

Queensland



LOCAL GOVERNMENT AMENDMENT ACT 1996

Act No. 6 of 1996

Queensland



LOCAL GOVERNMENT AMENDMENT ACT 1996

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Queensland



Local Government Amendment Act 1996

Act No. 6 of 1996

An Act to amend the *Local Government Act 1993*

[Assented to 9 May 1996]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Local Government Amendment Act 1996*.

Act amended

2. This Act amends the *Local Government Act 1993*.

Insertion of new ch 3, pt 2A

3. Chapter 3—

insert—

‘PART 2A—REINSTATEMENT OF CERTAIN AREAS***‘Division 1—Preliminary*****‘Purpose of pt 2A**

‘137A.(1) The purpose of this part is to specify a process for the possible reinstatement of certain local government areas and external boundaries affected by the implementation of reviewable local government matters under amalgamation regulations in 1993, 1994 and 1995.

‘(2) The complete process includes—

- petition for a referendum
- referendum
- approval by the Legislative Assembly
- regulation providing for reinstatement, including arrangements for fresh elections.

‘(3) The process also includes the possibility of triennial elections in

1997 for the councillors of the local governments of the cities of Cairns, Gold Coast and Ipswich.

‘Basic concepts—affected areas and amalgamated areas

‘**137B.(1)** The affected area and the amalgamated area are basic concepts for understanding this part.

‘**(2)** There were 7 local government amalgamation regulations over the years 1993, 1994 and 1995, and accordingly there are 7 affected areas.

‘**(3)** In general terms, an affected area is made up of all the areas and parts of areas directly affected by an amalgamation regulation.

‘**(4)** Division 2¹ deals with each affected area in turn, but, again in general terms, each affected area is made up of—

- (a) the local government areas (usually 2) that were abolished and then combined to form a new amalgamated area; and
- (b) in some cases²—parts of other adjoining local government areas that were included in the amalgamated area; and
- (c) in some cases³—a part or parts of the amalgamated area excluded from it and included in an adjoining local government area.

‘**(5)** The amalgamated area is the new local government area formed under the amalgamation regulation.⁴

‘**(6)** The distinction between an affected area and an amalgamated area can be seen in the following—

- a petition is for an entire affected area, and asks for a referendum for the affected area
- if the petition succeeds, a referendum is held on the question of reinstatement for the entire affected area

¹ Division 2 (Specific information about affected areas and amalgamated areas and other important concepts)

² Cairns, Gold Coast, and Ipswich

³ Burnett, Gold Coast and Ipswich

⁴ For Cairns, Cooloola, Mackay and Warwick, the amalgamated areas are identical to the affected areas.

- if the referendum succeeds, a resolution of the Legislative Assembly leads to a reinstatement regulation that effectively reverses the relevant amalgamation regulation
- for Cairns, a second referendum, on the question of the holding of triennial elections in 1997 instead of 2000, is held when the first referendum is held
- for Gold Coast or Ipswich, a second referendum, on the question of the holding of triennial elections in 1997 instead of 2000, is held when the first referendum is held, but only for electors in the amalgamated area, not the wider affected area
- for Cairns, Gold Coast or Ipswich, if the first referendum does not succeed (or, if it does, but the Legislative Assembly does not approve reinstatement), the answer to the question for the second referendum becomes relevant.

‘(7) In division 2, each affected area and amalgamated area is defined more precisely, and some other important concepts for understanding this part are established.

‘Definitions for pt 2A

‘137C. In this part—

“**abolished area**”, for an affected area, means a local government area abolished under the affected area’s amalgamation regulation.⁵

“**affected area**” means the affected Burnett, Cairns, Cooloola, Gold Coast, Ipswich, Mackay or Warwick area.⁶

“**affected Burnett area**” see section 137F(1).

“**affected Cairns area**” see section 137G(1).

“**affected Cooloola area**” see section 137H(1).

“**affected elector**” means—

⁵ See division 2 (Specific information about affected areas and amalgamated areas and other important concepts) for more detail about the abolished areas.

⁶ See division 2 (Specific information about affected areas and amalgamated areas and other important concepts) for more detail about the affected areas.

- (a) for an affected area in relation to a petition for the area—a person who, on 27 March 1996—
 - (i) was an elector under the *Electoral Act 1992* for an electoral district, or part of an electoral district, included in the affected area; and
 - (ii) was enrolled under that Act on an electoral roll for the district or part; or
- (b) for a voting area of an affected area in relation to a referendum for the affected area—a person who, on the referendum roll cut-off day, is an elector under the *Electoral Act 1992* for an electoral district, or part of an electoral district, included in the affected area; or
- (c) for an amalgamated area in relation to a referendum for the amalgamated area—a person who, on the referendum roll cut-off day, is an elector under the *Electoral Act 1992* for an electoral district, or part of an electoral district, included in the amalgamated area.

Example for paragraph (a)—

An affected elector for the affected Gold Coast area in relation to a petition for the area is a person who, on 27 March 1996—

- (a) was an elector under the *Electoral Act 1992* for an electoral district, or part of an electoral district, included in the affected Gold Coast area; and
- (b) was enrolled under that Act on an electoral roll for the district or part.

“affected Gold Coast area” see section 137I(1).

“affected Ipswich area” see section 137J(1).

“affected Mackay area” see section 137K(1).

“affected Warwick area” see section 137L(1).

“amalgamated area” means the amalgamated Burnett, Cairns, Cooloola, Gold Coast, Ipswich, Mackay or Warwick area.⁷

“amalgamated Burnett area” see section 137F(2).

⁷ See division 2 (Specific information about affected areas and amalgamated areas and other important concepts) for more detail about amalgamated areas.

“amalgamated Cairns area” see section 137G(2).

“amalgamated Cooloola area” see section 137H(2).

“amalgamated Gold Coast area” see section 137I(2).

“amalgamated Ipswich area” see section 137J(2).

“amalgamated local government” means a local government whose area was created under an amalgamation regulation.

“amalgamated Mackay area” see section 137K(2).

“amalgamated Warwick area” see section 137L(2).

“amalgamation regulation” means the Burnett, Cairns, Cooloola, Gold Coast, Ipswich, Mackay or Warwick amalgamation regulation.⁸

“appointed person” see section 137ZD(1).

“approve” a referendum question see section 137D(1) to (4).

“approved form of petition page” see division 2.⁹

“boundary affected local government”, means a local government (other than an amalgamated local government) whose external boundaries were changed under an amalgamation regulation.¹⁰

“Burnett amalgamation regulation” see section 137F(4).

“Cairns amalgamation regulation” see section 137G(4).

“changeover day” see division 2.¹¹

“chief executive” means the chief executive of the department.

“Cooloola amalgamation regulation” see section 137H(4).

⁸ See division 2 (Specific information about affected areas and amalgamated areas and other important concepts) for more detail about amalgamation regulations.

⁹ The approved form of petition page for an affected area is identified in the section of division 2 about the affected area.

¹⁰ See division 2 (Specific information about affected areas and amalgamated areas and other important concepts) for more detail about boundary affected local governments.

¹¹ The changeover day for an affected area is identified in the section of division 2 about the affected area.

“early elections regulation” means a regulation made under section 137ZZB.

“electoral arrangements”, for a local government area, means the following—

- (a) the composition of the area’s local government;
- (b) whether the area is divided into divisions;
- (c) if the area is divided into divisions—the boundaries of each division and the assignment of councillors to the divisions.

“electoral arrangements statement” see sections 137ZH.

“explanatory statement” see section 137ZD(1).

“Gold Coast amalgamation regulation” see section 137I(4).

“Ipswich amalgamation regulation” see section 137J(4).

“Mackay amalgamation regulation” see section 137K(4).

“oppose” a referendum question see section 137D(5).

“petition page” means a sheet of paper intended to form part of a petition.

“petition page requirements” see section 137N(6).

“postal address”, for an affected elector, means an address shown in a roll under the *Electoral Act 1992* in addition to the elector’s residential address.

“question”, for a referendum, means the question asked at the referendum.

“referendum” means a referendum under this part for an affected area or amalgamated area.

“referendum action”, for a referendum, means the action necessary or desirable to give effect to the proposal contained in the referendum question.

“referendum day” see section 137V.¹²

“referendum notice”, for a referendum, see section 137W(1).

“referendum roll cut-off day” means 10 May 1996.

¹² See also section 137X for the extension of time.

“reinstated area” see section 137ZW(3)(b).

“reinstatement regulation” see section 137ZV(2).

“returning officer”, for a referendum, means a person appointed under section 137U as the returning officer for the referendum.

“short form electoral arrangements statement” see section 137ZI.

“transition officer” see section 137ZW(3)(h).

“voting areas”, of an affected area, mean the parts into which an affected area is divided for a referendum for the affected area.¹³

“Warwick amalgamation regulation” see section 137L(4).

