



Queensland

Local Government Legislation Amendment Regulation (No. 4) 2013

Subordinate Legislation 2013 No. 273

made under the

City of Brisbane Act 2010

Local Government Act 2009

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[s 1]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Local Government Legislation Amendment Regulation (No. 4) 2013*.

2 Commencement

Sections 19 and 29 commence on 1 January 2014.

Part 2 Amendment of City of Brisbane Regulation 2012

3 Regulation amended

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

4 Replacement of ss 12 and 13

Sections 12 and 13—

omit, insert—

12 Anti-competitive provisions and review procedures

- (1) For the Act, schedule, definition *anti-competitive provision*, a provision is identified as creating a barrier to entry to a market or competition within a market if a local government, applying the competition policy guidelines, identifies the provision as creating one of those barriers.
- (2) For section 41(1) of the Act, the procedures prescribed are the procedures mentioned in the competition policy guidelines.

- (3) The *competition policy guidelines* is the document called ‘National Competition Policy Guidelines for conducting reviews on anti-competitive provisions in local laws’, version 1, made by the department.

Editor’s note—

A copy of the competition policy guidelines is available on the department’s website.

5 Amendment of s 16 (Thresholds for significant business activities—Act, s 47(4)(b))

Section 16(2) to (4)—

omit, insert—

- (2) A business activity that has expenditure of at least \$8.9m for the previous financial year is a significant business activity for the current financial year.
- (3) The Minister must consult with LGAQ Ltd. about a proposed amendment to a threshold mentioned in subsection (2).

6 Amendment of s 29 (Prescribed business activities—Act, s 51(7))

Section 29(1), ‘\$300000’—

omit, insert—

\$312000

7 Amendment of s 206 (What ch 6 is about)

- (1) Section 206(1) and (2)—

omit, insert—

- (1) This chapter is about the council’s activities for the making of a contract for—

[s 8]

- (a) the supply of goods or services; or
 - (b) the disposal of non-current assets.
- (2) Section 206(3)—
renumber as section 206(2).

8 Amendment of s 214 (What div 2 is about)

- (1) Section 214(2), after ‘year’—
insert—
 , or over the proposed term of the contractual arrangement
- (2) Section 214(3), after ‘year’—
insert—
 , or over the proposed term of the contractual arrangement
- (3) After section 214(3)—
insert—
 Example—
 A contractual arrangement for the supply of a service over a 5 year period that is expected to be worth, exclusive of GST, \$80000 each year has a total expected value of \$400000.
- (4) Section 214(4)—
omit, insert—
 (4) For subsections (2) and (3), the expected value of a contractual arrangement with a supplier for a financial year, or over the proposed term of the contractual arrangement, is the total expected value of all of the council’s contracts with the supplier for goods and services of a similar type under the arrangement.

9 Amendment of s 222 (Exception for register of pre-qualified suppliers)

(1) Section 222(4)—

renumber as section 222(7).

(2) Section 222(2)—

omit, insert—

(2) The council may enter into the contract without first inviting written quotes or tenders if the contract is entered into with a supplier from a register of pre-qualified suppliers that is made in compliance with subsections (3) to (6).

(3) Section 222—

insert—

(4) The council must invite suppliers to tender to be on a register of pre-qualified suppliers.

(5) The invitation must—

(a) be made by an advertisement published in a newspaper that circulates generally in Brisbane; and

(b) allow tenders to be given to the council for at least 21 days after the advertisement is published in the newspaper.

(6) When selecting a supplier to be a pre-qualified supplier for the register, the council must have regard to the sound contracting principles.

10 Amendment of s 224 (Exception for LGA arrangement)

Section 224(2)(b)—

omit, insert—

(b) if LGAQ Ltd. or the associated company were the council, would be either—

[s 11]

- (i) a contract with an independent supplier entered into under section 222 by LGAQ Ltd. or the associated company; or
- (ii) a contract with an independent supplier entered into under a preferred supplier arrangement under section 223.

11 Amendment of ch 6, pt 4, hdg

Chapter 6, part 4, heading, ‘contracts’—

omit, insert—

contractual arrangements

12 Amendment of s 227 (Publishing details of contracts worth \$200000 or more)

- (1) Section 227, heading, ‘contracts’—

omit, insert—

contractual arrangements

- (2) Section 227(1)—

omit, insert—

- (1) The council must, as soon as practicable after entering into a contractual arrangement worth \$200000 or more (exclusive of GST) publish the relevant details of the contractual arrangement on the council’s website.

