



Queensland

Local Government Legislation (Implementing Stage 2 of Belcarra) Amendment Regulation 2019

Subordinate Legislation 2019 No. 229

made under the

City of Brisbane Act 2010

Local Government Act 2009

Local Government Electoral Act 2011

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Local Government Legislation (Implementing Stage 2 of Belcarra) Amendment Regulation 2019*.

2 Commencement

- (1) The following provisions commence on 18 November 2019—
 - (a) part 2, division 2;
 - (b) part 3, division 2;
 - (c) part 4, division 3.
- (2) Part 3, division 3 commences on 20 January 2020.
- (3) The following provisions commence on 30 March 2020—
 - (a) part 2, division 3;
 - (b) part 4, division 4.

Part 2 Amendment of City of Brisbane Regulation 2012

Division 1 Preliminary

3 Regulation amended

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

Division 2 Amendment commencing on 18 November 2019

4 Amendment of s 194 (Requirements about discretionary funds—Act, s 106)

Section 194—

insert—

- (8) Also, a councillor must not allocate the councillor's discretionary funds in a way mentioned in subsection (3)(a) or (c) during the period—
 - (a) starting on 1 January in the year a quadrennial election must be held; and
 - (b) ending at the conclusion of the election.

Division 3 Amendments commencing on 30 March 2020

5 Amendment of s 178 (Councillors)

- (1) Section 178(d)(i) and (ii)—

omit, insert—

- (i) orders made under the Local Government Act, section 150I(2);
- (ii) orders made under the Local Government Act, section 150AH(1);
- (iii) decisions, orders and recommendations made under the Local Government Act, section 150AR(1); and

- (2) Section 178(e)(i) and (ii)—

omit, insert—

- (i) the name of each councillor for whom a decision, order or recommendation mentioned in paragraph (d) was made;
 - (ii) a description of the unsuitable meeting conduct, inappropriate conduct or misconduct under the Local Government Act engaged in by each of the councillors;
- (3) Section 178(e)(iii), before ‘order’—
insert—
decision,
- (4) Section 178(f)(i) to (v)—
omit, insert—
 - (i) complaints referred to the assessor under the Local Government Act, section 150P(2)(a) by council entities;
 - (ii) matters mentioned in the Local Government Act, section 150P(3) notified to the Crime and Corruption Commission;
 - (iii) notices given to the assessor under the Local Government Act, section 150R(2);
 - (iv) notices given to the assessor under the Local Government Act, section 150S(2)(a);
 - (v) decisions made under the Local Government Act, section 150W(1)(a), (b) and (e);
 - (vi) referral notices given to the council under the Local Government Act, section 150AC that are accompanied by a recommendation mentioned in section 150AC(3)(a) of that Act;

- (vii) occasions information was given to the assessor under the Local Government Act, section 150AF(4)(a);
- (viii) occasions the council asked another entity to investigate, under the Local Government Act, chapter 5A, part 3, division 5 for the council, the suspected inappropriate conduct under that Act of a councillor;
- (ix) applications heard by the conduct tribunal under the Local Government Act, chapter 5A, part 3, division 6 about whether a councillor engaged in misconduct or inappropriate conduct under that Act.

(5) Section 178—

insert—

(2) In this section—

council entity means the following—

- (a) the council;
- (b) a councillor;
- (c) the chief executive officer.

councillor includes a person mentioned in the Local Government Act, section 150M.

6 Replacement of s 181 (Expenditure on grants to community organisations)

Section 181—

omit, insert—

181 Grants to community organisations and discretionary funds

- (1) The annual report for a financial year must contain a summary of the council's expenditure

for the financial year on grants to community organisations.

(2) The annual report must also contain the following information about the council's discretionary funds—

(a) the total amount budgeted for the financial year as the council's discretionary funds;

(b) the prescribed amount for the financial year;

(c) the total amount of discretionary funds budgeted for the financial year for councillors to allocate for each of the following purposes—

(i) capital works of the council that are for a community purpose;

(ii) other community purposes;

(d) the amount of discretionary funds budgeted for use by each councillor for the financial year;

(e) if a councillor allocates discretionary funds in the financial year—

(i) the amount allocated; and

(ii) the date the amount was allocated; and

(iii) the way mentioned in section 194(1) in which the amount was allocated; and

(iv) if the amount was allocated to a person or organisation—the name of the person or organisation to whom the allocation was made; and

(v) the purpose for which the amount was allocated, including sufficient details to identify how the funds were, or are to be, spent.

