), ‘section 150AF(4)(a)’—
omit, insert—
section 150AF(3)(a)
- (6) Section 186(1)(f)(ix), ‘inappropriate conduct’—
omit, insert—
a conduct breach
- (6A) Section 186(1)(f)(vii) to (ix)—
renumber as section 186(1)(f)(v) to (vii).
- (7) Section 186(1)—
insert—
- (g) the total number of referral notices given to the local government under section 150AC(1) of the Act during the financial year; and
 - (h) for suspected conduct breaches the subject of a referral notice mentioned in paragraph (g)—
 - (i) the total number of suspected conduct breaches; and
 - (ii) the total number of suspected conduct breaches for which an investigation was not started or was discontinued under section 150AEA of the Act; and

-
- (i) the number of decisions made by the local government under section 150AG(1) of the Act during the financial year; and
 - (j) the number of matters not decided by the end of the financial year under section 150AG(1) of the Act; and
 - (k) the average time taken by the local government in making a decision under section 150AG(1) of the Act.
- (8) Section 186(2), definition *councillor*—
omit.

106 Insertion of new s 239C

After section 239B—

insert—

239C When summary of investigation report or investigation report must be made publicly available

- (1) For section 150AFA(3)(b) of the Act, the day and time prescribed is 5p.m. on the next business day after notice of the meeting at which the decision is to be made is given under—
 - (a) for the Brisbane City Council—the *City of Brisbane Regulation 2012*, section 242C; or
 - (b) for another local government—section 254C.
- (2) However, if the agenda for the meeting is made publicly available under section 254D or the *City of Brisbane Regulation 2012*, section 242D before the day and time mentioned in subsection (1), the day and time prescribed is the day and time when the agenda is made publicly available.
- (3) For section 150AGA(1)(a) of the Act, the day and time prescribed is 5p.m. on the tenth day after the

[s 107]

meeting at which the decision is made is held.

- (4) However, if minutes for the meeting are made publicly available under section 254F or the *City of Brisbane Regulation 2012*, section 242F before the day and time mentioned in subsection (3), the day and time prescribed is the day and time when the minutes are made publicly available.

107 Amendment of s 254D (Public availability of agendas)

Section 254D(5), definition *related report*—

omit, insert—

related report, for a local government meeting—

- (a) means a report or other document relating to an item on the agenda for the meeting that is made available to councillors or committee members for the purposes of the meeting; but
- (b) does not include a summary of an investigation report or an investigation report required to be made publicly available under section 150AFA or 150AGA of the Act.

108 Amendment of s 254H (Recording of reasons for particular decisions)

(1) Section 254H—

insert—

- (1A) Also, this section applies if a decision is made at a local government meeting about a conduct breach under section 150AG of the Act that is inconsistent with a recommendation made by the entity who conducted the investigation into the conduct.

(2) Section 254H(1A) to (3)—

renumber as section 254H(2) to (4).

109 Amendment of s 254J (Closed meetings)

Section 254J(3)—

insert—

- (j) an investigation report given to the local government under chapter 5A, part 3, division 5 of the Act.

110 Amendment of sch 8 (Dictionary)

Schedule 8, definition *publicly available*—

omit.

Part 6 Amendment of Local Government Electoral Act 2011

111 Act amended

This part amends the *Local Government Electoral Act 2011*.

112 Amendment of s 34 (Procedure if number of candidates not more than number required)

Section 34(1)(b), from ‘a notice’—

omit, insert—

a notice, in the approved form, that the nominees are taken to have been elected—

- (i) on the electoral commission’s website; and
- (ii) in other ways the returning officer considers appropriate.

[s 113]

113 Amendment of s 45 (Direction that poll be conducted by postal ballot)

Section 45(4)(b), from ‘in a newspaper’—

omit, insert—

on the local government’s website, and in other ways the local government considers appropriate.

