

Queensland



**LOCAL GOVERNMENT
LEGISLATION
AMENDMENT BILL 1996**

Queensland



**LOCAL GOVERNMENT LEGISLATION
AMENDMENT BILL 1996**

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1996

A BILL

FOR

**An Act to amend legislation about local government, and for other
purposes**

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

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

4

5

PART 2—AMENDMENT OF CITY OF BRISBANE ACT 1924

6

7

Act amended in pt 2

8

Clause **2.** This part amends the *City of Brisbane Act 1924*.

9

Amendment of s 3A (Application of the Local Government Act)

10

Clause **3.(1)** Section 3A(2), ‘• part 1 (Review of local government matters)’—
omit, insert—

11

12

• part 1 (Reviewable local government matters).

13

(2) Section 3A(2), from ‘• section 244’ to ‘contest election’—

14

omit, insert—

15

• chapter 5 (Local government elections)

16

• part 5 (Division of local government areas)

17

• part 6 (Conduct of elections)

18

• section 244 (Qualification for nomination)

19

• section 245 (Prohibition of dual candidature)

20

• section 246 (Leave to local government employee to

21

Local Government Legislation Amendment

contest election) 1

- section 249 (Who may nominate)’. 2

(3) Section 3A(2), after ‘• part 4 (Enterprises)’— 3

insert— 4

- ‘• chapter 7A (National competition reform of significant business activities)’ 5
6

Amendment of pt 2, div 4 (Distribution and redistribution of wards) 7

Clause 4. Part 2, division 4, heading— 8

omit. 9

Omission of pt 2, div 4, subdiv 2 10

Clause 5. Part 2, division 4, subdivision 2— 11

omit. 12

Amendment of pt 2, div 4, subdiv 3 (General provisions) 13

Clause 6. Part 2, division 4, subdivision 3, heading— 14

omit. 15

Omission of ss 14L–14P 16

Clause 7. Sections 14L to 14P— 17

omit. 18

Amendment of s 14Q (Electoral rolls) 19

Clause 8.(1) Section 14Q(1), from ‘determined’ to ‘Governor’— 20

omit. 21

(2) Section 14Q(4)— 22

omit. 23

	Amendment of s 16 (Triennial elections)	1
Clause	9. Section 16(1), (1A) and (2)—	2
	<i>omit, insert—</i>	3
	‘(1) A triennial election of the councillors is to be held on 15 March 1997. ¹	4 5
	‘(2) However, a regulation may fix a different date for the election.	6
	‘(2A) Later triennial elections are to be held in every third year after 1997 on the last Saturday in March.	7 8
	‘(2B) However, a regulation may fix a different date for a particular year.’.	9 10
	Amendment of s 17 (Provisions concerning elections)	11
Clause	10. Section 17(3A)(a) and (b), ‘calendar year next preceding the calendar’—	12 13
	<i>omit.</i>	14
	Repeal of s 20 (Conclusion of elections)	15
Clause	11. Section 20—	16
	<i>omit.</i>	17
	Amendment of s 58 (Utility charges)	18
Clause	12. Section 58—	19
	<i>insert—</i>	20
	‘(6) The council may do 1 or more of the following—	21
	(a) make and levy a utility charge for services supplied or to be supplied during part of the financial year and part of another financial year;	22 23 24

¹ See *Local Government Act 1993*, section 812 (Electoral wards of City of Brisbane for 1997 triennial election).

Local Government Legislation Amendment

- (b) make and levy differing charges for services supplied or to be supplied during various periods in 1 or more financial years; 1
2
- (c) in making and levying differing charges under paragraph (b), decide the way the charges are to be apportioned. 3
4

Examples of application of subsection (6)— 5

1. For water used between 30 April 1998 and 31 July 1998, the council may resolve to charge— 6
7

- (a) for water used (as measured) during the period 30 April 1998 to 31 July 1998 on the basis of the charge made at the budget meeting for the 1997-1998 financial year; or 8
9
10

- (b) for water used (as measured) during the period 30 April 1998 to 31 July 1998 on the basis of the charge made at the budget meeting for the 1998-1999 financial year; or 11
12
13

- (c) for— 14

- (i) water used (as measured) during the period 30 April 1998 to 30 June 1998 on the basis of the charge made at the budget meeting for the 1997-1998 financial year; and 15
16
17

- (ii) water used (as measured) during the period 1 July 1998 to 31 July 1998 on the basis of the charge made at the budget meeting for the 1998-1999 financial year; or 18
19
20