(3) In this section—

prescribed amount, for a financial year, see section 193B(5).

7 Replacement of s 194 (Requirements about discretionary funds—Act, s 106)

Section 194—

omit, insert—

193A Purpose of division

This division—

- (a) provides for how the council may make discretionary funds available; and
- (b) prescribes, for section 106 of the Act, requirements for a councillor for using discretionary funds.

193B Requirements for council about discretionary funds

- (1) The council may, for a financial year, budget an amount of discretionary funds for use by councillors for either or both of the following purposes—
 - (a) capital works of the council that are for a community purpose;
 - (b) other community purposes.
- (2) However, the amount the council budgets as discretionary funds for a financial year under subsection (1)(b) must not be more than the prescribed amount for the financial year.
- (3) The amount of discretionary funds the council budgets for allocation by each councillor in a financial year must be the same for all councillors.
- (4) The council must, within 20 business days after adopting its budget for a financial year, make

publicly available a notice (the *availability notice*) stating—

- (a) the total amount budgeted for the financial year as the council's discretionary funds; and
 - (b) the prescribed amount for the council for the financial year; and
 - (c) the total amount of discretionary funds budgeted for the financial year for councillors to allocate for each of the following purposes—
 - (i) capital works of the council that are for a community purpose;
 - (ii) other community purposes; and
 - (d) the amount of discretionary funds budgeted for use by each councillor for the financial year for each of the following purposes—
 - (i) capital works of the council that are for a community purpose;
 - (ii) other community purposes; and
 - (e) how community organisations may apply for allocation of the funds.
- (5) In this section—

prescribed amount, for a financial year, means 0.1% of the council's revenue from general rates for the previous financial year.

194 Requirements for councillors about discretionary funds—Act, s 106

- (1) A councillor may allocate the councillor's discretionary funds under this section in any of the following ways—

- (a) for capital works of the council that are for a community purpose;
 - (b) to a community organisation for a community purpose;
 - (c) for another community purpose.
- (2) A councillor may make an allocation under subsection (1)(a) only if—
- (a) the Establishment and Coordination Committee has approved the allocation before it is made; and
 - (b) the amount stated in the availability notice under section 193B(4)(d)(i) is not exceeded if the allocation is made.
- (3) A councillor may make an allocation under subsection (1)(b) only if—
- (a) the funds are allocated—
 - (i) to a community organisation that has applied for the funds in the way stated in the availability notice under section 193B(4); and
 - (ii) in a way that is consistent with the council's community grants policy; and
 - (b) the amount stated in the availability notice under section 193B(4)(d)(ii) is not exceeded if the allocation is made.
- (4) A councillor may make an allocation under subsection (1)(c) only if the amount stated in the availability notice under section 193B(4)(d)(ii) is not exceeded if the allocation is made.
- (5) A councillor—
- (a) may allocate the councillor's discretionary funds only in the financial year for which the funds are budgeted; and

- (b) must not allocate the councillor's discretionary funds in a way mentioned in subsection (1)(b) or (c) during the period—
 - (i) starting on 1 January in the year a quadrennial election must be held; and
 - (ii) ending at the conclusion of the election; and
 - (c) must not allocate the councillor's discretionary funds for supplying administrative or support services for performing the councillor's responsibilities under the Act.
- (6) In deciding whether to approve an allocation under subsection (2)(a), the Establishment and Coordination Committee must have regard to the council's corporate plan, long-term asset management plan and annual budget.

194A Requirements for notice of allocation

- (1) Within 7 business days after a councillor allocates an amount of discretionary funds under section 194, the councillor must give the chief executive officer a notice about the allocation stating—
- (a) the amount allocated; and
 - (b) the date the amount was allocated; and
 - (c) the way mentioned in section 194(1) in which the amount was allocated; and
 - (d) if the amount was allocated to a person or organisation—the name of the person or organisation to whom the allocation was made; and
 - (e) the purpose for which the amount was allocated, including sufficient details to

identify how the funds were, or are to be, spent.

Maximum penalty—10 penalty units.

- (2) Within 7 business days after the chief executive officer is given a notice under subsection (1), the council must publish the notice on its website.

