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City of Brisbane Act 1924

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *City of Brisbane Regulation 2004*.

2 Commencement

This regulation commences on 1 September 2004.

3 Dictionary

The dictionary in schedule 2 defines particular words used in this regulation.

Part 2 Financial management standards

Division 1 Revenue policies, revenue statements and annual financial statements—Act, s 127(1)

4 Revenue policy

- (1) This section prescribes financial management standards for a revenue policy, for a financial year, prepared and adopted by the council under section 106A¹ of the Act.
- (2) The revenue policy must include details of the principles applied by the council for the financial year for each of the following—
 - (a) making and levying rates and charges;

¹ Section 106A (Preparation and adoption of revenue policy) of the Act
See also section 106B (Requirements and content of revenue policy) of the Act.

- (b) exercising its powers to grant rebates and concessions;
- (c) recovery of unpaid amounts of rates and charges.

5 Revenue statement

- (1) This section prescribes financial management standards for a revenue statement, for a financial year, adopted by the council under section 109A² of the Act.
- (2) The revenue statement must include the following information for the financial year—
 - (a) an outline and explanation of the revenue raising measures adopted, including an outline and explanation of—
 - (i) the rates and charges to be made and levied in the financial year; and
 - (ii) the rebates and concessions to be granted in the financial year;
 - (b) whether the council has made a resolution limiting the increases in rates and charges;
 - (c) the extent to which physical and social infrastructure costs for new development are to be funded by charges for the development;
 - (d) whether the operating capability of the council is to be maintained, increased or decreased and, if it is to be increased or decreased, the extent to which it is to be increased or decreased;
 - (e) whether depreciation and other non-cash expenses are to be fully funded.

2 Section 109A (Adoption of revenue statement) of the Act

See also section 109B (Requirements and content of revenue statement) of the Act.

6 Annual financial statements

- (1) This section prescribes financial management standards for the council's financial statements, for a financial year, prepared under section 116³ of the Act.
- (2) The annual financial statements must—
 - (a) taken together, effectively comprise a general purpose financial report; and
 - (b) comply with the accounting requirements.
- (3) The annual financial statements for a financial year may be prepared for a period—
 - (a) starting on the day after the date to which the council's financial statements for the previous financial year were prepared; and
 - (b) ending on a day within 2 weeks before 30 June of the financial year.
- (4) If financial statements are prepared under subsection (3), the statements—
 - (a) are taken to be prepared for the financial year; and
 - (b) must show—
 - (i) the date to which the statements are prepared; and
 - (ii) in the title of the statements, the period for which the statements are prepared.
- (5) In this section—

accounting requirements means—

 - (a) the Australian Accounting Standards; and
 - (b) abstracts issued by the urgent issues group of the Australian Accounting Standards Board.⁴

3 Section 116 (Preparation of annual financial statements) of the Act

4 On the commencement of this section, the abstracts could be viewed on the Australian Accounting Standards Board's website at <www.aasb.com.au>.

Division 2 Exemption to open competition for contracts and tendering—Act, s 42A(1)(a)

7 Exemption to open competition

- (1) This division prescribes, for section 42A(1)(a)⁵ of the Act, financial management standards for the making of contracts under an exemption to open competition.
- (2) A contract may be made under the exemption if the contract is entered into—
 - (a) under a standing offer arrangement or preferred supplier arrangement; or
 - (b) with a supplier from a register of pre-qualified suppliers; or
 - (c) under an LGA arrangement.

8 Requirements for establishing a standing offer arrangement or preferred supplier arrangement

The council may establish a standing offer arrangement or preferred supplier arrangement only if—

- (a) the supply of goods or services is needed in large volumes or frequently; and
- (b) the council is able to obtain better value for money by aggregating demand for the goods or services needed; and
- (c) the goods or services needed can be stated in terms that would be well understood in the industry concerned.

9 Requirements for establishing a register of pre-qualified suppliers

The council may establish a register of pre-qualified suppliers of particular goods or services only if—

5 Section 42A (Exceptions to the requirement for tenders or quotations) of the Act

- (a) the preparation and evaluation of invitations each time the goods or services are needed would be costly; or
- (b) the capability or financial capacity of the supplier of the goods or services is critical; or
- (c) the supply of the goods or services involves significant security considerations; or
- (d) a precondition of an offer to contract for the goods or services is compliance with particular standards or conditions decided by the council; or
- (e) the ability of local business to supply the goods or services needs to be found out or developed.