113A Amendment of s 126 (Requirement for candidate to operate dedicated account)

Section 126(4), from ‘electoral’ to ‘candidate’—

omit, insert—

the conduct of the candidate’s election campaign, including electoral expenditure incurred by the candidate,

113B Amendment of s 127 (Requirement for group of candidates to operate dedicated account)

Section 127(4), from ‘electoral’ to ‘group’—

omit, insert—

the conduct of the group’s election campaign, including electoral expenditure incurred by the group,

113C Amendment of s 127B (Payment of amount of electoral expenditure by credit card prohibited)

Section 127B(1)(a), from ‘pay’—

omit, insert—

pay any of the following amounts—

- (i) an amount of electoral expenditure incurred by, or with the authority of, a candidate, group of candidates, registered political party or relevant third party;

- (ii) for a person to whom section 126(8) or 127(8) applies—any other amount for the conduct of an election campaign incurred by, or with the authority of, a candidate or group of candidates; or

114 Replacement of s 202 (Local governments responsible for expenditure incurred by electoral commission)

Section 202—

omit, insert—

202 Electoral commission may recover expenditure incurred for conducting elections

- (1) A local government is liable to pay all costs incurred by the electoral commission for conducting an election in the local government's area, including the remuneration, allowances and reasonable expenses paid to members or staff of the electoral commission.
- (2) The electoral commission may decide to recover all or part of the costs mentioned in subsection (1) from the local government.
- (3) If an election is conducted by the electoral commission in 2 or more local government areas using a shared and centrally administered service, the electoral commission may recover the costs incurred from the local governments for the areas collectively.
- (4) The costs recoverable by the electoral commission under this section include costs incurred by the electoral commission in carrying out functions relating to conducting elections generally, including, for example—
 - (a) the remuneration, allowances and reasonable expenses paid to members or staff of the electoral commission; and

[s 115]

- (b) the costs of making appropriate administrative arrangements for the conduct of elections.

Part 7 Amendment of Queen’s Wharf Brisbane Act 2016

115 Act amended

This part amends the *Queen’s Wharf Brisbane Act 2016*.

116 Amendment of s 42 (Interpretation for part)

- (1) Section 42(1), definition *Queen’s Wharf deed*, after ‘section 44(4)’—
 insert—
 or 57D(7)
- (2) Section 42(1), definition *Queen’s Wharf tenure*, after ‘deed’—
 insert—
 issued under section 44(4)

117 Insertion of new ch 5, pt 1, div 4

Chapter 5, part 1—

insert—

Division 4 Conversion of State tenures to State freehold

57A Definitions for division

In this division—

Brisbane Casino lease land means the following land subject to a term lease to The Star

Entertainment Qld Limited ACN 010 741 045, in effect immediately before the commencement—

- (a) Lot 10 on B31753;
- (b) Lots 492 and 682 on CP855445;
- (c) Lot 300 on CP866930;
- (d) Lot 301 on CP866931;
- (e) Lot 11 on CP866932;
- (f) Lot 303 on CP866933;
- (g) Lot 304 on CP866934.

Queen's Park reserve land means Lot 10 on CP866932.

Queen's Wharf precinct lease land means the following land—

- (a) Lots 707 and 223 on SP289469;
- (b) Lot 706 on SP289470;
- (c) Lot 414 on SP312028;
- (d) Lot 228 on SP322273;
- (e) Lot 234 on SP338045.

57B Application of Land Act to division

- (1) This division applies despite—
 - (a) any limitation or requirement under the Land Act, section 16 or 122; or
 - (b) any requirement that would otherwise apply, or right that would exist, under the Land Act in relation to revoking a reserve or ending a lease.
- (2) However, this division does not affect the operation of the Land Act, section 21.

[s 117]

57C Land to be converted

This division applies in relation to the following land—

- (a) Brisbane Casino lease land;
- (b) Queen's Park reserve land;
- (c) Queen's Wharf precinct lease land.