- (d) an apportioned charge for water used during the 2 periods (30 April 1998 to 30 June 1998 and 1 July 1998 to 31 July 1998) on the basis of— 21
22

- (i) the total amount of water used (as measured) during the period 30 April 1998 to 31 July 1998—93 days—being apportioned to each period according to the respective lengths of the periods—62 days and 31 days respectively; or 23
24
25
26

- (ii) another basis set out in the resolution. 27

2. The council may resolve to charge for water supplied between 1 July 1998 and 30 June 1999— 28
29

- (a) for the period 1 July 1998 to 28 February 1999—a flat charge of \$300 with an excess charge of \$1 per kL of water used greater than 350 kL; and 30
31

- (b) for the period 1 March 1999 to 30 June 1999—an amount based on the actual consumption of water during the period. 32
33

‘(7) Despite subsection (6), the council must not for a financial year make and levy a utility charge for services supplied or to be supplied other than in that, the previous or the next financial year. 34
35
36

Local Government Legislation Amendment

‘(8) Charges made and levied in accordance with a decision under subsection (6) are lawfully made and levied under this Act. 1
2

‘(9) Subsections (6) to (8) apply despite the reference in sections 48 and 53² to the making and levying of rates and charges for a financial year. 3
4

‘(10) If— 5

(a) a meter or other measuring device is to be read on a particular day for working out the amount of a charge to be levied by the council for a service; and 6
7
8

(b) the council resolves to apply this subsection to the reading of meters or other measuring devices; 9
10

it is taken to have been read on that day if it is read within a period of 2 weeks before or after the day. 11
12

Example for subsection (10)— 13

If the council resolves to apply this subsection to the supply of water that is to be charged on the basis of usage for a period ended 30 April and a meter is read on 10 May, that reading is taken to be the reading at 30 April for the purposes of calculating the water usage during the period. 14
15
16
17

‘(11) Subsection (10) does not restrict the council’s power to make local laws relating to other aspects of the administration of metered consumption of water. 18
19
20

Example for subsection (11)— 21

A local law may be made to provide for water consumption to be estimated on the basis of the best information reasonably available if a water meter is found to be malfunctioning or inoperative during any period of consumption.’ 22
23
24

Amendment of s 69 (Other benefits for prompt payment) 25

Clause **13. Section 69—** 26

insert— 27

‘(2) In subsection (1)— 28

“benefits” include chances of winning a prize in a lottery conducted by the 29

² Sections 48 (Power to make and levy rates and charges) and 53 (Making of rates and charges)

Local Government Legislation Amendment

council.

‘(3) For a lottery conducted by the council solely to provide a benefit for this section—

(a) the *Art Unions and Public Amusements Act 1992* does not apply; and

(b) the council must—

(i) by resolution make rules for the conduct of the lottery; and

(ii) conduct the lottery in accordance with the rules for it.

‘(4) Subsections (2), (3) and this subsection expire on 30 June 1998.’.

Insertion of new pt 6

Clause 14. After section 135—

insert—

**‘PART 6—TRANSITIONAL AND SAVINGS
PROVISION FOR AMENDMENTS UNDER LOCAL
GOVERNMENT LEGISLATION AMENDMENT ACT
1996**

‘Provisions about electoral roll for triennial elections

‘136. It is declared that section 17(3A)³ as amended by the *Local Government Legislation Amendment Act 1996* applies and always did apply from 18 December 1990.

‘Expiry of pt

‘137. This part expires on 1 May 1997.’.

³ Section 17 (Provisions concerning elections)

**PART 3—AMENDMENT OF LOCAL GOVERNMENT
ACT 1993**

	1
	2
Act amended in pt 3 and schedule	3
Clause 15. This part and the schedule amend the <i>Local Government Act 1993</i> .	4
Amendment of s 4 (Definitions)	5
Clause 16.(1) Section 4, definitions “ commissioner ”, “ declaration envelope ”, “ deputy commissioner ”, “ electoral officer ”, “ issuing officer ”, “ member ”, “ owner ” and “ referable local government matter ”—	6
	7
	8
<i>omit.</i>	9
(2) Section 4—	10
<i>insert—</i>	11
“ affected area ”, for a reviewable local government matter, means an area, or part of an area, prescribed under a regulation for the matter.	12
	13
“ affected elector ” means—	14
(a) for an affected area (that is not divided into voting areas) for a reviewable local government matter for which a referendum is to be held in relation to an electoral and boundaries review commission’s proposed determination of the matter—a person who, on the referendum roll cut-off day, is, under the <i>Electoral Act 1992</i> , an elector for an electoral district, or part of an electoral district, included in the affected area; or	15
	16
	17
	18
	19
	20
	21
(b) for a voting area of an affected area for a reviewable local government matter for which a referendum is to be held for an electoral and boundaries review commission’s proposed determination of the matter—a person who, on the referendum roll cut-off day, is, under the <i>Electoral Act 1992</i> , an elector for an electoral district, or part of an electoral district, included in the voting area.	22
	23
	24
	25
	26
	27
	28
“ approve ”, a referendum question, see section 91A.	29
“ approved form ” see section 792A.	30