10 Procedure for establishing purchasing arrangements

- (1) The council must invite persons to tender if it proposes to establish a purchasing arrangement.
- (2) The invitation must—
 - (a) be published, at least 7 days before the establishing of the arrangement, in a newspaper circulating in the city; and
 - (b) state the purchasing arrangement for which the person is invited to tender.
- (3) The council must ensure there is provision for the evaluation of the purchasing arrangement including, for example, removal of a person from the arrangement because of the person's poor performance of a contract entered into under the arrangement.
- (4) The council may establish a purchasing arrangement for longer than 2 years only if satisfied better value will be achieved by entering into a longer arrangement.

11 Entering into contracts under LGA arrangements

For entering into a contract under an LGA arrangement, a reference in the arrangement to a local government is a reference to the council.

Part 3 Full cost pricing

Division 1 Preliminary

12 Object of pt 3

The object of this part is to make financial management standards, under section 127(2)(b) of the Act, about requirements for full cost pricing and their application to significant business activities of the council under chapter 8, part 5⁶ of the Local Government Act.

13 Application of pt 3

This part applies to the implementation of full cost pricing for the council's significant business activities under chapter 8, part 5 of the Local Government Act.

14 Summary of matters affecting full cost pricing

In summary, the following are the matters affecting full cost pricing—

- (a) the relevant pricing provisions;
- (b) the provision in division 2 about the treatment of community service obligations;
- (c) the provisions in the Local Government Act about the elimination of, or taking into account, advantages and disadvantages of public ownership;⁷
- (d) the provisions in division 3 about financial reporting.

⁶ Chapter 8 (National competition reform of significant business activities), part 5 (Full cost pricing for significant business activities) of the Local Government Act

⁷ See section 568(2) of the Local Government Act.

Division 2 Treatment of community service obligations

15 Extra cost for community service obligations to be treated as revenue

- (1) This section applies if community service obligations for an activity are carried out as part of the activity.
- (2) For deciding charges for goods or services provided as part of the activity, the amount mentioned in subsection (3) must be treated as revenue for the activity.
- (3) For subsection (2), the amount is the cost of carrying out the obligations less any revenue arising from carrying out the obligations.

Division 3 Financial reporting

16 Statement in budget about significant business activities to which full cost pricing applies

- (1) Each budget of the council must include a statement about its significant business activities to which full cost pricing applies.
- (2) The statement must, for each activity—
 - (a) show the estimated revenues; and
 - (b) show the estimated expenses, including all items required to be taken into account for the relevant pricing provisions other than return on capital; and
 - (c) include the estimated surplus or deficit for the financial year; and
 - (d) include a description of the nature of community service obligations to be provided.
- (3) The statement must disclose each of the following items, for each activity, separately as estimated revenues—
 - (a) estimated revenue for services to be provided by the activity to persons other than the council;

- (b) estimated revenue for services to be provided to the council by the activity;
 - (c) the estimated cost of, less any estimated revenue arising from, carrying out community service obligations as part of the activity.
- (4) The statement must disclose each of the following items, for each activity, separately as estimated expenses—
- (a) operational costs;
 - (b) depreciation;
 - (c) competitive neutrality adjustments.
- (5) In this section—
- operational costs* include—
- (a) administrative and overhead costs; and
 - (b) the cost of resources to be used in carrying on the activity.

17 Statement in annual financial statements about significant business activities to which full cost pricing applies

- (1) This section prescribes, for section 116(2)(c)(vi) of the Act, information the council must include in its annual financial statements about its significant business activities to which full cost pricing applies.
- (2) The information is a statement that must, for each activity—
- (a) show the revenues; and
 - (b) show the expenses, including all items required to be taken into account for the relevant pricing provisions other than return on capital; and
 - (c) include the surplus or deficit for the financial year; and
 - (d) include a description of the nature of the community service obligations provided.
- (3) The statement must disclose each of the following items, for each activity, separately as revenues—

- (a) revenue for goods and services provided to persons other than the council by the activity;
 - (b) revenue for goods and services provided to the council by the activity;
 - (c) the cost of, less any revenue arising from, carrying out community service obligations as part of the activity.
- (4) The statement must disclose each of the following items, for each activity, separately as expenses—
- (a) operational costs;
 - (b) depreciation;
 - (c) competitive neutrality adjustments.
- (5) In this section—
- operational costs* include—
- (a) administrative and overhead costs; and
 - (b) the cost of resources used in carrying on the activity.