“Approving” or “opposing” a referendum question

‘137D.(1) A person **“approves”** a referendum question if the person answers the question in the affirmative.

‘(2) A voting area **“approves”** a question for a referendum if the affected electors for the voting area who vote to approve the question are greater in number than the affected electors who vote to oppose the question.

‘(3) An affected area **“approves”** a question for a referendum if each voting area of the affected area approves the question.

‘(4) An amalgamated area **“approves”** a question for a referendum if the affected electors for the amalgamated area who vote to approve the question are greater in number than the affected electors who vote to oppose the question.

‘(5) A person **“opposes”** a question for a referendum if the person answers the question in the negative.

‘Correspondingly named areas

‘137E.(1) If this part refers to an affected area’s amalgamated area, the reference is to the amalgamated area with the name corresponding to the

¹³ See division 2 (Specific information about affected areas and amalgamated areas and other important concepts) for more detail about voting areas.

affected area's name.

Example for subsection (1)—

The affected Gold Coast area's amalgamated area is the amalgamated Gold Coast area.

'(2) If this part refers to an amalgamated area's affected area, the reference is to the affected area with the name corresponding to the amalgamated area's name.

Example for subsection (2)—

The amalgamated Gold Coast area's affected area is the affected Gold Coast area.

'Division 2—Specific information about affected areas and amalgamated areas and other important concepts

'Shire of Burnett

'137F.(1) The "affected Burnett area" is—

- (a) the local government area of the Shire of Burnett; and
- (b) the relevant area under the Burnett amalgamation regulation.¹⁴

'(2) The **"amalgamated Burnett area"** is the local government area of the shire.

'(3) The **"changeover day"** for the affected Burnett area is 30 March 1994.

'(4) The *Local Government (Bundaberg and Burnett) Regulation 1993* (the **"Burnett amalgamation regulation"**) is the amalgamation regulation for the affected and amalgamated Burnett areas.

'(5) The **"approved form of petition page"** for the affected Burnett area is that notified in the gazette on 20 March 1996 at pages 1 199 (front) and 1 200 (back) (form 1).

'(6) If a referendum is held for the affected Burnett area, the area is taken

¹⁴ The relevant area is made up of the parts of the former Shires of Gooburrum and Woongarra that were included in the City of Bundaberg under the Burnett amalgamation regulation.

to be divided into the following voting areas—

- (a) voting area 1 is the part of the shire and the part of the City of Bundaberg that, immediately before the changeover day, was the then local government area of the Shire of Gooburrum;
- (b) voting area 2 is the part of the shire and the part of the City of Bundaberg that, immediately before the changeover day, was the then local government area of the Shire of Woongarra.

‘(7) For the affected Burnett area—

- (a) the abolished areas are the local government areas of the shires of Gooburrum and Woongarra that existed immediately before the changeover day; and
- (b) the boundary affected local government is the Bundaberg City Council.

‘City of Cairns

‘**137G.(1)** The “**affected Cairns area**” is the local government area of the City of Cairns.

‘(2) The “**amalgamated Cairns area**” is the local government area of the city.

‘(3) The “**changeover day**” for the affected Cairns area is 22 March 1995.

‘(4) The *Local Government (Cairns, Douglas, Mareeba and Mulgrave) Regulation 1994* (the “**Cairns amalgamation regulation**”) is the amalgamation regulation for the affected and amalgamated Cairns areas.

‘(5) The “**approved form of petition page**” for the affected Cairns area is that notified in the gazette on 20 March 1996 at pages 1 201 (front) and 1 202 (back) (form 2).

‘(6) If a referendum is held for the affected Cairns area, the area is taken to be divided into the following voting areas—

- (a) voting area 1 is the part of the city that, immediately before the changeover day, was the then local government area of the City of Cairns;
- (b) voting area 2 is—

- (i) the part of the city that, immediately before the changeover day, was the then local government area of the Shire of Mulgrave; and
- (ii) areas A and B under the Cairns amalgamation regulation.¹⁵

‘(7) For the affected Cairns area—

- (a) the abolished areas are the local government areas of the City of Cairns and Shire of Mulgrave that existed immediately before the changeover day; and
- (b) the boundary affected local governments are Douglas Shire Council and Mareeba Shire Council.

‘Shire of Cooloola

‘**137H.(1)** The “**affected Cooloola area**” is the local government area of the Shire of Cooloola.

‘(2) The “**amalgamated Cooloola area**” is the local government area of the shire.

‘(3) The “**changeover day**” for the affected Cooloola area is 2 December 1993.

‘(4) The *Local Government (Shire of Cooloola) Regulation 1993* (the “**Cooloola amalgamation regulation**”) is the amalgamation regulation for the affected and amalgamated Cooloola areas.

‘(5) The “**approved form of petition page**” for the affected Cooloola area is that notified in the gazette on 20 March 1996 at pages 1 203 (front) and 1 204 (back) (form 3).

‘(6) If a referendum is held for the affected Cooloola area, the area is taken to be divided into the following voting areas—

- (a) voting area 1 is the part of the shire that, immediately before the changeover day, was the then local government area of the City of Gympie;

¹⁵ Area A is the part of the Shire of Douglas that was included in the City of Cairns under the Cairns amalgamation regulation. Area B is the part of the Shire of Mareeba that was included in the City of Cairns under the Cairns amalgamation regulation.

- (b) voting area 2 is the part of the shire that, immediately before the changeover day, was the then local government area of the Shire of Widgee.

‘(7) For the affected Cooloola area—

- (a) the abolished areas are the local government areas of the City of Gympie and Shire of Widgee that existed immediately before the changeover day; and
- (b) there are no boundary affected local governments.

‘City of Gold Coast

‘**137L.(1)** The “**affected Gold Coast area**” means—

- (a) the local government area of the City of Gold Coast; and
- (b) area A under the Gold Coast amalgamation regulation.¹⁶

‘(2) The “**amalgamated Gold Coast area**” means the local government area of the city.

‘(3) The “**changeover day**” for the affected Gold Coast area is 22 March 1995.

‘(4) The *Local Government (Albert, Beaudesert and Gold Coast) Regulation 1994* (the “**Gold Coast amalgamation regulation**”) is the amalgamation regulation for the affected and amalgamated Gold Coast areas.

‘(5) The “**approved form of petition page**” for the affected Gold Coast area is that notified in the gazette on 20 March 1996 at pages 1 205 (front) and 1 206 (back) (form 4).

‘(6) If a referendum is held for the affected Gold Coast area, the area is taken to be divided into the following voting areas—

- (a) voting area 1 is the part of the city that, immediately before the changeover day, was the then local government area of the City of Gold Coast;

¹⁶ Area A is the part of the former Shire of Albert that was included in the Shire of Beaudesert under the Gold Coast amalgamation regulation.

(b) voting area 2 is—

- (i) the part of the city and the part of the Shire of Beaudesert that, immediately before the changeover day, was the then local government area of the Shire of Albert; and
- (ii) area B under the Gold Coast amalgamation regulation.¹⁷

‘(7) For the affected Gold Coast area—

- (a) the abolished areas are the local government areas of the Shire of Albert and City of Gold Coast that existed immediately before the changeover day; and
- (b) the boundary affected local government is Beaudesert Shire Council.

‘City of Ipswich

‘137J.(1) The “**affected Ipswich area**” is—

- (a) the local government area of the City of Ipswich; and
- (b) areas A, B and C under the Ipswich amalgamation regulation.¹⁸

‘(2) The “**amalgamated Ipswich area**” is the local government area of the city.

‘(3) The “**changeover day**” for the affected Ipswich area is 22 March 1995.

‘(4) The *Local Government (Brisbane, Esk, Ipswich, Logan and Moreton) Regulation 1994* (the “**Ipswich amalgamation regulation**”) is the amalgamation regulation for the affected and amalgamated Ipswich areas.

‘(5) The “**approved form of petition page**” for the affected Ipswich

¹⁷ Area B is the part of the Shire of Beaudesert that was included in the City of Gold Coast under the Gold Coast amalgamation regulation.

¹⁸ Area A is the part of the former Shire of Moreton that was included in the Shire of Esk under the Ipswich amalgamation regulation. Area B is the part of the former Shire of Moreton that was included in the City of Brisbane under the Ipswich amalgamation regulation. Area C is the part of the former Shire of Moreton that was included in the City of Logan under the Ipswich amalgamation regulation.

area is that notified in the gazette on 20 March 1996 at pages 1 207 (front) and 1 208 (back) (form 5).

‘(6) If a referendum is held for the affected Ipswich area, the area is taken to be divided into the following voting areas—

- (a) voting area 1 is the part of the city that, immediately before the changeover day, was the then local government area of the City of Ipswich;
- (b) voting area 2 is—
 - (i) the part of the city, the part of the City of Brisbane, the part of the City of Logan and the part of the Shire of Esk that, immediately before the changeover day, was the then local government area of the Shire of Moreton; and
 - (ii) area D under the Ipswich amalgamation regulation.¹⁹

‘(7) For the affected Ipswich area—

- (a) the abolished areas are the local government areas of the City of Ipswich and Shire of Moreton that existed immediately before the changeover day; and
- (b) the boundary affected local governments are Brisbane City Council, Esk Shire Council and Logan City Council.