8 Insertion of new ch 10, pt 6

Chapter 10—

insert—

Part 6

Transitional provisions for Local Government Legislation (Implementing Stage 2 of Belcarra) Amendment Regulation 2019

293 Application of s 178 to annual report for financial year starting 1 July 2019

The council's annual report for the financial year starting on 1 July 2019 must comply with—

- (a) for the period starting on 1 July 2019 and ending immediately before the commencement—section 178 as in force immediately before the commencement; and
- (b) for the period starting on the commencement and ending on 30 June 2020—section 178 as in force on the commencement.

294 Application of s 181 to annual report for financial year starting 1 July 2019

Section 181, as in force before the commencement, continues to apply to the council's annual report for the financial year starting on 1 July 2019 as if the *Local Government Legislation (Implementing Stage 2 of Belcarra) Amendment Regulation 2019*, section 6 had not commenced.

9 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

long-term asset management plan means the plan adopted under section 159.

Part 3 Amendment of Local Government Electoral Regulation 2012

Division 1 Preliminary

10 Regulation amended

This part amends the *Local Government Electoral Regulation 2012*.

Division 2 Amendment commencing on 18 November 2019

11 Insertion of new s 2A

After section 2—

insert—

2A Prescribed information for nomination—Act, s 32

For section 32(3) of the Act, definition *prescribed information*, the following information or statements are prescribed—

- (a) the candidate's name, address and occupation;
- (b) for a candidate nominated by the registered officer of a registered political party under section 27(1)(a) of the Act—
 - (i) the name of the registered officer; and
 - (ii) the name of the political party; and
 - (iii) the fact the candidate is endorsed by the party;
- (c) for a candidate nominated by electors under section 27(1)(b) of the Act—the name of each elector who nominated the candidate;
- (d) the information or a statement required to be contained in the nomination under schedule 1 of the Act, other than the address of a close associate of the candidate.

**Division 3 Amendments commencing on 20
January 2020**

12 Replacement of ss 5–9

Sections 5 to 9—

omit, insert—

5 Disclosure deadline for returns by candidates for gifts or loans received—Act, ss 117 and 120

For sections 117(2) and 120(2) of the Act, the disclosure deadline for a return about a gift or loan received by a candidate for an election is—

- (a) if the gift or loan is received 7 business days or less before the polling day for the election—24 hours after the gift or loan is received; or
- (b) otherwise—the seventh business day after the gift or loan is received.

6 Disclosure deadline for returns by agent for groups of candidates for gifts received—Act, s 118

For section 118(2) of the Act, the disclosure deadline for a return about a gift received by a member of a group of candidates for an election, or a person acting on behalf of the group, is—

- (a) if the gift is received 7 business days or less before the polling day for the election—24 hours after the gift is received; or
- (b) otherwise—the seventh business day after the gift is received.

7 Disclosure deadline for returns by third parties for gifts received to enable political expenditure—Act, s 118A

For section 118A(2) of the Act, the disclosure deadline for a return about a gift received by a third party is the seventh business day after the gift is used as mentioned in section 118A(1)(c) of the Act.

8 Disclosure deadline for returns by agent for groups of candidates for loans received—Act, s 120

For section 120(4) of the Act, the disclosure deadline for a return about a loan received by a group of candidates for an election is—

- (a) if the loan is received 7 business days or less before the polling day for the election—24 hours after the loan is received; or
- (b) otherwise—the seventh business day after the loan is received.

9 Disclosure deadline for returns by particular electoral participants for electoral expenditure incurred—Act, s 124

For section 124(3)(b) of the Act, the disclosure deadline for a return about electoral expenditure incurred by an election participant for an election is—

- (a) if the amount is incurred 7 business days or less before the polling day for the election—24 hours after the expenditure is incurred; or
- (b) otherwise—the seventh business day after the expenditure is incurred.

9A Disclosure deadline for returns for political expenditure by third parties—Act, s 125A

For section 125A(3)(b) of the Act, the disclosure deadline for a return about expenditure incurred by a third party is the seventh business day after the amount is incurred.

9B Prescribed information for publishing copy of return or document—Act, s 128

For section 128(3)(c) of the Act, the information

required to be stated in a return under section 124(3)(c)(i) or 125A(3)(c)(i) of the Act is prescribed.