Part 4 Commercialisation

Division 1 Preliminary

18 Object of pt 4

The object of this part is to make financial management standards, under section 127(2)(c) of the Act, about commercialisation and its application to CBUs under chapter 8, part 6⁸ of the Local Government Act.

⁸ Chapter 8 (National competition reform of significant business activities), part 6 (Commercialisation of significant business activities) of the Local Government Act

19 Application of pt 4

This part applies to the council's implementation of commercialisation for its significant business activities under chapter 8, part 6 of the Local Government Act.

20 Summary of matters affecting commercialisation

In summary, the following are the matters affecting commercialisation—

- (a) the relevant pricing provisions;
- (b) the provision in division 2 about the treatment of community service obligations;
- (c) the provisions in the Local Government Act about the elimination of, or taking into account, advantages and disadvantages of public ownership;⁹
- (d) the provisions in division 3 about financial reporting;
- (e) the matters mentioned in each CBU's annual performance plan as required under section 24.¹⁰

Division 2 Treatment of community service obligations**21 Extra cost for community service obligations to be treated as revenue**

- (1) This section applies if community service obligations for an activity are carried out as part of the activity.
- (2) For deciding charges for goods or services provided as part of the activity, the amount mentioned in subsection (3) must be treated as revenue for the activity.

⁹ See sections 575 (Meaning of *commercialisation*) and 576 (Meaning of *key principles of commercialisation*) of the Local Government Act.

¹⁰ Section 24 (Requirements for a CBU's annual performance plan)

- (3) For subsection (2), the amount is the cost of carrying out the obligations less any revenue arising from carrying out the obligations.

Division 3 Financial reporting

22 Statement in budget about significant business activities to which commercialisation applies

- (1) Each budget of the council must include a statement about its significant business activities to which commercialisation applies.
- (2) The statement must, for each activity—
- (a) show the estimated revenues; and
 - (b) show the estimated expenses, including all items required to be taken into account for the relevant pricing provisions other than return on capital; and
 - (c) include the estimated surplus or deficit for the financial year; and
 - (d) include a description of the nature of community service obligations to be provided.
- (3) The statement must disclose each of the following items, for each activity, separately as estimated revenues—
- (a) estimated revenue for services to be provided by the activity to persons other than the council;
 - (b) estimated revenue for services to be provided to the council by the activity;
 - (c) the estimated cost of, less any estimated revenue arising from, carrying out community service obligations as part of the activity.
- (4) The statement must disclose each of the following items, for each activity, separately as estimated expenses—
- (a) operational costs;
 - (b) depreciation;
 - (c) competitive neutrality adjustments.

- (5) In this section—
operational costs include—
- (a) administrative and overhead costs; and
 - (b) the cost of resources to be used in carrying on the activity.

23 Statement in annual financial statements about significant business activities to which commercialisation applies

- (1) This section prescribes, for section 116(2)(c)(vi) of the Act, information the council must include in its annual financial statements about its significant business activities to which commercialisation applies.
- (2) The information is a statement that must, for each activity—
 - (a) show the revenues; and
 - (b) show the expenses, including all items required to be taken into account for the relevant pricing provisions other than return on capital; and
 - (c) include the surplus or deficit for the financial year; and
 - (d) include a description of the nature of the community service obligations provided.
- (3) The statement must disclose each of the following items, for each activity, separately as revenues—
 - (a) revenue for goods and services provided to persons other than the council by the activity;
 - (b) revenue for goods and services provided to the council by the activity;
 - (c) the cost of, less any revenue arising from, carrying out community service obligations as part of the activity.
- (4) The statement must disclose each of the following items, for each activity, separately as expenses—
 - (a) operational costs;
 - (b) depreciation;
 - (c) competitive neutrality adjustments.

- (5) In this section—
operational costs include—
- (a) administrative and overhead costs; and
 - (b) the cost of resources used in carrying on the activity.