57D Converting to State freehold

- (1) The Governor in Council must, under the Land Act, grant the land in fee simple to the State.
- (2) The land is taken to be unallocated State land for giving effect to subsection (1).
- (3) The grant in fee simple for each part of the land takes effect on registration of the deed of grant for that land in the freehold land register.
- (4) On registration—
 - (a) for Brisbane Casino lease land—
 - (i) the reservation and setting apart of the Treasury Building reserve is revoked; and
 - (ii) the reserve over the land ends; and
 - (iii) all appointments of trustees for the reserve are cancelled; and
 - (b) for Queen's Park reserve land—
 - (i) the reservation and setting apart of the Queen's Park reserve is revoked; and
 - (ii) the reserve over the land ends; and
 - (iii) all appointments of trustees for the reserve are cancelled; and

-
- (c) for Queen's Wharf precinct lease land—the Queen's Wharf headlease ends over that part of the land.
- (5) Any other interests in any part of the land, in effect immediately before registration of the deed of grant, continue in effect, including—
- (a) the term lease over the Brisbane Casino lease land; and
- (b) an entry in the Queensland heritage register that the land is a State heritage place under the *Queensland Heritage Act 1992*.
- (6) If an interest mentioned in subsection (5) was registered immediately before registration of the deed of grant for the land, the deed must be registered subject to the interest, with any necessary modifications required to give effect to this section.
- (7) A deed of grant issued by the Governor in Council in applying this section is also a *Queen's Wharf deed*.
- (8) In this section—
- Queen's Park reserve*** means the reserve over Lot 10 on CP866932, known as Queen's Park or Queen's Gardens, in effect immediately before the commencement.
- Treasury Building reserve*** means the reserve over Lot 492 on CP855445, known as the Treasury Building, in effect immediately before the commencement.

118 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *Queen's Wharf deed*—
omit.
- (2) Schedule 2—

[s 119]

insert—

Brisbane Casino lease land, for chapter 5, part 1, division 4, see section 57A.

Queen's Park reserve land, for chapter 5, part 1, division 4, see section 57A.

Queen's Wharf deed see section 44(4) or 57D(7).

Queen's Wharf precinct lease land, for chapter 5, part 1, division 4, see section 57A.

Part 8 Other amendments

119 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 119

Acquisition of Land Act 1967

1 Schedule 1, part 2, fourth dot point, ‘Moreton Bay Regional Council’—

omit, insert—

Moreton Bay City Council

Animal Management (Cats and Dogs) Act 2008

1 Schedule 2, definition *designated local government*, paragraph (d), fifth dot point, ‘Moreton Bay Regional Council’—

omit, insert—

Moreton Bay City Council

City of Brisbane Act 2010

1 Section 173(3), note, ‘150L(1)(c)(v)’—

omit, insert—

150L(1)(c)(iv)

Schedule 1

2 Section 177H(1), note, ‘150L(1)(c)(v)’—

omit, insert—

150L(1)(c)(iv)

3 Section 177I(3), note, ‘150L(1)(c)(v)’—

omit, insert—

150L(1)(c)(iv)

4 Section 177W(2), note, ‘150L(1)(c)(v)’—

omit, insert—

150L(1)(c)(iv)

5 Section 186E(1), after ‘as a councillor’—

insert—

under this division

6 Section 198A(2), note, ‘150L(1)(c)(v)’—

omit, insert—

150L(1)(c)(iv)

7 Section 198B(2), note, ‘150L(1)(c)(v)’—

omit, insert—

150L(1)(c)(iv)

8 Section 198C, note, ‘150L(1)(c)(v)’—

omit, insert—

150L(1)(c)(iv)

Environmental Protection Act 1994

1 Section 440ZO, definition *low volatility zone*, sixth dot point, 'Moreton Bay Regional Council'—

omit, insert—

Moreton Bay City Council

First Home Owner Grant and Other Home Owner Grants Act 2000

1 Section 25BA(4), definition *SEQ region*, sixth dot point, 'Moreton Bay Regional Council'—

omit, insert—

Moreton Bay City Council

Local Government Act 2009

1 References to inappropriate conduct—

In the following table, each provision mentioned in column 1 is amended by omitting the words mentioned in column 2 and inserting the words mentioned in column 3—

Column 1 Provision	Column 2 Words omitted	Column 3 Words inserted
chapter 5A, part 3, heading	inappropriate conduct	conduct breaches
section 150R(1)	inappropriate conduct	a conduct breach
section 150S(1)(a)	inappropriate conduct	conduct breaches