Local Government Legislation Amendment

“chairperson” , of an expanded commission, means—	1
(a) if the commission is a special commission—the member mentioned in section 66A(1)(a); or	2 3
(b) if paragraph (a) does not apply—the commission member who is the commissioner or deputy commissioner.	4 5
“commissioner” means the electoral commissioner under the <i>Electoral Act 1992</i> .	6 7
“compulsory referendum” see section 72F.	8
“declaration envelope” means an envelope on which there is a declaration that has been, or a form of declaration that is to be, made by an elector.	9 10
“deputy commissioner” means the deputy electoral commissioner under the <i>Electoral Act 1992</i> .	11 12
“electoral and boundaries review commission” means a Local Government Electoral and Boundaries Review Commission established under section 66.	13 14 15
“electoral officer” , for an election, means the returning officer, an assistant returning officer or a presiding or issuing officer.	16 17
“expanded commission” means an electoral and boundaries review commission constituted by more than 1 commission member.	18 19
“explanatory statement” see section 92F.	20
“implementation issues” , for a reviewable local government matter mentioned in section 64(1)(a), (c), (e) or (f), means—	21 22
(a) the apportionment of assets and liabilities between the local governments concerned; and	23 24
(b) the application of existing local laws, planning schemes and interim development control provisions; and	25 26
(c) the preservation of—	27
(i) valuations of, and rates levied on, rateable land that would be affected by the matter if it were implemented; and	28 29
(ii) any existing debentures issued by the local governments; and	30 31
(d) the rationalisation of staff of the local governments; and	32

Local Government Legislation Amendment

- (e) anything else prescribed under a regulation. 1
- “issuing officer”** means a person appointed to issue ballot papers, 2
 declaration envelopes or declaration forms to electors, and includes a 3
 returning officer, assistant returning officer and presiding officer when 4
 carrying out any of those functions. 5
- “limited reviewable local government matter”** see section 65. 6
- “majority”**, of commission members of an expanded commission 7
 constituted by an even number of members, means at least one-half 8
 the members plus 1. 9
- “major reference”**, for a reviewable local government matter, means— 10
- (a) a reference of, or reference including, a reviewable local 11
 government matter mentioned in section 64(1)(g) or (h) that, if 12
 implemented, would affect the City of Brisbane; or 13
- (b) a reference of another reviewable local government matter that— 14
- (i) the Minister states in the reference of the matter is a major 15
 reference; or 16
- (ii) the commissioner or an electoral and boundaries review 17
 commission declares under section 71 or 71B is a major 18
 reference.⁴ 19
- “member”** for— 20
- (a) a joint local government—includes the president and deputy 21
 president of the joint local government; or 22
- (b) a local government committee—includes the chairperson and 23
 deputy chairperson of the committee; or 24
- (c) the Local Government Grants Commission—includes the 25
 chairperson and deputy chairperson of the commission; or 26
- (d) an electoral and boundaries review commission—means a 27
 member of the commission. 28
- “minor reference”**, for a reviewable local government matter, means a 29
 reference the commissioner declares, under section 71, is a minor 30

⁴ A special reference is a major reference under paragraph (a)—see definition “special reference”.

Local Government Legislation Amendment

reference, but does not include a reference an electoral and boundaries review commission declares, under section 71B, to be a major reference.	1 2 3
“non-compulsory referendum” see section 72F.	4
“oppose” , a referendum question, see section 91A.	5
“owner” , of land, see—	6
(a) for chapter 3, part 1—section 63; or	7
(b) for all provisions—section 5.	8
“prescribed offices” see section 8.	9
“question” , for a referendum, means the question asked at the referendum.	10
“referendum” means a referendum under chapter 3, part 1, division 4A, for an electoral and boundaries review commission’s proposed determination of a reviewable local government matter.	11 12 13
“referendum day” see section 92B.	14
“referendum notice” , for a referendum, see section 92C.	15
“referendum roll cut-off day” , for a referendum, means the day stated in the referendum notice for the referendum as the referendum roll cut-off day.	16 17 18
“returning officer” , for a referendum, means the person appointed under section 92A as the returning officer for the referendum.	19 20
“review commissioner” means a review commissioner appointed under chapter 3, part 1, division 5, subdivision 2.	21 22
“special commission” means an electoral and boundaries review commission established for a special reference of a reviewable local government matter.	23 24 25
“special reference” , for a reviewable local government matter, means a reference under section 235 of a reviewable local government matter mentioned in section 64(1)(g) or (h) that, if implemented, would affect the City of Brisbane.	26 27 28 29
“voting areas” , of an affected area, mean the parts into which an affected area is divided, under a regulation, for a referendum.	30 31