24 Requirements for a CBU's annual performance plan

- (1) A CBU's annual performance plan¹¹ must include each of the following matters—
- (a) the CBU's financial and non-financial performance targets for its activities;
 - (b) the nature and extent of the CBU's community service obligations;
 - (c) the costings of, and funding for, the CBU's community service obligations.
- (2) A CBU's annual performance plan must also include each of the following matters—
- (a) the CBU's objectives and functions;
 - (b) the nature and scope of the CBU's main activities and undertakings;
 - (c) the CBU's notional capital structure and treatment of surpluses;
 - (d) the CBU's proposed major investments;
 - (e) the CBU's outstanding and proposed borrowings;
 - (f) the CBU's policy on the level and quality of service consumers can expect from the CBU;
 - (g) the delegations necessary to allow the CBU to exercise management autonomy and authority in its commercial activities;
 - (h) the type of information to be given in reports.

¹¹ See section 580 (Performance plan for commercial business units) of the Local Government Act.

- (3) However, a CBU is not required to include in its annual performance plan a matter, or an aspect of a matter, mentioned in subsection (2) if the council is satisfied the matter or aspect is not materially relevant to the CBU or its activities.
- (4) Subsections (1) and (2) do not limit the matters that may be included in an annual performance plan.
- (5) A matter in a CBU's annual performance plan may be omitted from copies of the plan made available to the public if—
 - (a) the matter is of a commercially sensitive nature to the CBU; and
 - (b) a full statement of the matter is given—
 - (i) if the annual performance plan is adopted by resolution of the council—to each of the council's councillors; or
 - (ii) if the council delegates the adoption of the annual performance plan—to the delegate.¹²

Part 5 Code of competitive conduct

Division 1 Preliminary

25 Object of pt 5

The object of this part is to make financial management standards, under section 127(2)(e) of the Act, about a code of competitive conduct for the application of competitive neutrality principles to the council's business activities and roads business activities under chapter 9¹³ of the Local Government Act.

12 See, also, section 250(2) (Improper use of information by councillors) of the Local Government Act.

13 Chapter 9 (Conduct of competitive business activities) of the Local Government Act

26 Application of code

The code applies to an activity of the council—

- (a) for a roads business activity—from when the code applies under section 763¹⁴ of the Local Government Act; or
- (b) for a business activity to which the council has resolved to apply the code—while the resolution is effective under section 766¹⁵ of the Local Government Act.

27 Elements of code

The following are the elements of the code—

- (a) the relevant pricing provisions;
- (b) the provisions in division 2 about the treatment of community service obligations;
- (c) the provision in division 3 about the elimination of, or taking into account, advantages and disadvantages of public ownership;
- (d) the provisions in division 4 about financial reporting.

Division 2 Treatment of community service obligations**28 Extra cost for community service obligations to be treated as revenue**

- (1) This section applies if community service obligations for an activity are carried out as part of the activity.
- (2) For deciding charges for goods or services provided as part of the activity, the amount mentioned in subsection (3) must be treated as revenue for the activity.

14 Section 763 (Code must be applied to roads business activities) of the Local Government Act

15 Section 766 (Local government to resolve whether to apply code of competitive conduct to business activities) of the Local Government Act

- (3) For subsection (2), the amount is the cost of carrying out the obligations less any revenue arising from carrying out the obligations.

29 Community service obligations not to be part of roads business activities

Community service obligations must not be included in offers or competitive tenders submitted for roads business activities carrying out work on State-controlled roads.

Division 3 Elimination of, or taking into account, advantages and disadvantages of public ownership

30 Effect of advantages and disadvantages of public ownership

The council must ensure—

- (a) if possible and appropriate, that any advantages and disadvantages arising because an activity to which the code applies is publicly owned are eliminated; and
- (b) if any advantages or disadvantages are not eliminated, that they are taken into account in the required revenue worked out under the required pricing provisions for deciding charges to persons for goods or services provided in carrying on the activity.¹⁶

Division 4 Financial reporting

31 Statement in budget about activities to which code applies

- (1) Each budget of the council must include a statement about its activities to which the code applies.
- (2) The statement must, for each activity—

¹⁶ See schedule 1, section 3 (Required revenue for deciding charges).