13 Replacement of pt 4, hdg (Transitional provisions for Local Government Electoral (Transparency and Accountability in Local Government) Amendment Regulation 2017)

Part 4, heading—

omit, insert—

Part 4 Transitional provisions

Division 1 Transitional provisions for Local Government Electoral (Transparency and Accountability in Local Government) Amendment Regulation 2017

14 Insertion of new pt 4, div 2

Part 4—

insert—

Division 2 Transitional provision for Local Government Legislation (Implementing Stage 2 of Belcarra) Amendment Regulation 2019

16 Existing requirement for return by third parties for gifts received to enable expenditure for political activity

- (1) This section applies if—
- (a) immediately before the commencement, a person was required to give a return under section 125(2) of the Act as in force before the commencement; and
 - (b) on the commencement, the person has not given the return.
- (2) Section 9 as in force immediately before the commencement continues to apply in relation to the return as if the *Local Government Legislation (Implementing Stage 2 of Belcarra) Amendment Regulation 2019*, section 12 had not commenced.

Part 4 Amendment of Local Government Regulation 2012

Division 1 Preliminary

15 Regulation amended

This part amends the *Local Government Regulation 2012*.

Division 2 Amendments commencing on notification

16 Amendment of s 186 (Councillors)

- (1) Section 186(1)(f)(v), ‘section 150W(a), (b) and (d)’—
omit, insert—
section 150W(1)(a), (b) and (e)

(2) Section 186(1)(f)(ix), from ‘about’—

omit, insert—

under chapter 5A, part 3, division 6 of the Act about whether a councillor engaged in misconduct or inappropriate conduct.

17 Insertion of new ch 17

After section 352—

insert—

Chapter 17 Transitional provisions for Local Government Legislation (Implementing Stage 2 of Belcarra) Amendment Regulation 2019

353 Application of s 186 to annual report for financial year starting 1 July 2019

A local government’s annual report for the financial year starting on 1 July 2019 must comply with—

- (a) for the period starting on 1 July 2019 and ending immediately before the commencement—section 186 as in force immediately before the commencement; and
- (b) for the period starting on the commencement and ending on 30 June 2020—section 186 as in force on the commencement.

Division 3 Amendment commencing on 18 November 2019

18 Amendment of s 202 (Requirements about discretionary funds—Act, s 109)

Section 202—

insert—

- (9) A councillor must not allocate the councillor's discretionary funds in a way mentioned in subsection (4)(a) or (c) during the period—
 - (a) starting on 1 January in the year a quadrennial election must be held; and
 - (b) ending at the conclusion of the election.

Division 4 Amendments commencing on 30 March 2020

19 Replacement of s 189 (Expenditure on grants to community organisations)

Section 189—

omit, insert—

189 Grants to community organisations and discretionary funds

- (1) The annual report for a financial year must contain a summary of the local government's expenditure for the financial year on grants to community organisations.
- (2) The annual report must also contain the following information about the local government's discretionary funds—

- (a) the total amount budgeted for the financial year as the local government's discretionary funds;
 - (b) the prescribed amount for the local government for the financial year;
 - (c) the total amount of discretionary funds budgeted for the financial year for councillors to allocate for each of the following purposes—
 - (i) capital works of the local government that are for a community purpose;
 - (ii) other community purposes;
 - (d) the amount of discretionary funds budgeted for use by each councillor for the financial year;
 - (e) if a councillor allocates discretionary funds in the financial year—
 - (i) the amount allocated; and
 - (ii) the date the amount was allocated; and
 - (iii) the way mentioned in section 202(1) in which the amount was allocated; and
 - (iv) if the amount was allocated to a person or organisation—the name of the person or organisation to whom the allocation was made; and
 - (v) the purpose for which the amount was allocated, including sufficient details to identify how the funds were, or are to be, spent.
- (3) In this section—
- prescribed amount***, for a local government for a financial year, see section 201B(5).

20 Replacement of s 202 (Requirements about discretionary funds—Act, s 109)

Section 202—

omit, insert—

201A Purpose of division

This division—

- (a) provides for how a local government may make discretionary funds available; and
- (b) prescribes, for section 109 of the Act, requirements for a councillor for using discretionary funds.

