



Queensland

Local Government Legislation Amendment Regulation (No. 2) 2013

Subordinate Legislation 2013 No. 16

made under the

Local Government Act 2009
City of Brisbane Act 2010

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Local Government Legislation Amendment Regulation (No. 2) 2013*.

Part 2 Amendment of City of Brisbane Regulation 2012

2 Regulation amended

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

3 Amendment of s 138 (Application of proceeds of sale)

(1) Section 138(1)—

insert—

‘(ba) to pay land tax owing on the day of sale;’.

(2) Section 138(1)—

insert—

‘(fa) to pay any body corporate fees that the owner of the land owed immediately before the sale;’.

(3) Section 138(1)(ba) to (g)—

renumber as section 138(1)(c) to (i).

transferring instrument see section 321(1).

WBWC means Wide Bay Water Corporation ABN 98 380 729 010.

‘318 Purpose of this part

‘The purpose of this part is to provide for a transition from WBWC to FCRC.

‘319 Minister may declare transfer day

‘The Minister may, by gazette notice, declare a day to be the transfer day for this part.

‘320 Successor in law

- ‘(1) On the transfer day, FCRC becomes the successor in law of WBWC.
- ‘(2) Without limiting subsection (1), proceedings by or against WBWC, or that could have been started by or against WBWC before the transfer day, may be continued or started by or against FCRC.

‘321 Instruments about WBWC

- ‘(1) This section applies to an instrument applying to WBWC in force immediately before the transfer day (the *transferring instrument*).
- ‘(2) A transferring instrument applies to FCRC in place of WBWC.
- ‘(3) Without limiting subsection (2)—
 - (a) a transferring instrument to which, immediately before the transfer day, WBWC was a party is taken to be an instrument to which FCRC is a party in the same way WBWC was a party; and

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- (b) a transferring instrument given to, by or in favour of WBWC is taken to have been given to, by or in favour of FCRC in the same way it was given to, by or in favour of WBWC; and
- (c) a transferring instrument that refers to WBWC is taken to refer to FCRC in the same way it referred to WBWC; and
- (d) a transferring instrument under which money is, or may become, payable to or by WBWC is taken to be an instrument under which money is, or may become, payable to or by FCRC in the same way the money was, or might have become, payable to or by WBWC; and
- (e) a transferring instrument under which property, other than money, is, or may become, liable to be transferred, conveyed or assigned to or by WBWC is taken to be an instrument under which property is, or may become, liable to be transferred, conveyed or assigned to or by FCRC in the same way the property was, or might have become, liable to be transferred, conveyed or assigned to or by WBWC.

‘(4) In this section—

instrument—

- (a) includes an approval, licence or permit; but
- (b) does not include a contract.

‘322 Novation of WBWC contracts to FCRC

‘(1) This section applies to a contract—

- (a) in force immediately before the transfer day; and
- (b) to which WBWC is a party.

‘(2) On the transfer day, the following apply despite any provision of the contract—

- (a) FCRC is taken to be a party to the contract instead of WBWC;

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- (b) FCRC assumes WBWC's liabilities and rights under the contract;
 - (c) a reference in the contract to WBWC is taken to be a reference to FCRC;
 - (d) changes to the contract that are necessary for, or incidental to, the matters in paragraphs (a) to (c) are taken to have been made.
- '(3) Subsection (2), or any thing done under it, does not—
- (a) discharge or otherwise affect the contract or the performance of the contract by another party to it; or
 - (b) fulfil a condition allowing a person to terminate the contract or be released, wholly or partly, from the contract or a liability under it.
- '(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to any matter under subsection (2)—
- (a) the advice is taken to have been obtained; and
 - (b) the consent or notice is taken to have been given.
- '(5) In this section—
- contract*** includes—
- (a) an agreement, deed or other instrument, whether or not for consideration; but
 - (b) does not include a licence, permit or approval.

'323 Contractual rights are unaffected

'Nothing done under this part will—

- (a) place WBWC or FCRC in breach of a document, including a document that prohibits or regulates—
 - (i) the transfer of any right or liability; or
 - (ii) the disclosure of any information; or
- (b) fulfil any condition that—

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- (i) allows a person to terminate, or modify the operation or effect of, a document or obligation; or
- (ii) requires an amount to be paid before its stated maturity; or
- (c) release a surety or other obligee wholly or partly, from an obligation.

‘324 Preservation of rights of employees

- ‘(1) At the beginning of the transfer day an employee of WBWC is transferred to FCRC.
- ‘(2) On the transfer mentioned in subsection (1)—
 - (a) the employee retains and is entitled to all rights that have accrued to the employee because of the person’s employment with WBWC; and
 - (b) the employee’s service as an employee of WBWC is taken to be service of a like nature in FCRC for deciding the employee’s rights as an employee of FCRC.
- ‘(3) Employment of the person by FCRC under subsection (2) does not—
 - (a) affect the employee’s benefits, entitlements or remuneration; or
 - (b) prejudice the employee’s existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (c) interrupt continuity of service; or
 - (d) constitute a termination, retrenchment or redundancy; or
 - (e) entitle the employee to a payment or other benefit merely because the person is no longer employed by the WBWC.
- ‘(4) To remove any doubt, an employee of WBWC is taken to be employed by FCRC on the same terms and conditions as applied before the transfer.

‘325 Transfer of WBWC assets and WBWC liabilities to FCRC

- ‘(1) At the beginning of the transfer day—
- (a) WBWC is divested of all WBWC assets and released from all WBWC liabilities; and
 - (b) WBWC assets become the assets of FCRC; and
 - (c) WBWC liabilities are assumed by FCRC.

- ‘(2) In this section—

WBWC asset means an asset that, immediately before the transfer day, is an asset of WBWC.

WBWC liability means a liability that, immediately before the transfer day, is a liability of WBWC.

‘326 Existing delegations made to WBWC

- ‘(1) This section applies to a delegation—
- (a) made to WBWC under an Act; and
 - (b) in force at the beginning of the transfer day.
- ‘(2) On the transfer day, the delegation continues in force as a delegation to FCRC until the earlier of the following—
- (a) it is revoked;
 - (b) it would, if WBWC had not been dissolved, have ended.
- ‘(3) Subsection (2) does not stop the delegation being amended while it continues in force under subsection (2).

‘327 Registration of transferred assets

- ‘(1) This section applies to the registrar of titles or other person responsible for keeping a register for dealings about an asset, liability or instrument that, under section 325(1)(b), becomes an asset of FCRC.
- ‘(2) The registrar or person must, if asked by FCRC in the appropriate form, and on payment of any fee, record a transfer of the asset, liability or instrument to FCRC.

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‘(3) In this section—

registrar of titles means a public official or authority responsible for registering title to land and dealings affecting land.

‘328 Dissolution of WBWC

‘(1) This section takes effect immediately after FCRC becomes the successor in law of WBWC.

‘(2) WBWC is dissolved and the members of the board of WBWC cease to hold office.’.

ENDNOTES

- 1 Made by the Governor in Council on 7 February 2013.
- 2 Notified in the gazette on 8 February 2013.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Local Government, Community Recovery and Resilience.

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