‘City of Mackay

‘**137K.(1)** The “**affected Mackay area**” is the local government area of the City of Mackay.

‘(2) The “**amalgamated Mackay area**” is the local government area of the city.

‘(3) The “**changeover day**” for the affected Mackay area is 8 April 1994.

‘(4) The *Local Government (Mackay and Pioneer) Regulation 1993* (the “**Mackay amalgamation regulation**”) is the amalgamation regulation for the affected and amalgamated Mackay areas.

¹⁹ Area D is the part of the City of Logan that was included in the City of Ipswich under the Ipswich amalgamation regulation.

‘(5) The “**approved form of petition page**” for the affected Mackay area is that notified in the gazette on 20 March 1996 at pages 1 209 (front) and 1 210 (back) (form 6).

‘(6) If a referendum is held for the affected Mackay area, the area is taken to be divided into the following voting areas—

- (a) voting area 1 is the part of the city that, immediately before the changeover day, was the then local government area of the City of Mackay;
- (b) voting area 2 is the part of the city that, immediately before the changeover day, was the then local government area of the Shire of Pioneer.

‘(7) For the affected Mackay area—

- (a) the abolished areas are the local government areas of the City of Mackay and the Shire of Pioneer that existed immediately before the changeover day; and
- (b) there are no boundary affected local governments.

‘Shire of Warwick

‘**137L.(1)** The “**affected Warwick area**” is the local government area of the Shire of Warwick.

‘(2) The “**amalgamated Warwick area**” is the local government area of the shire.

‘(3) The “**changeover day**” for the affected Warwick area is 1 July 1994.

‘(4) The *Local Government (Allora, Glengallan, Rosenthal and Warwick) Regulation 1994* (the “**Warwick amalgamation regulation**”) is the amalgamation regulation for the affected and amalgamated Warwick areas.

‘(5) The “**approved form of petition page**” for the affected Warwick area is that notified in the gazette on 20 March 1996 at pages 1 211 (front) and 1 212 (back) (form 7).

‘(6) If a referendum is held for the affected Warwick area, the area is taken to be divided into the following voting areas—

- (a) voting area 1 is the part of the shire that, immediately before the changeover day, was the then local government area of the Shire of Allora;
- (b) voting area 2 is the part of the shire that, immediately before the changeover day, was the then local government area of the Shire of Glengallan;
- (c) voting area 3 is the part of the shire that, immediately before the changeover day, was the then local government area of the Shire of Rosenthal;
- (d) voting area 4 is the part of the shire that, immediately before the changeover day, was the then local government area of the City of Warwick.

‘(7) For the affected Warwick area—

- (a) the abolished areas are the local government areas of the Shire of Allora, Shire of Glengallan, Shire of Rosenthal and the City of Warwick that existed immediately before the changeover day; and
- (b) there are no boundary affected local governments.

‘Division 3—Petition

‘Affected electors may petition Minister

‘**137M.(1)** Affected electors for an affected area may petition the Minister for a referendum for the area.

‘(2) The petitioning may have happened in whole or part before the commencement.

‘(3) The petition must ask for a referendum for the affected area on the question of abolishing its amalgamated area, and—

- (a) for the affected Cooloola, Mackay or Warwick area—reinstating the local government areas existing immediately before the area’s changeover day; or
- (b) for the affected Burnett, Cairns, Gold Coast or Ipswich area—reinstating the local government areas and external

boundaries existing immediately before the area's changeover day.

'Requirements for a petition

'137N.(1) A petition is made up of petition pages.

'(2) Each petition page must be in the approved form of petition page for its affected area.

'(3) Without limiting subsection (2), a petition page is not in the approved form of petition page if—

- (a) it does not include both the front and back of the approved form of petition page; or
- (b) the wording of the petition page is appreciably less readable than the corresponding wording of the approved form of petition page as gazetted.

'(4) When an entry on a petition page is, or was, completed, the petition page must be, or have been, in the approved form of petition page.

'(5) However, it is not necessary for a person checking a petition page under this division to consider whether the page was in the approved form of petition page when an entry on the page was completed if, on the face of it, the entry was completed on the approved form.

'(6) If the completion of an entry on a petition page does not comply with the section of the approved form of petition page headed 'Requirements for completing this petition page' (the "**petition page requirements**"), the entry is not counted in deciding whether the necessary number of affected electors has signed the petition.

'(7) Despite subsection (6), an entry may be counted in deciding whether the necessary number of affected electors has signed the petition if, in all the circumstances, it is clear from a comparison of the entry and information gained from the relevant electoral roll that the entry is that of an affected elector.

Example 1 for subsection (7)—

In the circumstances applying, an entry showing the names 'Alexander, Peter' might be counted even though the name should have been shown as 'Alexander, Peter Michael'.

Example 2 for subsection (7)—

In the circumstances applying, an entry showing an address as ‘123 Sunshine Boulevard, Isle of Capri Qld 4217’ might be counted even though the address should have been shown as ‘123 Sunshine Boulevard, Surfers Paradise Qld 4217’.

Example 3 for subsection (7)—

In the circumstances applying, an entry showing an address as ‘47 Echidna Street, Currumbin Qld 4223’ might be counted even though the address should have been shown as ‘1/47 Echidna Street, Currumbin Qld 4223’.

‘(8) None of the entries on a petition page are to be counted if the name and address of the person submitting the petition page is not shown in the appropriate place on the petition page.

‘Receiving and checking petitions

‘137O.(1) To form part of a petition for an affected area, a petition page must be received by 5.00 pm on 10 May 1996—

- (a) at the office of the Minister at level 13, 111 George Street, Brisbane; or
- (b) in GPO Box 37, Brisbane 4001.

‘(2) The Minister must refer the petition pages received for an affected area to the chief executive for checking.

‘(3) The chief executive must ensure that the petition pages are checked and must tell the Minister whether the pages form a petition that is a qualifying petition for the area.

‘(4) A petition is a qualifying petition if it is signed by at least 10% of the affected electors for the area.

‘(5) When the chief executive is satisfied that a petition is a qualifying petition, it is not necessary for all the petition pages received to be checked.

‘Notification about petition

‘137P.(1) If the chief executive tells the Minister that a petition for an affected area is a qualifying petition, the Minister must, as soon as practicable—

- (a) by gazette notice, advise that—

- (i) the petition is a qualifying petition; and
- (ii) a referendum is to be held for—
 - (A) the affected area; and
 - (B) if the area is the affected Cairns, Gold Coast or Ipswich area—its amalgamated area; and
- (b) table in the Legislative Assembly a copy of—
 - (i) the petition; and
 - (ii) the gazette notice; and
 - (iii) the advice the Minister received from the chief executive telling the Minister that the petition is a qualifying petition.

‘(2) If the chief executive tells the Minister that a petition for an affected area is not a qualifying petition, the Minister must, as soon as practicable—

- (a) by gazette notice, advise that the petition is not a qualifying petition; and
- (b) table in the Legislative Assembly a copy of—
 - (i) the petition; and
 - (ii) the gazette notice; and
 - (iii) the advice the Minister received from the chief executive telling the Minister that the petition is not a qualifying petition.

Division 4—Referendum

Subdivision 1—Preliminary

‘When this division applies

‘137Q. This division applies if the Minister has advised that there is to be a referendum for an affected area.

‘Subdivision 2—Holding a referendum**‘Referendum to be held**

‘137R.(1) There must be a referendum for the affected area.

‘(2) If the area is the affected Cairns, Gold Coast or Ipswich area, there must also be a referendum for the area’s amalgamated area.

‘Referendum for affected area

‘137S.(1) This section provides for setting the question for the referendum for the affected area.

‘(2) The precise wording for the question must be set under a regulation.

‘(3) However, in substance, the question must ask affected electors whether they approve or oppose abolishing the area’s amalgamated area, and—

- (a) if the area is the affected Cooloola, Mackay or Warwick area—reinstating each of the area’s abolished areas as a local government area; or
- (b) if the area is the affected Burnett, Cairns, Gold Coast or Ipswich area—
 - (i) reinstating each of the area’s abolished areas as a local government area; and
 - (ii) for the local government area of each of the area’s boundary affected local governments—reinstating the external boundaries to the extent that they were changed under the area’s amalgamation regulation.

‘Referendum for amalgamated area

‘137T.(1) This section provides for setting the question for a referendum for the affected area’s amalgamated area.

‘(2) The precise wording for the question must be set under a regulation.

‘(3) However, in substance, the question must ask affected electors

whether they approve or oppose the holding of triennial elections in 1997 for the councillors of the amalgamated area's local government.