201B Requirements for local government about discretionary funds

- (1) A local government may, for a financial year, budget an amount of discretionary funds for use by councillors for either or both of the following purposes—
 - (a) capital works of the local government that are for a community purpose;
 - (b) other community purposes.
- (2) However, the amount a local government budgets as discretionary funds for a financial year under subsection (1)(b) must not be more than the prescribed amount for the local government for the financial year.
- (3) The amount of discretionary funds a local government budgets for allocation by each councillor in a financial year must be the same for all councillors.
- (4) A local government must, within 20 business days after adopting its budget for a financial year, make publicly available a notice (the *availability notice*) stating—

- (a) the total amount budgeted for the financial year as the local government's discretionary funds; and
 - (b) the prescribed amount for the local government for the financial year; and
 - (c) the total amount of discretionary funds budgeted for the financial year for councillors to allocate for each of the following purposes—
 - (i) capital works of the local government that are for a community purpose;
 - (ii) other community purposes; and
 - (d) the amount of discretionary funds budgeted for use by each councillor for the financial year for each of the following purposes—
 - (i) capital works of the local government that are for a community purpose;
 - (ii) other community purposes; and
 - (e) how community organisations may apply for allocation of the funds.
- (5) In this section—

prescribed amount, for a local government for a financial year, means 0.1% of the local government's revenue from general rates for the previous financial year.

202 Requirements for councillors about discretionary funds—Act, s 109

- (1) A councillor may allocate the councillor's discretionary funds under this section in any of the following ways—
 - (a) for capital works of the local government that are for a community purpose;

- (b) to a community organisation for a community purpose;
 - (c) for another community purpose.
- (2) A councillor may make an allocation under subsection (1)(a) only if—
- (a) before the allocation is made, it is approved by—
 - (i) if the councillor is the mayor—the deputy mayor and the chief executive officer; or
 - (ii) otherwise—the mayor and the chief executive officer; and
 - (b) the amount stated in the availability notice under section 201B(4)(d)(i) is not exceeded if the allocation is made.
- (3) A councillor may make an allocation under subsection (1)(b) only if—
- (a) the funds are allocated—
 - (i) to a community organisation that has applied for the funds in the way stated in the availability notice under section 201B(4); and
 - (ii) in a way that is consistent with the local government’s community grants policy; and
 - (b) the amount stated in the availability notice under section 201B(4)(d)(ii) is not exceeded if the allocation is made.
- (4) A councillor may make an allocation under subsection (1)(c) only if the amount stated in the availability notice under section 201B(4)(d)(ii) is not exceeded if the allocation is made.
- (5) A councillor—

- (a) may allocate the councillor's discretionary funds only in the financial year for which the funds are budgeted; and
 - (b) must not allocate the councillor's discretionary funds in a way mentioned in subsection (1)(b) or (c) during the period—
 - (i) starting on 1 January in the year a quadrennial election must be held; and
 - (ii) ending at the conclusion of the election; and
 - (c) must not allocate the councillor's discretionary funds for supplying administrative or support services for performing the councillor's responsibilities under the Act.
- (6) In deciding whether to approve an allocation under subsection (2)(a), the mayor, deputy mayor or chief executive officer must have regard to the local government's 5-year corporate plan, long-term asset management plan and annual budget.

202A Requirements for notice of allocation

- (1) Within 7 business days after a councillor allocates an amount of discretionary funds under section 202, the councillor must give the chief executive officer a notice about the allocation stating—
 - (a) the amount allocated; and
 - (b) the date the amount was allocated; and
 - (c) the way mentioned in section 202(1) in which the amount was allocated; and
 - (d) if the amount was allocated to a person or organisation—the name of the person or

organisation to whom the allocation was made; and

- (e) the purpose for which the amount was allocated, including sufficient details to identify how the funds were, or are to be, spent.

Maximum penalty—10 penalty units.

- (2) Within 7 business days after the chief executive officer is given a notice under subsection (1), the local government must publish the notice on its website.

21 Insertion of new s 354

After section 353, as inserted by this regulation—

insert—

354 Application of s 189 to annual report for financial year starting 1 July 2019

Section 189, as in force before the commencement of this section, continues to apply to a local government's annual report for the financial year starting on 1 July 2019 as if the *Local Government Legislation (Implementing Stage 2 of Belcarra) Amendment Regulation 2019*, section 19 had not commenced.

22 Amendment of sch 8 (Dictionary)

Schedule 8—

insert—

long-term asset management plan, for a local government, means the plan adopted by the local government under section 167.

ENDNOTES

- 1 Made by the Governor in Council on 14 November 2019.
- 2 Notified on the Queensland legislation website on 15 November 2019.
- 3 The administering agency is the Department of Local Government, Racing and Multicultural Affairs.

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