- (a) show the estimated revenues; and
 - (b) show the estimated expenses, including all items required to be taken into account under the relevant pricing provisions, other than return on capital; and
 - (c) include the estimated surplus or deficit for the financial year; and
 - (d) include a description of the nature of the community service obligations to be provided.
- (3) The statement must disclose each of the following items, for each activity, separately as estimated revenues—
- (a) estimated revenue for services to be provided by the activity to persons other than the council;
 - (b) estimated revenue for services to be provided by the activity to the council;
 - (c) the estimated cost of, less any estimated revenue arising from, carrying out community service obligations as part of the activity.

32 Omission of particular matters from statement in budget

A statement in a budget of the council required under section 31 may include a summary of a matter required to be included in the budget, instead of a full statement of the matter, if—

- (a) the summary states—
 - (i) it is a summary only; and
 - (ii) a full statement of the matter is available for inspection and purchase at the council's public office; and
- (b) a full statement of the matter is available for inspection and purchase at the council's public office during office hours on business days.

33 Statement in annual financial statements about activities to which code applies

- (1) This section prescribes, for section 116(2)(c)(vi) of the Act, information the council must include in its annual financial statements about its significant business activities to which the code applies.
- (2) The information is a statement that must, for each activity—
 - (a) show the revenues; and
 - (b) show the expenses, including any items required to be taken into account under the relevant pricing provisions other than return on capital; and
 - (c) include the surplus or deficit for the financial year; and
 - (d) include a description of the nature of community service obligations provided.
- (3) The statement must disclose each of the following items, for each activity, separately as revenues—
 - (a) revenue for goods and services provided to persons other than the council in carrying on the activity;
 - (b) revenue for goods and services provided to the council in carrying on the activity;
 - (c) the cost of, less any revenue arising from, carrying out community service obligations provided as part of the activity.

34 Omission of particular matters from statement in annual financial statements

A statement in the annual financial statements of the council required under section 33 may include a summary of a matter required to be included in the annual financial statements, instead of a full statement of the matter, if—

- (a) the summary states—
 - (i) it is a summary only; and
 - (ii) a full statement of the matter is available for inspection and purchase at the council's public office; and

- (b) a full statement of the matter is available for inspection and purchase at the council's public office during office hours on business days.

Part 6 Reform of particular water and sewerage services

Division 1 Preliminary

35 Object of pt 6

The object of this part is to make financial management standards, under section 127(2)(f) of the Act, about facilitating the reform of particular water and sewerage services under chapter 10 of the Local Government Act for relevant business activities of the council and its corporatised corporations.

36 Definition for pt 6

In this part—

entity means—

- (a) in relation to a relevant business activity carried on by the council—the council; or
- (b) in relation to a relevant business activity carried on by a corporatised corporation of the council—the corporatised corporation.

37 Requirements for relevant business activities

In complying with section 783¹⁷ of the Local Government Act for a relevant business activity, an entity must comply with divisions 2 to 6.

¹⁷ Section 783 (Local governments to implement charging and operational arrangements for relevant business activities) of the Local Government Act

Division 2 Consumption as the basis for utility charges for water services

38 Application of div 2

This division applies to the extent an entity's relevant business activity provides water services.

39 How utility charges for water services based on consumption must be worked out

- (1) This section prescribes how a utility charge for water services based on consumption,¹⁸ including the consumption component of a two-part tariff, must be worked out.
- (2) The utility charge must be worked out—
 - (a) if a two-part tariff applies—on the basis stated in subsection (3)(b); or
 - (b) otherwise—on a basis stated in subsection (3), (5) or (6).
- (3) If utility charges are worked out based on meter readings of water consumed, the utility charges for consumers or groups of consumers must be based on—
 - (a) a fixed amount and a further amount or further amounts for each unit or part of a unit of the quantity of water supplied greater than a stated unit or units; or
 - (b) an amount or amounts for units or part of a unit of the quantity of water supplied.
- (4) Subsection (5) applies if—
 - (a) utility charges are not based on a meter reading of water consumed; and
 - (b) consumers are divided by the entity into groups based on the estimated average quantity of water expected to be supplied to consumers in each group.

18 See section 783(b) of the Local Government Act.

- (5) If this subsection applies, the utility charge for consumers in a group must be based on the estimated average consumption by all consumers in the group.