'Appointment and role of returning officers for referendum

'137U.(1) The Minister must appoint a returning officer and an assistant returning officer for the referendum for the affected area.

'(2) If under this part there is also to be a referendum for the area's amalgamated area, the Minister must appoint the returning officer and assistant returning officer for the referendum for the affected area as returning officer and assistant returning officer for the referendum for the amalgamated area.

'(3) As soon as practicable after making an appointment, the Minister must, by gazette notice, advise of the appointment.

'(4) The returning officer and the assistant returning officer are each entitled to the fees and allowances decided by the Minister.

'(5) The returning officer for a referendum must conduct the referendum.

'(6) If, for any reason, the returning officer cannot perform the functions of office, the assistant returning officer must act as the returning officer.

'(7) The returning officer for a referendum must conduct a public office for the referendum.

'(8) The local government for the affected area's amalgamated area must give the returning officer all reasonable assistance the returning officer asks for in conducting the referendum for the affected area or a referendum for the affected area's amalgamated area.

'(9) Each boundary affected local government for the affected area must give the returning officer all reasonable assistance the returning officer asks for in conducting the referendum for the affected area.

'Referendum day

'137V.(1) The day for holding the referendum for the affected area (the **"referendum day"**) must be a Saturday.

'(2) The returning officer may fix the referendum day.

‘(3) If the returning officer fixes the referendum day, the day fixed must be before 28 July 1996.

‘(4) The Governor in Council may also fix the referendum day.

‘(5) If the Governor in Council fixes the referendum day under subsection (4)—

- (a) the day fixed must be 3, 10, 17 or 24 August 1996; and
- (b) the Governor in Council must advise the returning officer of the day fixed.

‘(6) However, the Governor in Council must not fix the referendum day, or advise the returning officer of the day fixed, if the returning officer has already published the referendum notice notifying a day fixed by the returning officer as the referendum day.

‘(7) The returning officer must not fix the referendum day if the Governor in Council has already advised the returning officer of the referendum day fixed by the Governor in Council.

‘(8) If under this part there is also to be a referendum for the affected area’s amalgamated area, the day for holding the referendum (also the “**referendum day**”) is the referendum day for the affected area.

‘Notice of referendum day and other information

‘**137W.(1)** The returning officer for a referendum must publish a notice (the “**referendum notice**”)—

- (a) stating the referendum day for the referendum; and
- (b) advising whether, and if so to what extent, the referendum is to be conducted by postal ballot; and
- (c) giving a brief explanation about—
 - (i) the question for the referendum; and
 - (ii) for a referendum for the affected area—who is an affected elector for a voting area of the affected area; and
 - (iii) for a referendum for an amalgamated area—who is an affected elector for the amalgamated area; and
- (d) giving notice of the address and telephone number of the

returning officer's public office.

'(2) To the extent the referendum is not conducted by postal ballot, the referendum notice must state—

- (a) the location of ordinary polling booths to be used for the referendum; and
- (b) that the ordinary voting hours are from 8.00 am to 6.00 pm.

'(3) The referendum notice must be published—

- (a) for the referendum for the affected area—in a newspaper circulating generally in the area; and
- (b) for a referendum for the area's amalgamated area—in a newspaper circulating generally in the amalgamated area; and
- (c) in other ways the returning officer considers appropriate.

'(4) The referendum notice must also be displayed in a conspicuous position at the returning officer's public office from as soon as practicable after the referendum notice is first published in a newspaper until 6.00 pm on the referendum day.

'(5) The referendum notice may be published before the making or commencement of the regulation setting the precise wording for the question for the referendum.

'Extension of time

'**137X.(1)** The Governor in Council may, by gazette notice, fix as a referendum day a day that is later than the day previously fixed by the returning officer or the Governor in Council as the referendum day.

'(2) However, the day fixed by the Governor in Council must be before 25 August 1996.

'(3) If a gazette notice is published under subsection (1), the returning officer must publish a notice giving necessary directions to affected electors about the procedures to be followed.

'(4) The returning officer's notice must be published in a newspaper circulating generally in—

- (a) for the referendum for the affected area—the affected area; or

- (b) for a referendum for the area's amalgamated area—the amalgamated area.

'Voters rolls

'137Y.(1) As soon as practicable after the referendum roll cut-off day, the returning officer must compile a voters roll for each voting area of the affected area.

'(2) The voters roll must consist of persons who, on the referendum roll cut-off day, are electors under the *Electoral Act 1992* and are enrolled on an electoral roll for an electoral district, or part of an electoral district, included in the voting area.

'(3) If there is also to be a referendum for the area's amalgamated area, then, as soon as practicable after the referendum roll cut-off day, the returning officer must also compile a voters roll for the amalgamated area.

'(4) The voters roll must consist of persons who, on the referendum roll cut-off day, are electors under the *Electoral Act 1992* and are enrolled on an electoral roll for an electoral district, or part of an electoral district, included in the amalgamated area.

'(5) A voters roll—

- (a) must be in the form of the electoral roll used for elections of the Legislative Assembly; and
- (b) must not include an elector's address that, under the *Electoral Act 1992*, is excluded from the publicly available part of an electoral roll.

'Single document for Cairns

'137Z.(1) The voters rolls for the 2 voting areas of the affected Cairns area, and for the amalgamated Cairns area, may be compiled as a single document.

'(2) The document must consist of the following 2 segments—

- segment 1—the electors enrolled for the part of the City of Cairns that, immediately before the changeover day for the affected Cairns area, was the then local government area of the City of

Cairns

- segment 2—the electors enrolled for the part of the City of Cairns that, immediately before the changeover day, was the then local government area of the Shire of Mulgrave or part of the local government area of the Shire of Douglas or Shire of Mareeba.

‘(3) An explanation at the front of the document must identify—

- (a) the voters roll for voting area 1 of the affected Cairns area as comprising segment 1; and
- (b) the voters roll for voting area 2 of the affected Cairns area as comprising segment 2; and
- (c) the voters roll for the amalgamated Cairns area as comprising segments 1 and 2.

‘Single document for Gold Coast

‘**137ZA.(1)** The voters rolls for the 2 voting areas of the affected Gold Coast area, and for the amalgamated Gold Coast area, may be compiled as a single document.

‘(2) The document must consist of the following 3 segments—

- segment 1—the electors enrolled for the part of the City of Gold Coast that, immediately before the changeover day for the affected Gold Coast area, was the then local government area of the City of Gold Coast
- segment 2—the electors enrolled for the part of the City of Gold Coast that, immediately before the changeover day, was the then local government area of the Shire of Albert or part of the local government area of the Shire of Beaudesert
- segment 3—the electors enrolled for the part of the Shire of Beaudesert that, immediately before the changeover day, was part of the then local government area of the Shire of Albert.

‘(3) An explanation at the front of the document must identify—

- (a) the voters roll for voting area 1 of the affected Gold Coast area as comprising segment 1; and
- (b) the voters roll for voting area 2 of the affected Gold Coast area as

comprising segments 2 and 3; and

- (c) the voters roll for the amalgamated Gold Coast area as comprising segments 1 and 2.

‘Single document for Ipswich

‘137ZB.(1) The voters rolls for the 2 voting areas of the affected Ipswich area, and for the amalgamated Ipswich area, may be compiled as a single document.

‘(2) The document must consist of 5 segments, as follows—

- segment 1—the electors enrolled for the part of the City of Ipswich that, immediately before the changeover day for the affected Ipswich area, was the then local government area of the City of Ipswich
- segment 2—the electors enrolled for the part of the City of Ipswich that, immediately before the changeover day, was part of the then local government area of the Shire of Moreton or part of the local government area of the City of Logan
- segment 3—the electors enrolled for the part of the City of Brisbane that, immediately before the changeover day, was part of the then local government area of the Shire of Moreton
- segment 4—the electors enrolled for the part of the City of Logan that, immediately before the changeover day, was part of the then local government area of the Shire of Moreton
- segment 5—the electors enrolled for the part of the Shire of Esk that, immediately before the changeover day, was part of the then local government area of the Shire of Moreton.

‘(3) An explanation at the front of the document must identify—

- (a) the voters roll for voting area 1 of the affected Ipswich area as comprising segment 1; and
- (b) the voters roll for voting area 2 of the affected Ipswich area as comprising segments 2 to 5; and
- (c) the voters roll for the amalgamated Ipswich area as comprising segments 1 and 2.

‘Voters roll to be open to inspection and purchase

‘**137ZC.(1)** A voters roll for a voting area of the affected area is open to inspection at the public office of the returning officer for the referendum for the affected area.

‘**(2)** A voters roll for an amalgamated area is open to inspection at the public office of the returning officer for the referendum for the amalgamated area.

‘**(3)** The returning officer must sell a copy of a voters roll to anyone who asks to buy it.

‘**(4)** The price of a voters roll must be no more than the cost of making a copy of the roll and, if the copy is posted to the purchaser, the postage cost.

