

Queensland



**LOCAL GOVERNMENT
LEGISLATION
AMENDMENT BILL (No. 2)
1993**

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LOCAL GOVERNMENT LEGISLATION AMENDMENT BILL (No. 2) 1993

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**MINOR AND CONSEQUENTIAL AMENDMENTS OF LOCAL
GOVERNMENT (PLANNING AND ENVIRONMENT) ACT 1990**

1993

A BILL

FOR

An Act to amend the City of Brisbane Act 1924, the Local Government Act 1936 and the Local Government (Planning and Environment) Act 1990

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BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

PART 1—PRELIMINARY

Short title

Clause1. This Act may be cited as the *Local Government Legislation Amendment Act (No. 2) 1993*.

Commencement

Clause2. Section 9 commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF CITY OF BRISBANE ACT 1924

Amended Act

Clause3. The *City of Brisbane Act 1924* is amended as set out in this Part.

Insertion of new s.38A

Clause4. After section 38—

insert—

‘Validation of ordinances, acts etc.

‘38A.(1) This section applies to an ordinance if—

- (a) it was made by resolution passed by the Council under section 38(2), and was approved by the Governor in Council under section 38(11), before the commencement of this section;
- but

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- (b) section 38(5) was not complied with. 1
- ‘(2) The ordinance is, and always has been, as valid as it would be, and 2
have been, if section 38(5) had been complied with. 3
- ‘(3) All acts and things done (whether before or after the commencement 4
of this section) in reliance on the ordinance are taken to be, and always to 5
have been, as validly done as they would be, and have been, if section 38(5) 6
had been complied with. 7
- ‘(4) This section expires 1 month after it commences.’. 8

**PART 3—AMENDMENT OF LOCAL GOVERNMENT 9
ACT 1936 10**

Amended Act 11

Clause5. The *Local Government Act 1936* is amended as set out in this Part. 12

Insertion of new s.5AA 13

Clause6. After section 5— 14

insert— 15

**‘Special provision for abolition of divisions for purposes other than of 16
Part 4 17**

‘5AA.(1) In this section— 18

“divisions” means divisions for purposes other than of Part 4. 19

‘(2) A regulation may provide to the effect that on 1 July 1993 the area of 20
a specified local authority ceases to be divided into divisions. 21

‘(3) The regulation may be made only if the local authority has advised 22
the Minister in writing to the effect that it wishes its area to be no longer 23
divided into divisions. 24

‘(4) A regulation may make provision with respect to any matter for 25
which it is necessary or convenient to make provision to facilitate the 26

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transition of the local authority to a local authority whose area is no longer divided into divisions. 1
2

‘(5) A regulation may be made for the purposes of subsection (2) after 3
1 July 1993 if the Governor in Council considers that it is still practicable to 4
abolish the divisions of the local authority concerned on and from 1 July 5
1993. 6

‘(6) This section has effect despite section 7C. 7

‘(7) The provisions of this Act relating to the examination and 8
implementation of reviewable local government matters do not apply to the 9
area of a local authority ceasing, under this section, to be divided into 10
divisions.’. 11

PART 4—AMENDMENT OF LOCAL GOVERNMENT 12 (PLANNING AND ENVIRONMENT) ACT 1990 13

Amended Act 14

Clause 7. This *Local Government (Planning and Environment) Act 1990* is 15
amended as set out in this Part and the Schedule. 16

Insertion of new s.1.5 17

Clause 8. After section 1.4— 18

insert— 19

‘Special provision relating to certain orders in council made under this Act 20 21

‘1.5.(1) This section applies to an order in council made under— 22

(a) section 2.15 (Approval of planning scheme by Governor in 23
Council); or 24

(b) section 2.17 (Consolidated planning scheme); or 25

(c) section 2.18 (Amendment of a planning scheme by Minister or 26

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local authority); or	1
(d) section 2.20 (Approval of planning scheme amendment by Governor in Council); or	2 3
(e) section 2.21 (Planning scheme may include Crown land); or	4
(f) section 2.22 (Interim development control); or	5
(g) section 4.5 (Approval of planning scheme amendment by Governor in Council); or	6 7
(h) section 4.8 (Approval of rezoning of land in stages by Governor in Council); or	8 9
(i) section 4.10 (Approval of subsequent staged rezonings by Governor in Council).	10 11
‘(2) An order in council to which this section applies is not subordinate legislation.	12 13
‘(3) However, the order in council must be notified in the Gazette.	14
‘(4) Subsection (3) is sufficiently complied with if there is published in the Gazette a notice of—	15 16
(a) the making of the order in council; and	17
(b) a place or places where a copy of the order in council is open to inspection; and	18 19
(c) a place or places where a copy of the order in council can be obtained (by purchase or otherwise).	20 21
‘(5) Publication in the Gazette of the order in council is also sufficient compliance with subsection (3).	22 23
‘(6) This section has effect despite section 10(b) of the <i>Statutory Instruments Act 1992</i> .’.	24 25
Amendment of s.1A.2 (Notification, tabling, disallowance etc. of State planning policies)	26 27
Clause 9. Section 1A.2 (at the end)—	28
insert—	29

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‘(2) However, section 40 of the *Statutory Instruments Act 1992* applies to an order in council mentioned in subsection (1) as if the instrument were not an exempt instrument for the purposes of the *Legislative Standards Act 1992*.