- (3) Section 227(3), ‘contract’—

omit, insert—

contractual arrangement

- (4) Section 227(4), definition *relevant details*, ‘contract’—

omit, insert—

contractual arrangement

13 Amendment of s 265 (Payment by former employer to new employer towards long service leave entitlements accrued with former employer)

Section 265(1)—

omit, insert—

- (1) The former employer must, when the person's entitlement has accrued, pay the new employer an amount for the number of days of long service leave that the person is entitled to take because of the person's period of employment with the former employer.

Example—

After a period of employment of 3 years with council A a person becomes an employee of council B. Council A must, when the entitlement has accrued, pay to council B an amount for the 3 years of long service leave that the person is entitled to for their employment with council A.

14 Amendment of s 270 (Obligation of chief executive officer and senior executive employees to correct register of interests)

Section 270, heading, 'executive', second mention—

omit, insert—

contract

15 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definition *contracting activities*—

omit.

- (2) Schedule 4, definition *pre-qualified supplier*, 'section 222(4)'—

omit, insert—

section 222(7)

[s 16]

Part 3 **Amendment of Local Government Regulation 2012**

16 Regulation amended

This regulation amends the *Local Government Regulation 2012*.

17 Replacement of ss 15 and 16

Sections 15 and 16—

omit, insert—

15 Anti-competitive provisions and review procedures

- (1) For the Act, schedule 4, definition *anti-competitive provision*, a provision is identified as creating a barrier to entry to a market or competition within a market if a local government, applying the competition policy guidelines, identifies the provision as creating one of those barriers.
- (2) For section 38(1) of the Act, the procedures prescribed are the procedures mentioned in the competition policy guidelines.
- (3) The *competition policy guidelines* is the document called ‘National Competition Policy Guidelines for conducting reviews on anti-competitive provisions in local laws’, version 1, made by the department.

Editor’s note—

A copy of the competition policy guidelines is available on the department’s website.

18 Amendment of s 19 (Thresholds for significant business activities—Act, s 43(4)(b))

Section 19(2) to (4)—

omit, insert—

- (2) A business activity that has expenditure of at least the following for the previous financial year is a significant business activity for the current financial year—
 - (a) for a business activity that is the provision of combined water and sewerage services—\$13.3m;
 - (b) for another business activity—\$8.9m.

Note—

See, however, the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

- (3) The Minister must consult with LGAQ Ltd. about a proposed amendment to a threshold mentioned in subsection (2).

19 Amendment of s 38 (Building certifying activity—Act, s 47(4)(b))

Section 38—

insert—

- Douglas Shire Council
- Livingstone Shire Council
- Mareeba Shire Council
- Noosa Shire Council

20 Amendment of s 39 (Prescribed business activities—Act, s 47(7))

Section 39(1), '\$300000'—

omit, insert—

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\$312000

21 Amendment of s 216 (What ch 6 is about)

(1) Section 216(1) and (2)—

omit, insert—

(1) This chapter is about a local government's activities for the making of a contract for—

- (a) the supply of goods or services; or
- (b) the disposal of non-current assets.

(2) Section 216(3)—

renumber as section 216(2).

22 Amendment of s 224 (What div 2 is about)

(1) Section 224(2), after 'year'—

insert—

, or over the proposed term of the contractual arrangement

(2) Section 224(3), after 'year'—

insert—

, or over the proposed term of the contractual arrangement

(3) After section 224(3)—

insert—

Example—

A contractual arrangement for the supply of a service over a 5 year period that is expected to be worth, exclusive of GST, \$80000 each year has a total expected value of \$400000.

(4) Section 224(4)—

omit, insert—

-
- (4) For subsections (2) and (3), the expected value of a contractual arrangement with a supplier for a financial year, or over the proposed term of the contractual arrangement, is the total expected value of all of the local government's contracts with the supplier for goods and services of a similar type under the arrangement.

23 Amendment of s 232 (Exception for register of pre-qualified suppliers)

- (1) Section 232(4)—

renumber as section 232(7).

- (2) Section 232(2)—

omit, insert—

- (2) A local government may enter into the contract without first inviting written quotes or tenders if the contract is entered into with a supplier from a register of pre-qualified suppliers that is made in compliance with subsections (3) to (6).

- (3) Section 232—

insert—

- (4) A local government must invite suppliers to tender to be on a register of pre-qualified suppliers.
- (5) The invitation must—
- (a) be made by an advertisement published in a newspaper that circulates generally in the local government area; and
- (b) allow tenders to be given to the local government for at least 21 days after the advertisement is published in the newspaper.
- (6) When selecting a supplier to be a pre-qualified supplier for the register, the local government

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must have regard to the sound contracting principles.