‘Explanatory statement

‘**137ZD.(1)** The Minister must appoint a person (the “**appointed person**”) to prepare a statement (the “**explanatory statement**”) about the advantages and disadvantages of the referendum action for a referendum.

‘**(2)** The explanatory statement must include—

- (a) for the referendum for the affected area—the appointed person’s estimate of the financial cost to local government of abolishing the area’s amalgamated area and—
 - (i) if the area is the affected Cooloola, Mackay or Warwick area—reinstating each of the area’s abolished areas as a local government area; or
 - (ii) if the area is the affected Burnett, Cairns, Gold Coast or Ipswich area—
 - (A) reinstating each of the area’s abolished areas as a local government area; and
 - (B) for the local government area of each of the area’s boundary affected local governments—reinstating the external boundaries to the extent that they were changed under the area’s amalgamation regulation; and
- (b) for a referendum for the affected area’s amalgamated area—the appointed person’s estimate of the financial cost to local

government of holding triennial elections in 1997 for the amalgamated area; and

- (c) for the referendum for the affected area or for a referendum for the affected area's amalgamated area—a statement (the “**advantages and disadvantages statement**”) of the advantages and disadvantages that, in the appointed person's opinion, should be taken into account by an affected elector voting in the referendum.

‘(3) The advantages and disadvantages statement for the referendum for the amalgamated area mentioned in subsection (2)(c) must also explain that the answer to the question for the referendum has effect only if—

- (a) the affected area does not approve the question for the referendum for the affected area; or
- (b) the affected area approves the question for the referendum for the affected area, but the Legislative Assembly does not, under this part, pass a resolution for the making of a reinstatement regulation for the affected area.

‘(4) The advantages and disadvantages statement included in an explanatory statement should not be more than 2 000 words.

‘(5) The Minister may give directions to the appointed person about the format in which the explanatory statement is to be presented.

‘(6) As soon as practicable after making an appointment under subsection (1), the Minister must, by gazette notice, advise of the appointment.

‘Appointment provisions

‘137ZE.(1) An appointed person is entitled to receive—

- (a) reasonable remuneration for preparing an explanatory statement; and
- (b) reimbursement of expenses reasonably incurred in preparing the statement.

‘(2) The Minister may enter into an agreement with the appointed person about the preparation of the explanatory statement.

‘(3) Without limiting subsection (2), the agreement may include provision for the following—

- (a) subject to subsection (1), the person’s remuneration and expenses reimbursement;
- (b) the nature and extent of anything to be done by the department to help the person to prepare the explanatory statement;
- (c) time constraints to apply for the completion of the explanatory statement.

‘Appointed person may request information from local government

‘137ZF.(1) An appointed person may, by written notice, request a local government to give the appointed person, in writing, information the appointed person reasonably needs from the local government for the preparation of an explanatory statement.

‘(2) The request must specify a reasonable time within which the information must be given to the appointed person.

‘(3) The local government must comply with the request.

‘Justiciability of and decisions about explanatory statement

‘137ZG.(1) An explanatory statement or a document appearing to be an explanatory statement is not justiciable.

‘(2) In addition, a decision of an appointed person made, or appearing to be made, in preparing an explanatory statement, including a decision about the content of the explanatory statement—

- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* (whether by the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

‘(3) In subsection (2)—

“**decision**” includes—

- (a) conduct engaged in to make a decision; and
- (b) conduct related to making the decision; and
- (c) failure to make a decision.

‘Electoral arrangements statement for referendum for affected area or amalgamated area

‘**137ZH.(1)** For the referendum for the affected area, the commissioner must prepare an assessment (the “**electoral arrangements statement**”) of the electoral arrangements the commissioner considers are likely to be put in place under a reinstatement regulation for each local government area created in reinstating an abolished area as a local government area if the referendum action for the referendum is implemented.

‘**(2)** If the local government area is likely to be divided into divisions, the electoral arrangements statement must include an explanation of the application of sections 232 and 233²⁰ in preparing the likely divisional boundaries.

‘**(3)** For a referendum for an amalgamated area, the commissioner must prepare an assessment (also an “**electoral arrangements statement**”) of the divisional boundary adjustments the commissioner considers are likely to be put in place under an early elections regulation for the amalgamated area if the referendum action for the referendum is implemented.

‘**(4)** The electoral arrangements statement for the amalgamated area must include an explanation of the application of sections 232 and 233 in preparing the likely adjustments.

‘**(5)** In preparing an electoral arrangements statement, the commissioner is performing a function additional to the functions the commissioner has for reviewable local government matters and referable local government matters.

²⁰ Sections 232 (Equitable division of local government areas) and 233 (Quota to be complied with in division of local government area and assignment of councillors)

‘Short form electoral arrangements statements

‘137ZL.(1) The returning officer for a referendum must prepare an abbreviated form (a **“short form electoral arrangements statement”**) of an electoral arrangements statement prepared by the commissioner about—

- (a) a local government area (a **“relevant reinstated area”**) that would be created in reinstating an abolished area as a local government area; or
- (b) an amalgamated area.

‘(2) The short form electoral arrangements statement for a relevant reinstated area must include the following—

- (a) the likely composition of the area’s local government;
- (b) whether the area is likely to be divided into divisions;
- (c) if the area is likely to be divided into divisions—
 - (i) the number of divisions; and
 - (ii) the likely assignment of councillors to divisions; and
 - (iii) a brief explanation of the application of sections 232 and 233²¹ in preparing the likely divisional boundaries for the area;
- (d) information about where the full electoral arrangements statement may be inspected.

‘(3) The short form electoral arrangements statement for an amalgamated area must include the following—

- (a) the current composition of the area’s local government;
- (b) the fact that the area is divided into divisions;
- (c) the number of divisions and the assignment of councillors to divisions;
- (d) a brief explanation of the application of sections 232 and 233 in preparing the likely adjustments to the divisional boundaries for

²¹ Sections 232 (Equitable division of local government areas) and 233 (Quota to be complied with in division of local government area and assignment of councillors)

the area;

- (e) information about where the full electoral arrangements statement may be inspected.

‘(4) If a relevant reinstated area’s abolished area was not divided into divisions—

- (a) the returning officer need not prepare a short form electoral arrangements statement; and
- (b) for a provision of this part requiring the returning officer to give a short form electoral arrangements statement to a person—the commissioner’s electoral arrangements statement is taken to be the short form electoral arrangements statement.

‘Giving statements to affected electors

‘137ZJ.(1) The returning officer must—

- (a) for the referendum for the affected area—
 - (i) give the explanatory statement for the referendum to each affected elector on the voters roll for a voting area of the affected area; and
 - (ii) if a short form electoral arrangements statement is relevant to the part of the voting area for which an affected elector is enrolled—give the statement to the affected elector; and
- (b) for a referendum for the area’s amalgamated area—give to each affected elector on the voters roll for the amalgamated area the explanatory statement and the short form electoral arrangements statement for the referendum.

‘(2) The statements must be given to the affected elector at a reasonable time before the referendum day.

‘(3) If a referendum is to be conducted by postal ballot for all or part of the affected area or an amalgamated area, the explanatory statement and the short form electoral arrangements statement may be given to an affected elector when the elector is given the ballot paper for the referendum.

‘(4) An explanatory statement or short form electoral arrangements statement for a referendum is taken to have been given to an affected elector

if it is posted to the affected elector at—

- (a) the address shown for the affected elector on the voters roll; or
- (b) if the returning officer has been advised of an address that, on the referendum roll cut-off day, was the affected elector's postal address—that address.

‘(5) An affected elector, other than an affected elector to whom the returning officer has given an explanatory statement and short form electoral arrangements statement, must be given a copy of each statement if the elector asks for it.

‘(6) The returning officer must display a copy of each explanatory statement and electoral arrangements statement in a prominent place in—

- (a) the officer's public office; and
- (b) other places the returning officer considers appropriate.

‘Local government views on referendum

‘**137ZK.** The provisions of this division do not prevent a local government that considers that it will be affected by the outcome of a referendum from informing affected electors of its views about the referendum question.

‘Compulsory voting

‘**137ZL.(1)** Voting at the referendum for the affected area is compulsory, and each affected elector for a voting area of the affected area is entitled to only 1 vote.

‘(2) Voting at a referendum for an amalgamated area is also compulsory, and each affected elector for the amalgamated area is entitled to only 1 vote.

‘Conduct of referendum

‘**137ZM.(1)** The provisions of chapter 5 (Local government elections), part 6 (Conduct of elections) apply (with any necessary changes and any additional changes specified in subsection (8) or changes prescribed under a regulation) to the referendum for the affected area or a referendum for the

area's amalgamated area as if the referendum were an election.

‘(2) Without limiting subsection (1), the necessary changes mentioned in subsection (1) include the non-application of provisions of chapter 5, part 6 to the extent that their application is inappropriate or unnecessary.

