

Queensland



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

Act No. 22 of 1993

Queensland



LOCAL GOVERNMENT LEGISLATION AMENDMENT ACT (No. 2) 1993

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

Queensland



**Local Government Legislation Amendment
Act (No. 2) 1993**

Act No. 22 of 1993

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

[Assented to 2 June 1993]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

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

Commencement

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

PART 2—AMENDMENT OF CITY OF BRISBANE ACT 1924

Amended Act

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

Insertion of new s.38A

4. 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

(b) section 38(5) was not complied with.

‘(2) The ordinance is, and always has been, as valid as it would be, and have been, if section 38(5) had been complied with.

‘(3) All acts and things done (whether before or after the commencement of this section) in reliance on the ordinance are taken to be, and always to have been, as validly done as they would be, and have been, if section 38(5) had been complied with.

‘(4) This section expires 1 month after it commences.’.

PART 3—AMENDMENT OF LOCAL GOVERNMENT ACT 1936

Amended Act

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

Insertion of new s.5AA

6. After section 5—

insert—

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

‘5AA.(1) In this section—

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

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

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

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

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

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

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

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

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

Amended Act

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

Insertion of new s.1.5

8. After section 1.4—

insert—

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

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

- (a) section 2.15 (Approval of planning scheme by Governor in Council); or
- (b) section 2.17 (Consolidated planning scheme); or
- (c) section 2.18 (Amendment of a planning scheme by Minister or

local authority); or

- (d) section 2.20 (Approval of planning scheme amendment by Governor in Council); or
- (e) section 2.21 (Planning scheme may include Crown land); or
- (f) section 2.22 (Interim development control); or
- (g) section 4.5 (Approval of planning scheme amendment by Governor in Council); or
- (h) section 4.8 (Approval of rezoning of land in stages by Governor in Council); or
- (i) section 4.10 (Approval of subsequent staged rezonings by Governor in Council).

‘(2) An order in council to which this section applies is not subordinate legislation.

‘(3) However, the order in council must be notified in the Gazette.

‘(4) Subsection (3) is sufficiently complied with if there is published in the Gazette a notice of—

- (a) the making of the order in council; and
- (b) a place or places where a copy of the order in council is open to inspection; and
- (c) a place or places where a copy of the order in council can be obtained (by purchase or otherwise).

‘(5) Publication in the Gazette of the order in council is also sufficient compliance with subsection (3).

‘(6) This section has effect despite section 10(b) of the *Statutory Instruments Act 1992*.’.

Amendment of s.1A.2 (Notification, tabling, disallowance etc. of State planning policies)

9. Section 1A.2 (at the end)—

insert—

‘(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)

10. 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)

11. 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.’

Insertion of new ss.8.11 and 8.12

12. After section 8.10—

insert—

‘Special provision relating to parks

‘8.11.(1) Section 5.6(7) of this Act is taken to have had effect from the enactment of the *Local Government (Planning and Environment) Amendment Act 1992*.

‘(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—

- (a) an area of land to be provided for use as a park; or
- (b) a monetary contribution to be paid to the local authority in substitution for the provision of that area of land.

‘Special provision relating to tabling of orders in council

‘8.12.(1) This section applies to an order in council—

- (a) to which section 1.5 applies; and
- (b) that was made by the Governor in Council after the enactment of the *Local Government (Planning and Environment) Act 1992* but before the commencement of this section.

‘(2) If—

- (a) the order in council was required by section 43 of the *Statutory Instruments Act 1992* to be laid before the Legislative Assembly before the commencement of this Act; but
- (b) was not laid before the Legislative Assembly as required by the section;

the order is, and always has been, as valid as it would be, and have been, if the section had been complied with.

‘(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

had been complied with.

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

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

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—all Council members, other than a member who, for the purposes of the application of this definition to a provision of this Act in which the term is used—

- (i) has given the Council written notice to the effect that the member does not wish to be treated as an elected representative for the purposes of the provision; and
- (ii) has not withdrawn the notice;’.

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.

SCHEDULE (continued)

5. Section 5.8(1)—

omit.

6. Section 5.8(5) (after ‘until any’)—

insert ‘recoverable but unpaid’.

7. Section 7.4(3)—

omit all words after ‘from the determination’,

insert ‘to the Court of Appeal.’.