24 Amendment of s 233 (Exception for a preferred supplier arrangement)

Section 233(2), ‘the preferred supplier’—

omit, insert—

a preferred supplier

25 Amendment of s 234 (Exception for LGA arrangement)

Section 234(2)(b)—

omit, insert—

(b) if LGAQ Ltd. or the associated company were a local government, would be either—

(i) a contract with an independent supplier entered into under section 232 by LGAQ Ltd. or the associated company; or

(ii) a contract with an independent supplier entered into under a preferred supplier arrangement under section 233.

26 Amendment of ch 6, pt 4, hdg

Chapter 6, part 4, heading, ‘contracts’—

omit, insert—

contractual arrangements

27 Amendment of s 237 (Publishing details of contracts worth \$200000 or more)

(1) Section 237, heading, ‘contracts’—

omit, insert—

contractual arrangements

(2) Section 237(1)—

omit, insert—

(1) A local government must, as soon as practicable after entering into a contractual arrangement worth \$200000 or more (exclusive of GST)—

- (a) publish the relevant details of the contractual arrangement on the local government's website; and
- (b) display the relevant details of the contractual arrangement in a conspicuous place in the local government's public office.

(3) Section 237(3), definition *relevant details*, 'contract'—

omit, insert—

contractual arrangement

28 Amendment of s 287 (Payment by former employer to new employer towards long service leave entitlements accrued with former employer)

Section 287(1)—

omit, insert—

(1) The former employer must, when the person's entitlement has accrued, pay the new employer an amount for the number of days of long service leave that the person is entitled to take because of the person's period of employment with the former employer.

Example—

After a period of employment of 3 years with council A a person becomes an employee of council B. Council A must, when the entitlement has accrued, pay to council B an amount for the 3 years of long service leave that the person is entitled to for their employment with council A.

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29 Insertion of new ch 13

After section 334—

insert—

Chapter 13 Transitional provisions for Local Government Legislation Amendment Regulation (No. 4) 2013

Part 1 Preliminary

335 Definition for ch 13

In this chapter—

new local government means each of the following local governments that comes into existence on 1 January 2014—

- (a) Douglas Shire Council;
- (b) Livingstone Shire Council;
- (c) Mareeba Shire Council;
- (d) Noosa Shire Council.

Part 2 Particular provisions for 2013-14 financial year

336 Application of pt 2

This part applies for a new local government for the period starting on 1 January 2014 and ending on 30 June 2014.

337 References to budget meeting

- (1) For the application of a relevant provision to a new local government, a reference to a budget meeting in the provision is taken to be a reference to the budget meeting mentioned in section 305 of the Act.
- (2) In this section—
relevant provision means any of the following—
 - (a) section 81(2);
 - (b) section 118(3);
 - (c) section 129(2);
 - (d) section 130(4).

338 References to financial year

- (1) For the application of a relevant provision to a new local government, a reference to a financial year in the provision is taken, if the context permits, to be a reference to the part of the 2013-14 financial year that starts on 1 January 2014 and ends on 30 June 2014.
- (2) In this section—
relevant provision means any of the following—

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- (a) section 72;
- (b) section 74(2);
- (c) section 80(5);
- (d) section 82(3)(a);
- (e) section 88(1), (2)(a) and (b);
- (f) section 94(7);
- (g) section 99(4)(b);
- (h) section 100(1);
- (i) section 154(2)(d)(v);
- (j) section 169(1)(b);
- (k) section 172(2);
- (l) section 173(1) and (4);
- (m) section 176;
- (n) section 178(1);
- (o) section 179(1) and (2)(a) and (b);
- (p) section 182(1) and (2);
- (q) section 183(a), (b) and (c);
- (r) section 184;
- (s) section 185;
- (t) section 186;
- (u) section 187(1) and (2)(a);
- (v) section 188(1);
- (w) section 189(a);
- (x) section 190(1)(b), (d)(ii), (e), (h), (i) and (j);
- (y) section 192;
- (z) section 193(1);
- (za) section 198(2);

- (zb) section 202(2)(a);
- (zc) section 203(2);
- (zd) section 204(3);
- (ze) section 207(1);
- (zf) section 211(1)(a) and (b)(i);
- (zg) section 212(1), (2), (4) and (5)(a)(ii).

339 Notice to owner of categorisation

A reference to the first rate notice for a financial year in section 88(2)(a) is taken to be a reference to the first rate notice issued by a new local government for the part of the 2013-14 financial year that starts on 1 January 2014 and ends on 30 June 2014.

Note—

See also the *Local Government (De-amalgamation Implementation) Regulation 2013*, section 40.

340 5-year corporate plans

- (1) Section 165(1) does not apply to a new local government for the 2013-14 financial year.
- (2) Nothing in this section affects the application of section 174 to a new local government.