‘(3) The application of provisions of chapter 5, part 6 is unnecessary to the extent that the provisions have particular reference to candidates.

‘(4) Without limiting subsections (2) and (3)—

- (a) chapter 5, part 6, divisions 3 (Candidates for election or appointment) and 11 (Marking of ballot papers) have no application at all; and
- (b) neither does chapter 5, part 6, division 4 (Nominations of candidates for election), mainly because of subsection (3), but also because of certain other provisions of this part; and
- (c) section 271(2)(d) to (f), (3) and (4) (Requirements of ballot papers) does not apply to the ballot paper to be used for the referendum; and
- (d) section 272 (Separate ballot papers for separate polls) has no application; and
- (e) section 273 (Order of listing of candidates' names) has no application; and
- (f) in section 311(1) (Official counting of votes) and 312 (Treatment of ballot paper to which objection is made), the reference to a candidate, but not the reference to a scrutineer, may be ignored; and
- (g) sections 313 (Counting of votes for optional-preferential system) and 314 (Counting of votes for first-past-the-post system) have no application; and
- (h) section 316(1)(b) (Declaration of poll) has no application; and
- (i) section 318(2)(c)(i) (List of electors failing to vote) has no application; and
- (j) section 327(1)(b) (Bribery) has no application; and
- (k) in section 349(2) (Injunctions to restrain contravention of chapter), the reference to a candidate for election may be ignored,

but not the reference to the returning officer.

‘(5) Necessary changes also include the following changes having general operation—

- (a) a reference to part 6 (of chapter 5) is a reference to that part as applied under this section, and is also taken to include a reference to the other provisions of this division;
- (b) a reference to the returning officer is a reference to the returning officer for the referendum;
- (c) a reference to an elector is a reference to an affected elector for a voting area or an amalgamated area in relation to the referendum;
- (d) a reference to the voters roll is a reference to—
 - (i) for the referendum for the affected area—the voters roll compiled under this division for each voting area of the affected area; and
 - (ii) for a referendum for the affected area’s amalgamated area—the voters roll for the amalgamated area compiled under this division;
- (e) a reference to the local government area, or a division of the local government area, is, for a referendum for the affected area, a reference to—
 - (i) the affected area; or
 - (ii) a voting area of the affected area;
- (f) a reference to the local government area is, for a referendum for the affected area’s amalgamated area, a reference to the amalgamated area;
- (g) a reference to the local government’s public office is a reference to the public office of the returning officer for the referendum;
- (h) a reference to the poll for the election is a reference to the poll for the referendum;
- (i) a reference to polling day is a reference to the referendum day for the referendum;
- (j) a reference to the notice under section 257 (Procedure if number

of candidates exceeds number required) is a reference to the referendum notice for the referendum;

- (k) a reference to the election period is a reference to the period—
 - (i) starting on the day the referendum notice for the referendum is first published; and
 - (ii) ending at 6 p.m. on the referendum day for the referendum.

‘(6) Necessary changes also include the following changes having more specific operation—

- (a) for applying section 267(6) (Declaration of mobile polling booths), the returning officer for the referendum, instead of advising candidates, must advise the persons and groups who have appointed scrutineers for the referendum;
- (b) for applying sections 282(10)(b) (Procedure for voting at polling booth), 287(2)(c) (Help for electors in voting), 294(3)(c) (How declaration vote may be cast at a polling booth) and 297 (Casting a declaration vote by post), a reference to division 11 (Marking of ballot papers) is a reference to the provisions of this division about the marking of a ballot paper;
- (c) for applying section 287(2)(a) (Help for electors in voting), a reference to stating the names of candidates is a reference to reading out the referendum question;
- (d) for applying sections 293(6) and 295(4) (Distribution of ballot papers to electors for postal ballot election), the addressing and identification of the envelope must be in the way decided by the returning officer for the referendum;
- (e) for applying sections 308(1)(c)(ii) and (iii) (Preliminary counting by presiding officer) and 311(3)(b) and (4)(c) (Official counting of votes), the returning officer for the referendum must—
 - (i) count the number of votes approving the referendum question marked on all formal ballot papers, and keep the ballot papers in a separate parcel; and
 - (ii) count the number of votes opposing the referendum question marked on all formal ballot papers, and keep the ballot papers in a separate parcel;

- (f) for applying section 308(1)(d)(i) (Preliminary counting by presiding officer), the written statement must set out, in words and numerals, the number of votes approving the referendum question and the number of votes opposing the referendum question;
- (g) for applying section 310(1) (Procedure for processing declaration envelopes), the returning officer for the referendum, instead of advising candidates, must advise the persons and groups who have appointed scrutineers for the referendum;
- (h) for applying section 311(2) (Official counting of votes), the returning officer for the referendum must ascertain the number of votes approving the referendum question and the number of votes opposing the referendum question;
- (i) for applying section 311(3) and (4) (Official counting of votes), the returning officer for the referendum must count the number of votes approving the referendum question and the number of votes opposing the referendum question;
- (j) for applying section 311(5) (Official counting of votes), the returning officer for the referendum must add together the number of votes counted as approving the referendum question and the number of votes counted as opposing the referendum question;
- (k) for applying section 312(2) (Treatment of ballot paper to which objection is made), the reference to a vote for a particular candidate is a reference to whether the vote is a vote approving or opposing the referendum question, and the reference to the name of the candidate for whom a vote is counted is a reference to whether the vote is counted as a vote approving or opposing the referendum question;
- (l) for applying section 317 (Notice of final result of poll), the reference to each candidate is a reference to the Minister;
- (m) the result the returning officer must give under section 317 (Notice of final result of poll) as applied under this division is—
 - (i) for the referendum for the affected area—
 - (A) for each voting area of the affected area—how the

- voting area voted on the referendum question, including whether the voting area has approved the referendum question; and
- (B) for the affected area—whether the area has approved the referendum question; and
- (ii) for a referendum for an amalgamated area—how the area voted on the referendum question, including whether the area has approved the referendum question;
- (n) for applying sections 318(2)(b) (List of electors failing to vote), 319 (Notice to elector failing to vote) and 320 (Recording response to notice), the reference to the local government is a reference to—
- (i) for a referendum for an affected area—the local government (which may include the Brisbane City Council) for the local government area, or part of a local government area, for which a person listed as having failed to vote is enrolled; or
- (ii) for a referendum for an amalgamated area—the local government for the amalgamated area;
- (o) for applying section 321 (Evidentiary value of list under s 318), the reference to the local government’s chief executive officer is a reference to the returning officer for the referendum;
- (p) for applying sections 322 (Disposal of material resulting from election) and 323 (Ballot papers as evidence), a reference to the local government’s chief executive officer is a reference to the chief executive, but section 322(4) has no application at all;
- (q) for applying section 327(1)(c) (Bribery), the reference to support of, or opposition to, a candidate or a political party is a reference to approval of, or opposition to, a referendum question;
- (r) sections 333 (No record to be made of vote cast) and 346 (Breach of confidentiality of vote) are about how a person votes at the referendum, rather than the candidate for whom a person votes;
- (s) for applying section 349 (Injunctions to restrain contravention of chapter), the reference in section 349(1)(b) to chapter 5 is a reference to chapter 5, part 6 as applied under this division, and is also taken to include a reference to the other provisions of this

division.

‘(7) To avoid any doubt, sections 304 (Posted vote presumed valid until contrary proved) and 305 (Formal and informal ballot papers) have application.

‘(8) The following additional changes are specified—

- (a) for applying sections 293(6) (Distribution of ballot papers to electors who may or must cast declaration vote), 295(4) (Distribution of ballot papers to electors for postal ballot election) and 297(1)(d) (Casting a declaration vote by post)—
 - (i) a reply paid envelope, rather than a prepaid post envelope, is to be used; and
 - (ii) the things mentioned in section 293(6) and 295(4) are to include the instructions mentioned in section 297(1)(a) to (d);
- (b) for applying section 298(1) (Declaration voting before polling day), the returning officer for the referendum may declare as a polling booth not only the returning officer’s public office but also any other place the returning officer considers to be suitable for use for voting before referendum day;
- (c) for applying section 309(1) (Preliminary processing of declaration votes by returning officer), the returning officer need not wait until after 8 a.m. on the referendum day to start the preliminary processing of declaration votes under that section, but may start at any time before the referendum day;
- (d) for applying section 349 (Injunctions to restrain contravention of chapter), an application to the Supreme Court may additionally be made by—
 - (i) a local government; or
 - (ii) an individual or group of individuals reasonably identified in the community, in the court’s opinion, as supporting or opposing the referendum question.

‘(9) Subsections (2) to (8) do not limit by implication the changes that may be prescribed under a regulation.

Subdivision 3—Alternative provisions**‘Preliminary**

‘**137ZN.** A provision of chapter 5, part 6 has no application to the extent it is inconsistent with the alternative provisions in this subdivision.