Schedule 1

Column 1 Provision	Column 2 Words omitted	Column 3 Words inserted
section 150X(a)(ii)	inappropriate conduct	a conduct breach
section 150AB(a)	inappropriate conduct	a conduct breach
section 150AG, heading	inappropriate conduct	conduct breach
section 150AG(1)(a) and (b)	inappropriate conduct	a conduct breach
section 150AG(2)(a)	inappropriate conduct	conduct breach
chapter 5A, part 3, division 6, heading	inappropriate conduct	conduct breach
section 150AI(b)	inappropriate conduct	a conduct breach
section 150AJ(1)(b)	inappropriate conduct	a conduct breach
section 150AJ(2)(b)	inappropriate conduct	conduct breach
section 150AJ(2)(c)(ii)	inappropriate conduct	a conduct breach
section 150AJ(3)	inappropriate conduct	conduct breach
section 150AQ, heading	inappropriate conduct	conduct breach
section 150AQ(1)(b)	inappropriate conduct	a conduct breach

2 Section 124(7), ‘an officer of the public service’—

omit, insert—

a public service officer

3 Section 150R(2), note, ‘150L(1)(c)(iv)’—

omit, insert—

150L(1)(c)(iii)

- 4 Section 150R(4)—**
omit.
- 5 Section 150V(1), ‘or 150U’—**
omit.
- 6 Section 150X(b)(ii), examples, ‘, recklessly’—**
omit.
- 7 Section 150AB(b), ‘150W(1)(b)’—**
omit, insert—
150SD(4)(a) or 150W(b)
- 8 Section 150AN(2)(b), from ‘alleged’—**
omit, insert—
an alleged conduct breach—the conduct breach.
- 9 Section 150AQ(1)(a)(i), from ‘and inappropriate’—**
omit, insert—
and an alleged conduct breach—misconduct or a conduct breach (or both); or
- 10 Section 150AQ(2)(b), from ‘to inappropriate’—**
omit, insert—
to a conduct breach—any previous conduct breach of the councillor; and
- 11 Section 150AV(1)(a)(ii), examples, ‘, recklessly’—**
omit.

- 12 Section 150CW(2)(c), ‘an officer of the public service’—**
omit, insert—
a public service officer
- 13 Section 150EK(1), note, ‘150L(1)(c)(iv)’—**
omit, insert—
150L(1)(c)(iii)
- 14 Section 150EL(3), note, ‘150L(1)(c)(iv)’—**
omit, insert—
150L(1)(c)(iii)
- 15 Section 150EQ(3), note, ‘150L(1)(c)(iv)’—**
omit, insert—
150L(1)(c)(iii)
- 16 Section 150EW(3), note, ‘150L(1)(c)(iv)’—**
omit, insert—
150L(1)(c)(iii)
- 17 Section 150EZ(2), note, ‘150L(1)(c)(iv)’—**
omit, insert—
150L(1)(c)(iii)
- 18 Section 171(3), note, ‘150L(1)(c)(iv)’—**
omit, insert—
150L(1)(c)(iii)
- 19 Section 175N(1), after ‘as a councillor’—**
insert—

under this division

20 Section 201A(2), note, ‘150L(1)(c)(iv)’—

omit, insert—

150L(1)(c)(iii)

21 Section 201B(2), note, ‘150L(1)(c)(iv)’—

omit, insert—

150L(1)(c)(iii)

22 Section 201C, note, ‘150L(1)(c)(iv)’—

omit, insert—

150L(1)(c)(iii)

23 Section 206(2), ‘An officer of the public service’—

omit, insert—

A public service officer

South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

1 Section 5(1)(a), ‘Moreton Bay Regional Council’—

omit, insert—

Moreton Bay City Council

Transport Infrastructure Act 1994

1 Section 283P(1)(b), ‘Moreton Bay Regional Council’—

omit, insert—

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Water Act 2000

1 Section 341(1)(a), sixth dot point, ‘Moreton Bay Regional Council’—

omit, insert—

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