Example for subsection (5)—

The council could, by sampling or other ways, work out the average usage of domestic consumers was 300 kL a year and the average of commercial consumers was 2 000 kL a year. The utility charge could then be based on a notional access charge of say, for domestic consumers, \$100 and, for commercial consumers, \$600 and a notional usage charge of \$1 for each kL. The charges would be \$400 for domestic consumers and \$2 600 for commercial consumers. Given the considerable variability of consumption across commercial consumers, it would be preferable to further divide them by type and make separate assessments for each. Some of the commercial users may be metered and charged on the basis of actual consumption in which case subsection (4) would not apply to them.

- (6) If the utility charge is not worked out under subsection (3) or (5), it must be worked out on a basis the entity considers appropriate to decide the reasonably likely consumption by the consumer.

Division 3 Full cost recovery

40 Application of div 3

This division does not apply to an entity deciding the charges for water and sewerage services provided to persons in carrying on a relevant business activity if the entity applies the relevant pricing provisions under part 3 or 4 in deciding the charges.

41 Required revenue for deciding charges

In deciding the amount of a charge for water or sewerage services provided to persons in carrying on a relevant business activity, an entity must ensure the projected total revenue from carrying on the activity is enough to cover the projected total costs of carrying on the activity for a financial year.

42 Total costs of carrying on relevant business activity

For this division, the total costs of carrying on a relevant business activity include each of the following—

- (a) the operational costs incurred in carrying on the activity;
- (b) a reasonable allocation of the entity's administrative and overhead costs;
- (c) the cost of resources used in carrying on the activity;
- (d) depreciation;
- (e) return on capital employed.

43 Administrative and overhead costs

For section 42(b), the entity must make a reasonable allocation of its administrative and overhead costs to each relevant business activity to which full cost recovery applies.

44 Cost of resources used in carrying on relevant business activity

- (1) For section 42(c), if resources are provided by or to the entity for carrying on a relevant business activity, the cost of resources used in carrying on the activity may be taken to be—
 - (a) if the resources have an identifiable cost—the cost of the resources; or
 - (b) if paragraph (a) does not apply and the resources are readily available on the open market—the price at which the resources can be obtained on the market.
- (2) If subsection (1)(b) applies, the entity must ensure the terms on which the cost is based are similar to the terms on which they are made available in carrying on the activity.

45 Depreciation

- (1) For section 42(d), depreciation of an asset used in carrying on a relevant business activity must be based on the depreciable amount for the asset allocated over its useful life.

- (2) However, the entity may decide to base the depreciation on an amount decided by the entity to be appropriate in the circumstances.

46 Return on capital

- (1) For section 42(e), the amount for the return on the capital used in carrying on a relevant business activity must be a positive real rate decided by the entity.
- (2) In this section—

capital used in carrying on a relevant business activity means the total value, using an accepted accounting method, of the assets used for the activity less the liabilities attributable to the activity.

Division 4 Treatment of community service obligations

47 Extra cost for community service obligations to be treated as revenue

If community service obligations for a relevant business activity are carried out as part of the activity, for deciding charges for goods and services provided through the activity, the following amount must be treated as revenue for the activity—

- (a) the cost of carrying out the obligations; less
- (b) any revenue arising from carrying out the obligations.

Division 5 Identification and disclosure of cross-subsidies between classes of consumers

48 Disclosure of cross-subsidies in annual report

- (1) In its annual report, an entity must state the amount of any cross-subsidies between the following classes of consumers

for water or sewerage services provided for the financial year—

- (a) domestic consumers;
 - (b) commercial consumers;
 - (c) industrial consumers;
 - (d) another class decided by the entity;
 - (e) other consumers.
- (2) For deciding the amount to be stated for subsection (1), the entity must, to the extent it is reasonably practicable, comply with the document called ‘Guidelines for Identification and Measurement of Cross-Subsidies’ (September 1998).¹⁹

Division 6 Disclosure of community service obligations

49 Disclosure of community service obligations

An entity must disclose in its annual report—

- (a) community service obligations for a relevant business activity carried out during the financial year as part of the activity; and
- (b) the cost of, less any revenue arising from, carrying out the obligations.

¹⁹ A copy of the guidelines may be inspected, free of charge, during office hours on business days at the office of the Department of Local Government, Planning, Sport and Recreation at 41 George Street, Brisbane.