341 Content of budget for period ending 30 June 2014

- (1) Section 169(2)(a), (4), (6) and (8)(a) do not apply to a new local government for the 2013-14 financial year.
- (2) Also, section 169(1)(b) does not apply to a new local government for the 2013-14 financial year to the extent it requires a local government's

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budget to include statements for the next 2 financial years.

342 Adoption and amendment of budget

Section 170(1) and (2) do not apply to a new local government for the 2013-14 financial year.

343 Annual operational plan contents

Section 175(1)(b)(i) does not apply to a new local government for the 2013-14 financial year.

344 Community financial report

Section 179(2)(c) does not apply to a new local government for the 2013-14 financial year.

345 Requirements about discretionary funds

Section 202(5) does not apply to the mayor, the deputy mayor or the chief executive officer of a new local government for the 2013-14 financial year to the extent it requires any of them to have regard to a 5-year corporate plan for the local government.

346 Statement of estimated financial position

Section 205 does not apply to the chief executive officer of a new local government for the 2013-14 financial year.

347 Agenda of first meetings of new local governments

- (1) The matters a new local government must consider at its first meeting include the day and time for holding other meetings.

- (2) A *first meeting* is the meeting mentioned in section 306(2) of the Act.

Part 3 **Miscellaneous provision**

348 Reforming a significant business activity

Section 18 does not apply to a new local government until the financial year starting 1 July 2015.

30 **Amendment of sch 8 (Dictionary)**

- (1) Schedule 8, definition *contracting activities*—
omit.
- (2) Schedule 8, definition *current local government, former local government, relevant area* and *transfer day*, ‘section 1’—
omit, insert—
 section 2
- (3) Schedule 8, definition *pre-qualified supplier*, ‘section 232(4)’—
omit, insert—
 section 232(7)

Part 4 Amendment of Local Government (De-amalgamation Implementation) Regulation 2013

31 Regulation amended

This part amends the *Local Government (De-amalgamation Implementation) Regulation 2013*.

32 Insertion of new pt 5A

After section 51—

insert—

Part 5A Disaster management matters

51A Action by transfer manager

- (1) Before the changeover day, the transfer manager for a new local government must take action to ensure that, on the changeover day, the new local government may operate effectively and immediately under the *Disaster Management Act 2003*.
- (2) In taking action under subsection (1), the transfer manager acts in place of the new local government.
- (3) Without limiting subsection (1), a transfer manager must take the following actions under the *Disaster Management Act 2003*—
 - (a) appoint, under section 24 of that Act, a person to be a member of a district group;
 - (b) establish, under section 29 of that Act, a Local Disaster Management Group;

- (c) appoint, under section 33 of that Act, persons to be members of a Local Disaster Management Group;
 - (d) appoint, under section 34 of that Act, persons to be the chairperson and deputy chairperson of a Local Disaster Management Group;
 - (e) prepare, under section 57 of that Act, and approve, under section 80 of that Act, a plan for disaster management in a new local government's area;
 - (f) nominate, under section 85(2) of that Act, a member of an SES unit to be the local controller of the unit.
- (4) For subsection (3)(c) and (d), a person elected to be a councillor of a new local government is taken to be a councillor of the new local government.

51B Appointment of local disaster coordinator

- (1) Before the changeover day, the person appointed under section 51A(3)(d) as the chairperson of a Local Disaster Management Group must appoint, under the *Disaster Management Act 2003*, section 35 (the ***appointment section***), a person as a local disaster coordinator of the group.
- (2) For subsection (1)—
 - (a) a reference in the appointment section to the chief executive officer of a local government is taken to be a reference to a transfer manager; and
 - (b) a reference in the appointment section to an employee of a local government is taken to be a reference to a person who will be an employee of a new local government.

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51C Effect of action under this part

- (1) An action taken under this part has effect from the changeover day until the new local government for which the action is taken otherwise provides.
- (2) However, a person appointed under section 51A(3)(d) as the chairperson of a Local Disaster Management Group must act under section 51B before the changeover day even though the person's appointment as chairperson does not take effect until the changeover day.

33 Amendment of s 56 (Entitlements of transferred employees)

Section 56—

insert—

- (6) This section applies despite the *Local Government Regulation 2012*, section 287(1) and (2).

Part 5 Repeal of Local Government (De-amalgamation Polls) Regulation 2013

34 Repeal of Local Government (De-amalgamation Polls) Regulation 2013

The Local Government (De-amalgamation Polls) Regulation 2013, SL No. 15 is repealed.

ENDNOTES

- 1 Made by the Governor in Council on 5 December 2013.
- 2 Notified on the Queensland legislation website on 6 December 2013.
- 3 The administering agency is the Department of Local Government, Community Recovery and Resilience.

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Authorised by the Parliamentary Counsel