‘Direction that poll be conducted by postal ballot

‘**137ZO.(1)** The Governor in Council may, by gazette notice, direct that the poll for the referendum for the affected area or a referendum for an amalgamated area be conducted by postal ballot.

‘(2) The direction may be given for—

- (a) all of the affected or amalgamated area; or
- (b) a part of the affected or amalgamated area marked on a map.

‘(3) The map is open to inspection at the place stated in the gazette notice.

‘Ballot papers

‘**137ZP.(1)** For the referendum for the affected area, a different coloured ballot paper must be used for each voting area of the affected area.

‘(2) If under this part there is to be a referendum for the area’s amalgamated area, an affected elector must be given a single ballot paper for voting in the polls for both the referendums.

‘(3) If a ballot paper mentioned in subsection (2), as completed for one referendum is informal, but as completed for the other referendum is formal, the informal part must be rejected and the formal part must be counted under chapter 5, part 6, division 14,²² as applied under this part.

‘Mode of voting

‘**137ZQ.(1)** If an affected elector wishes to vote to approve a referendum question, the elector must place a tick in the square opposite the word

²² Chapter 5 (Local government elections), part 6 (Conduct of elections), division 14 (Counting of votes)

‘YES’ on the ballot paper.

‘(2) If an affected elector wishes to vote to oppose a referendum question, the elector must place a tick in the square opposite the word ‘NO’ on the ballot paper.

‘(3) An affected elector is taken to have marked a ballot paper in the way mentioned in subsection (1) if the elector—

- (a) writes the word ‘YES’ in the square opposite the word ‘YES’ on the ballot paper; or
- (b) otherwise marks the ballot paper in a way clearly showing that the voter approves of the referendum question.

‘(4) An affected elector is taken to have marked a ballot paper in the way mentioned in subsection (2) if the elector—

- (a) writes the word ‘NO’ in the square opposite the word ‘NO’ on the ballot paper; or
- (b) otherwise marks the ballot paper in a way clearly showing that the voter opposes the referendum question.

‘(5) For the application of section 271(2)(a),²³ the approved form of ballot paper must allow for the method of voting stated in this section.

‘Effect of ballot paper

‘**137ZR.** For a ballot paper to have effect as a vote of an affected elector in the referendum—

- (a) the ballot paper must be completed in the way stated in this subdivision; and
- (b) the ballot paper must not contain any writing or mark (other than a mark authorised under this division) by which the elector can, in the returning officer’s opinion, be identified; and
- (c) the ballot paper must have been put in a ballot box; and
- (d) for a ballot paper put in a declaration envelope as required under

²³ Section 271(2)(a) (Requirements of ballot papers)

section 297²⁴ as applied under this division—

- (i) section 297(1) must have been complied with; and
- (ii) if the elector is an affected elector mentioned in section 289²⁵ as applied under this division, or an applicant who is given an approved declaration form under section 293(4)²⁶ as applied under this division, or an affected elector who, under section 295(2)²⁷ as applied under this division, and is given an approved declaration form, and the declaration on the envelope is witnessed by a person other than an issuing officer—the signature of the person making the declaration must correspond to the signature of the relevant applicant under section 293 as applied under this division, or the relevant affected elector under section 295 as applied under this division; and
- (iii) if the declaration envelope is posted to the returning officer for the referendum—it must be received by the returning officer within 10 days after the referendum day.

‘Scrutineers

‘137ZS.(1) For the appointment of scrutineers for a referendum, a reference in section 276, 277 or 279²⁸ to a candidate for election is a reference to 1 or more of the following—

- (a) an individual or group of individuals reasonably identified in the community, in the returning officer’s opinion, as supporting or opposing the referendum question;
- (b) the local government for the affected area’s amalgamated area;

²⁴ Section 297 (Casting a declaration vote by post)

²⁵ Section 289 (Who may cast a declaration vote)

²⁶ Section 293 (Distribution of ballot papers to electors who may or must cast declaration vote)

²⁷ Section 295 (Distribution of ballot papers to electors for postal ballot election)

²⁸ Section 276 (Candidates’ entitlement to scrutineers), 277 (Appointment of scrutineers) or 279 (Powers of scrutineers)

(c) a boundary affected local government for the affected area.

‘(2) An individual mentioned in subsection (1)(a) may appoint himself or herself as a scrutineer, and a group of individuals mentioned in subsection (1)(a) may appoint 1 or more of the group as a scrutineer or as scrutineers.

‘(3) For appointing a scrutineer for a group, the appointment may be made on the group’s behalf by any of its members.

‘(4) The returning officer may reject an appointment if the returning officer reasonably believes that if more scrutineers are appointed, the efficiency of the conduct of the referendum may be adversely affected.

‘(5) The returning officer may direct 1 or more scrutineers to leave a place if the returning officer reasonably believes that the number of scrutineers at the place may adversely affect the efficiency of the conduct of the referendum.

‘(6) A scrutineer must comply with a direction given under subsection (5).

Maximum penalty for subsection (6)—10 penalty units.

‘Declaration envelope tear-offs

‘**137ZT.(1)** In approving a form of declaration envelope, the chief executive must approve that the declaration be attached to the envelope in a way that allows the declaration to be torn off the envelope.

‘(2) The application of chapter 5, part 6, division 14²⁹ to a referendum is varied to the extent necessary for subsections (3) to (6) to have effect.

‘(3) Instead of opening a declaration envelope and putting the ballot paper in a ballot box in the way mentioned in section 310,³⁰ the returning officer must tear off the declaration and put the unopened envelope in the ballot box.

‘(4) After 8 a.m. on referendum day, the returning officer may open ballot boxes containing envelopes dealt with under subsection (3).

²⁹ Chapter 5 (Local government elections), part 6 (Conduct of elections), division 14 (Counting of votes)

³⁰ Section 310 (Procedure for processing declaration envelopes)

‘(5) If the returning officer acts under subsection (4), the officer must take from each envelope the ballot paper without unfolding it, or allowing anyone else to unfold it, put it in a sealed ballot box, and keep it there until it is dealt with in the official counting of votes.

‘(6) The returning officer must inform the persons who have appointed scrutineers for the referendum of the times when, and the places where, envelopes will be dealt with under subsections (4) and (5).

‘Division 5—Implementing referendum action for affected area

‘Application of division

‘137ZU. This division applies if—

- (a) the Minister is notified of the result of a referendum for an affected area; and
- (b) the affected area has approved the question for the referendum.

‘Reference to Legislative Assembly for resolution

‘137ZV.(1) The Minister must table the result of the referendum in the Legislative Assembly within 7 sitting days after the Minister is notified of the result.

‘(2) Within 7 sitting days after the Minister tables the result of the referendum, the Legislative Assembly may resolve that the Governor in Council be asked to make a regulation (a “**reinstatement regulation**”) for the affected area implementing the referendum action for the referendum.

‘(3) However, if, within 7 sitting days of the Minister tabling the result of the referendum, the Legislative Assembly does not resolve in the way mentioned in subsection (2), the referendum action must not be implemented under this part.

‘Reinstatement regulation

‘137ZW.(1) This section applies if the Legislative Assembly resolves that the Governor in Council be asked to make a reinstatement regulation for the affected area.

‘(2) The Governor in Council may make the reinstatement regulation.

‘(3) The reinstatement regulation may include provisions for the following—

- (a) abolishing the area’s amalgamated area;
- (b) reinstating each abolished area for the affected area by creating a new local government area (the “**reinstated area**”) with the name and area the abolished area had immediately before the changeover day for the affected area;
- (c) for the local government area of each boundary affected local government—reinstating the external boundaries that were changed under the affected area’s amalgamation regulation;
- (d) putting in place the electoral arrangements to apply for each reinstated area and for the local government area of each boundary affected local government (other than the Brisbane City Council);
- (e) holding fresh elections for councillors for each reinstated area at the time of the triennial elections in 1997, including provisions about how local governments for the reinstated areas are to share the cost of conducting the fresh elections;
- (f) dividing up assets and liabilities of the local government for the amalgamated area and each boundary affected local government, including, for example—
 - (i) in the way provided in the reinstatement regulation; and
 - (ii) if considered appropriate—through the appointment by the Minister or local governments of transitional committees with power to advise about the division of assets and liabilities;
- (g) the day the reinstated areas come into existence;
- (h) the appointment by the Minister of a person (the “**transition officer**”) to give directions to the local government for the amalgamated area, the local governments for the reinstated areas, and each boundary affected local government, necessary and appropriate for the purpose of an efficient and effective transition under the regulation;

- (i) compliance by local governments with directions mentioned in paragraph (h);
- (j) disposing of a reference of a reviewable local government matter, including a reference under section 235,³¹ if the reference has not been the subject of a regulation under chapter 3, part 1;³²
- (k) amending or repealing the affected area's amalgamation regulation.