Part 7 **Miscellaneous provisions**

50 Prescribed interest on unpaid rate—Act, s 67

For section 67(2)(a)²⁰ of the Act, the prescribed rate of interest is 11% a year.

51 Certificate about payment of notional GST—Act, s 127(2)(a)

The council must, not later than 15 September in each financial year, give the Minister a certificate stating the council has paid notional GST for the most recently completed financial year.

20 Section 67 (Unpaid rate may bear interest) of the Act

Schedule 1 Relevant pricing provisions

Schedule 2, definition *relevant pricing provisions*

1 Definition for sch 1

In this schedule—

relevant activity means—

- (a) for the application of the relevant pricing provisions under section 14(a)²¹—a significant business activity of the council to which full cost pricing applies; or
- (b) for the application of the relevant pricing provisions under section 20(a)²²—a significant business activity of the council to which commercialisation applies; or
- (c) for the application of the relevant pricing provisions under section 27(a)²³—an activity of the council to which the code applies under section 26.

2 References to sections

In this schedule, unless otherwise stated a reference to a section is a reference to a section of this regulation.

3 Required revenue for deciding charges

In deciding charges to persons for goods or services provided in carrying on a relevant activity, the council must ensure the projected total revenue from carrying on the activity is enough to cover the projected total costs of carrying on the activity for—

21 Section 14 (Summary of matters affecting full cost pricing)

22 Section 20 (Summary of matters affecting commercialisation)

23 Section 27 (Elements of code)

Schedule 1 (continued)

- (a) if the relevant activity is an activity to which the code applies under section 26—a period of more than 1 year but not more than 5 years; or
- (b) otherwise—the council’s financial year.

4 Different charges for commercial reasons

- (1) A charge may be decided for providing specific goods or services in carrying on a relevant activity that is, for commercial reasons, an appropriate charge for the goods or services provided.
- (2) For subsection (1), a charge is, for commercial reasons, an appropriate charge if it could reasonably be charged if the goods or services were provided by an entity carrying on the activity with the primary object of making a profit from carrying on the activity.

5 Total costs of carrying on relevant activity

- (1) For this schedule, the total costs of carrying on a relevant activity include each of the following—
 - (a) the operational costs incurred in carrying on the activity;
 - (b) administrative and overhead costs;
 - (c) the cost of resources used in carrying on the activity;
 - (d) depreciation;
 - (e) equivalentents for Commonwealth or State taxes the council is not liable to pay because it is a local government;
 - (f) equivalentents for the cost of funds advantage the council obtains over commercial interest rates because of State guarantees on borrowings;
 - (g) return on capital.
- (2) The total costs must be adjusted for other advantages and disadvantages of public ownership that are not eliminated.

Schedule 1 (continued)

- (3) Subsection (2) does not apply in relation to a relevant activity to which commercialisation applies.

6 Allocation of administrative and overhead costs

For section 5(1)(b) of this schedule, the council must make a reasonable allocation of its administrative and overhead costs to each relevant activity, having regard to all of the council's relevant activities.

7 Cost of resources used in carrying on activity

- (1) For section 5(1)(c) of this schedule, if resources are provided by or to the council for carrying on an activity, the cost of resources used in carrying on the activity may be taken to be—
- (a) if the resources have an identifiable cost—the cost of the resources; or
 - (b) if paragraph (a) does not apply and the resources are readily available on the open market—the price at which the resources can be obtained on the market.
- (2) If subsection (1)(b) applies, the council must ensure the terms on which the cost is based are similar to the terms on which they are made available in carrying on the activity.

8 Depreciation

- (1) For section 5(1)(d) of this schedule, depreciation of an asset used in carrying on an activity must be based on the depreciable amount for the asset allocated over its useful life.
- (2) However, the council may decide to base the depreciation on an amount decided by the council to be appropriate in the circumstances.

9 Equivalent amounts for taxes council is not liable to pay

- (1) This section applies, for section 5(1)(e) of this schedule, for working out the equivalent amount for a Commonwealth or

Schedule 1 (continued)

State tax the council is not liable to pay because it is a local government.