‘(3) Subsection (2) has effect despite section 46 of the *Statutory Instruments Act 1992*.’.

Amendment of s.5.6 (Parks)

Clause10. Section 5.6 (at the end)—

insert—

‘(7) If a local authority does not have a local planning policy for the purposes of subsection (2) or (4), the area for the purposes of subsection (2) or the amount for the purposes of subsection (4) is that provided for in—

- (a) the local authority’s planning scheme; or
- (b) if the local authority does not have a planning scheme—a subdivision of land by-law.’.

Replacement of s.8.7 (Delegation of certain powers)

Clause11. Section 8.7—

omit, insert—

‘Delegation

‘8.7. A local authority may, by resolution, delegate its powers under this Act (other than a power that is required to be exercised by resolution) to—

- (a) the person who ordinarily presides at meetings of the Council; or
- (b) an officer or employee of the local authority; or
- (c) a board or committee consisting of some or all of the following—
 - (i) Council members;
 - (ii) officers of the local authority;
 - (iii) employees of the local authority.’.

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Insertion of new ss.8.11 and 8.12	1
<i>Clause</i> 12. After section 8.10—	2
<i>insert—</i>	3
‘Special provision relating to parks	4
‘8.11.(1) Section 5.6(7) of this Act is taken to have had effect from the enactment of the <i>Local Government (Planning and Environment) Amendment Act 1992</i> .	5 6 7
‘(2) Subsection (1) does not apply to the conditions of approval of a subdivision determined by a local authority or by the Court before the commencement of this section if the conditions did not require—	8 9 10
(a) an area of land to be provided for use as a park; or	11
(b) a monetary contribution to be paid to the local authority in substitution for the provision of that area of land.	12 13
‘Special provision relating to tabling of orders in council	14
‘8.12.(1) This section applies to an order in council—	15
(a) to which section 1.5 applies; and	16
(b) that was made by the Governor in Council after the enactment of the <i>Local Government (Planning and Environment) Act 1992</i> but before the commencement of this section.	17 18 19
‘(2) If—	20
(a) the order in council was required by section 43 of the <i>Statutory Instruments Act 1992</i> to be laid before the Legislative Assembly before the commencement of this Act; but	21 22 23
(b) was not laid before the Legislative Assembly as required by the section;	24 25
the order is, and always has been, as valid as it would be, and have been, if the section had been complied with.	26 27
‘(3) All acts and things done (whether before or after the commencement of this section) in reliance on the order in council are taken to be, and always to have been, as validly done as they would be, and have been, if the section	28 29 30

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had been complied with.

1

‘(4) If subsection (2) does not apply to the order in council, it is not required to be laid before the Legislative Assembly.

2

3

‘(5) This section expires 1 year after it commences.’.

4

SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS OF LOCAL GOVERNMENT (PLANNING AND ENVIRONMENT) ACT 1990

section 7

1. Section 1.4 (definition “access”)—

omit ‘, but does not include an access restriction strip’.

2. Section 1.4 (definition “elected representatives”, paragraph (b))—

omit, insert—

‘(b) if the area in which the allotment is situated is not divided into divisions or electoral wards—

(i) all Council members; or

(ii) the Council member or members nominated by the Council’s resolution for the purposes of the provision of this Act in which the term is used;’.

3. Section 1.4 (definition “site contamination report”)—

omit ‘and prepared with respect to a proposal or an application made under section 2.18, 4.3 or 4.6’.

4. Sections 2.15(11), 2.17(6), 2.18(11), 2.20(13), 2.21(5), 2.22(5), 4.5(13), 4.8(14), and 4.10(13)—

omit.

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SCHEDULE (continued)

- | | |
|---|-------|
| 5. Section 5.8(1)— | 1 |
| <i>omit.</i> | 2 |
|
6. Section 5.8(5) (after ‘until any’)— |
3 |
| <i>insert ‘recoverable but unpaid’.</i> | 4 |
|
7. Section 7.4(3)— |
5 |
| <i>omit</i> all words after ‘from the determination’, | 6 |
| <i>insert ‘to the Court of Appeal.’.</i> | 7 |
| | 8 |