‘(4) If provisions mentioned in subsection (3)(h) and (i) are included in the reinstatement regulation, the provisions must include a process under which—

- (a) a local government may refer to the Minister a dispute between it and the transition officer about a direction given or proposed to be given by the officer; and
- (b) the Minister may give a direction confirming, supplementing or changing a direction given or to be given by the officer.

‘(5) The reinstatement regulation may provide for all matters that may be provided for in a regulation implementing a reviewable local government matter.

‘Division of assets and liabilities

‘**137ZX.(1)** The Minister may ask the commissioner for information or advice about the division of assets and liabilities of the affected area's amalgamated area and each boundary affected local government.

‘(2) In providing the information or advice, the commissioner is performing a function additional to the functions the commissioner has for reviewable local government matters and referable local government matters.

³¹ Section 235 (Matter of area's division referred to commissioner)

³² Chapter 3 (Interaction with the State), part 1 (Review of local government matters)

‘Electoral arrangements for reinstated area

‘**137ZY.(1)** This section gives more detail about the way a reinstatement regulation for an affected area must provide for electoral arrangements for a reinstated area.

‘(2) The electoral arrangements must be the arrangements that, in substance, applied for the reinstated area’s abolished area immediately before the changeover day for the affected area.

‘(3) However, if immediately before the changeover day for the affected area the abolished area was divided into divisions, the regulation must provide for an adjustment of the boundaries of divisions of the reinstated area to the extent necessary to make the division of the area consistent with the basis specified in sections 232 and 233.³³

‘(4) The adjustment mentioned in subsection (3) must be based on electoral roll information available on the referendum roll cut-off day.

‘(5) Before the regulation is made, the Minister must ask the commissioner for information or advice about the adjustment.

‘(6) In providing the information or advice, the commissioner is performing a function additional to the functions the commissioner has for reviewable local government matters and referable local government matters.

‘Electoral arrangements for area of boundary affected local government

‘**137ZZ.(1)** This section applies if the reinstatement regulation for the affected area is to put in place electoral arrangements for the local government area of a boundary affected local government.

‘(2) Before the electoral arrangements are included in the regulation, the Minister must invite the local government to submit to the Minister, within a reasonable time specified by the Minister, a proposal about the electoral arrangements that should apply for the local government’s area when the external boundaries of the area are reinstated under the regulation.

³³ Sections 232 (Equitable division of local government areas) and 233 (Quota to be complied with in division of local government area and assignment of councillors)

‘(3) If the local government submits a proposal, the Minister must refer it to the commissioner.

‘(4) The Minister may also refer to the commissioner any other issues about the electoral arrangements.

‘(5) The commissioner must give the Minister recommendations about the electoral arrangements that should apply for the local government.

‘(6) If the commissioner gives a recommendation to the Minister about proposed boundaries for divisions of the local government area and for the assignment of councillors to the divisions, the commissioner must ensure that the recommended divisions and assignment—

- (a) would be consistent with the basis specified in sections 232 and 233;³⁴ and
- (b) is based on electoral roll information available as near as practicable to when the recommendation is given.

‘(7) The regulation may be made despite anything in this Act about implementing reviewable local government matters.

‘(8) In giving the Minister recommendations, the commissioner is performing a function additional to the functions the commissioner has for reviewable local government matters and referable local government matters.

‘Division 6—Implementing referendum action for amalgamated area

‘Application of division

‘**137ZZA.(1)** This division applies if—

- (a) the Minister is notified of the result of a referendum for an amalgamated area; and
- (b) the area has approved the question under the referendum.

‘(2) However, this division does not apply if—

³⁴ Sections 232 (Equitable division of local government areas) and 233 (Quota to be complied with in division of local government area and assignment of councillors)

- (a) the area's affected area approves the referendum question for the referendum for the affected area; and
- (b) within 7 sitting days of the Minister tabling the result of the affected area referendum in the Legislative Assembly, the Legislative Assembly resolves that the Governor in Council be asked to make a reinstatement regulation for the affected area.

'Early elections regulation

'137ZZB.(1) The Governor in Council may make a regulation implementing the referendum action for the referendum for the amalgamated area.

'(2) The regulation may amend the amalgamated area's amalgamation regulation, and may include provisions for—

- (a) revoking the cancellation of the 1997 triennial elections for the councillors of the local government of the amalgamated area; and
- (b) requiring triennial elections for the councillors of the local government of the area to be held in 1997; and
- (c) clarifying that the term of office of a person who was elected as a councillor of the local government for the area at the fresh elections held on 11 March 1995 ends at the conclusion of the triennial elections to be held in 1997; and
- (d) the adjustment of the boundaries of divisions of the area to the extent necessary to make the division of the area consistent with the basis specified in sections 232 and 233.³⁵

'(3) The adjustment mentioned in subsection (2)(d) must be based on electoral roll information available as near as practicable to when the regulation is made.

'(4) Before the regulation is made, the Minister must ask the commissioner for information or advice about the adjustment.

'(5) In providing information or advice, the commissioner is performing

³⁵ Sections 232 (Equitable division of local government areas) and 233 (Quota to be complied with in division of local government area and assignment of councillors)

a function additional to the functions the commissioner has for reviewable local government matters and referable local government matters.

Division 7—Costs

‘Minister’s directions about costs

‘137ZZC.(1) The Minister may give directions—

- (a) to a local government about meeting the costs of implementing this part (including implementing a regulation made under this part); and
- (b) to an entity about how the entity must account to a local government for costs incurred by the entity that are payable by the local government.

‘(2) The Minister may also give directions about how costs that are to be met by more than 1 local government are to be shared between them.

‘(3) If the Minister directs that a local government pay an amount to an entity, the amount is a debt owed to the entity by the local government.

‘(4) In deciding what directions should be given under subsection (1), the Minister must apply the following principles—

- (a) the costs incurred in notifying the approved form of petition page for an affected area and supplying petition pages, and in receiving, collating and checking petition pages for a petition for the area, should be met by the local government for the area’s amalgamated area;
- (b) the costs incurred in giving public notice in an affected area about the referendum roll cut-off day should be met by the local government for the area’s amalgamated area;
- (c) the remuneration and expenses reimbursement paid to an appointed person for preparing an explanatory statement for a referendum for an affected area or its amalgamated area, and the costs of providing departmental assistance to the appointed person, should be met by the local government for the amalgamated area;

- (d) the costs of preparing the electoral arrangements statement for a referendum for an affected area or its amalgamated area should be met by the local government for the amalgamated area;
- (e) a local government should meet the costs of complying with a regulation implementing referendum action under a referendum.

‘(5) The costs mentioned in subsection (4)(b) include costs incurred by the Minister before the commencement.

‘(6) If a direction that could have been given to the local government for an amalgamated area is not given to the local government before the area is abolished, the direction may be given to the local governments for the reinstated areas.

‘Referendum costs

‘137ZZD.(1) The local government for an affected area’s amalgamated area must pay for the cost of conducting a referendum for the affected area or amalgamated area, including the fees and allowances to which the returning officer and assistant returning officer for the referendum are entitled.

‘(2) An amount required for the cost may, without resolution of the local government for the amalgamated area, be spent by the local government whether or not the disbursement is provided for in its budget.

‘(3) An amount may be paid only if the returning officer for the referendum has presented an account to the local government’s chief executive officer.

‘Conditions of appointment as transition officer

‘137ZZE.(1) A transition officer appointed under a reinstatement regulation for an affected area is entitled to the fees, allowances and expenses decided by the Minister.

‘(2) The fees, allowances and expenses are payable by—

- (a) until the affected area’s abolished areas are reinstated—the local government for the affected area’s amalgamated area; and
- (b) after the affected area’s abolished areas are reinstated—the local

governments for the reinstated areas, and the affected area's boundary affected local governments, in the proportions prescribed under the reinstatement regulation.

'Division 8—Miscellaneous

'Proof of voters roll

'137ZZF. In a proceeding, a document purporting to be a copy of the voters roll for a voting area of an affected area, or for an amalgamated area, and to be certified by the returning officer for a referendum for the affected area or amalgamated area, is evidence of the roll and the matters contained in the roll.

'Additional regulation making power

'137ZZG.(1) The Governor in Council may make regulations for this part.

'(2) Without limiting subsection (1), a regulation may—

- (a) make further changes to the way chapter 5, part 6 is applied to referendums, including changes in the way this part provides for the application of chapter 5, part 6; or
- (b) despite any other provision of this part, provide for the referendum day for a referendum to be later than the day that would otherwise apply; or
- (c) make provision about a matter for which this Act does not make provision or enough provision.

'(3) A regulation made under this section may be given retrospective effect to a day not earlier than 20 March 1996.

'Regulatory impact statements

'137ZZH. A regulatory impact statement under the *Statutory Instruments Act 1992* need not be prepared for a regulation made under this part.

‘Expiry of pt 2A

‘137ZZI. This part, other than divisions 5 to 8, expires on 1 July 1997.’.