- (2) The equivalent amount must be worked out—
 - (a) for a tax to which a tax equivalents manual applies—by applying the general principles provided for in the manual; or
 - (b) if paragraph (a) does not apply—by estimating the amount a private sector entity carrying on the business would calculate to be its liability to the tax.
- (3) Subsection (2)(a) does not, of itself, require the council to comply with a process or other requirement under the tax equivalents manual.
- (4) However, the council must keep, for 7 years from the day the equivalent amount is worked out, details of the calculations made in working out the equivalent amount.
- (5) This section does not apply in relation to a relevant activity to which commercialisation applies.

10 Guarantees by State

- (1) This section applies, for section 5(1)(f) of this schedule, in relation to a relevant activity that is an activity to which the code applies under section 26.²⁴
- (2) If the State guarantees repayment of a debt of the council attributed to the activity, the council must, in carrying on the activity, take account of amounts equivalent to the cost of funds advantage the council obtains over commercial interest rates because of the guarantee.

²⁴ For the equivalent provision for a relevant activity to which full cost pricing applies, see section 569 (Guarantees by State) of the Local Government Act. For the equivalent provision for a relevant activity to which commercialisation applies, see section 583 (Guarantees by State) of the Local Government Act.

Schedule 1 (continued)

11 Return on capital

- (1) For section 5(1)(g) of this schedule, the amount for the return on the capital used in carrying on a relevant activity must be decided using the rate at which, in the council's opinion, a comparable private sector entity carrying on the activity would be able to obtain the capital in the market, having regard to the split the council considers appropriate, for the type of business, between equity and loan capital and the return appropriate to each.
- (2) However, the amount for the return on the capital used in carrying on an activity for the first year in which the activity is a relevant activity may be the amount the council decides.
- (3) In this section—
capital used in carrying on a relevant activity means the total value, decided using an accepted accountancy method, of the assets used for the activity less the liabilities attributable to the activity.

Schedule 2 Dictionary

section 3

Australian Accounting Standards means the accounting standards issued by the Australian Accounting Standards Board.

CBU means a commercial business unit of the council.

code means the code of competitive conduct prescribed under part 5.²⁵

community service obligations, for an activity, means—

- (a) for an activity carried on by a corporatised corporation under chapter 8, part 7 of the Local Government Act—see section 677²⁶ of the Local Government Act; or
- (b) for an activity carried on by a CBU—see section 577²⁷ of the Local Government Act; or
- (c) for another activity carried on by the council—the obligations to do something if the council is satisfied—
 - (i) that if the activity were carried on by an entity with the primary object of making a profit, the thing would not be in the entity’s commercial interests to perform; and
 - (ii) the obligations arise because of a direction by the council.

competitive neutrality adjustments, for a significant business activity of the council, includes each of the following—

- (a) equivalents for taxes other than income tax;

²⁵ Part 5 (Code of competitive conduct)

²⁶ Section 677 (Meaning of *community service obligations*) of the Local Government Act

²⁷ Section 577 (Definitions for pt 6) of the Local Government Act

Schedule 2 (continued)

- (b) equivalents for the cost of funds advantage the council obtains over commercial interest rates because of State guarantees on borrowings;
- (c) adjustments for advantages and disadvantages of public ownership of the activity.

depreciable amount, for an asset, means the depreciable amount for the asset worked out under the Australian Accounting Standards.

entity, for part 6, see section 36.

LGA arrangement means an LGA arrangement under the *Local Government Finance Standard 1994*.

preferred supplier arrangement means an arrangement by the council with a supplier for the supply of goods or services under agreed pricing conditions for a stated period.

pre-qualified supplier means a supplier who has been assessed by the council as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements.

purchasing arrangement means any of the following—

- (a) a preferred supplier arrangement;
- (b) a register of pre-qualified suppliers;
- (c) a standing offer arrangement.

relevant pricing provisions means schedule 1.

standing offer arrangement means an arrangement to which the council is a party with a supplier for the supply of goods or services at a fixed price for a stated period.

tax equivalents manual means a tax equivalents manual under section 582²⁸ of the Local Government Act.

28 Section 582 (Commonwealth and State tax equivalents) of the Local Government Act

ENDNOTES

- 1 Made by the Governor in Council on 19 August 2004.
- 2 Notified in the gazette on 20 August 2004.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Local Government, Planning, Sport and Recreation.