	Amendment of s 6 (Meaning of “conclusion” of local government election)	1
		2
Clause	17.(1) Section 6, after ‘of a councillor’—	3
	<i>insert</i> —	4
	‘, other than a councillor of the Brisbane City Council,’.	5
	(2) Section 6(a), ‘published’—	6
	<i>omit, insert</i> —	7
	‘displayed in the local government’s public office’.	8
	(3) Section 6(b)(i), ‘published’—	9
	<i>omit, insert</i> —	10
	‘displayed in the local government’s public office’.	11
	(4) Section 6(c)(i), ‘published’—	12
	<i>omit, insert</i> —	13
	‘displayed in the local government’s public office’.	14
	(5) Section 6—	15
	<i>insert</i> —	16
	(2) The “ conclusion ” of the election of a councillor of the Brisbane City Council is—	17
		18
	(a) for a triennial election—when the names of all candidates elected are published in the gazette; or	19
		20
	(b) for a by-election whether or not a poll is conducted—when the name of the candidate elected is published in the gazette. ⁵ .	21
		22
	Amendment of s 8 (Meaning of “open to inspection”)	23
Clause	18.(1) Section 8(1)(b)—	24
	<i>omit, insert</i> —	25

⁵ *Electoral Act 1992*, section 123(2)(c) provides for publication in the gazette of the name of each candidate elected. That section is applied to the conduct of Brisbane City Council elections—see *City of Brisbane Act 1924*, section 17(5).

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- (b) if it is a document relating to an electoral and boundaries review commission’s examination or determination of a reviewable local government matter—
- (i) it must be held in the Electoral Commission’s office at Brisbane and the public office of each local government concerned (the “**prescribed offices**”); and
- (ii) it may also be held at another office under arrangements made by the commission; and
- (c) if it is a document of another entity—it must be held in an office of the entity that is open to the public.’

Amendment of s 9 (Act applies only so far as expressly provided)

- Clause **19.(1)** Section 9(2), ‘• part 1 (Review of local government matters)’—
omit, insert—
‘• part 1 (Reviewable local government matters)’.
- (2)** Section 9(2), from ‘• section 244’ to ‘contest election’—
omit, insert—
- chapter 5 (Local government elections)
 - part 5 (Division of local government areas)
 - part 6 (Conduct of elections)
 - section 244 (Qualification for nomination)
 - section 245 (Prohibition of dual candidature)
 - section 246 (Leave to local government employee to contest election)
 - section 249 (Who may nominate)’.
- (2)** Section 9(2) after ‘• part 4 (Enterprises)’—
insert—
- chapter 7A (National competition reform of significant business activities)’.

	Amendment of s 10 (How local government Acts apply to Brisbane City Council)	1 2
Clause	20. Section 10(a)—	3
	<i>insert—</i>	4
	(vii) to a local government’s public office includes a reference to the premises kept by the Brisbane City Council as its public office and a place the council has, by resolution or under a local law, declared to be its public office for a stated matter; and	5 6 7 8 9
	(viii) to a triennial election includes a triennial election under the <i>City of Brisbane Act 1924</i> ; and	10 11
	(ix) to an election includes a reference to an election under the <i>City of Brisbane Act 1924</i> ; and	12 13
	(x) to a councillor includes the mayor and councillors of the Brisbane City Council; and	14 15
	(xi) to a by-election includes a reference to a separate election to fill a vacancy in the office of mayor or other councillor of the Brisbane City Council.’.	16 17 18
	Replacement of s 62 (Local government does not include joint local government in part)	19 20
Clause	21. Section 62—	21
	<i>omit, insert—</i>	22
	‘Definitions for pt 1	23
	‘62. In this part—	24
	“commission” means a Local Government Electoral and Boundaries Review Commission established under section 66.	25 26
	“local government” does not include a joint local government.’.	27
	Replacement of s 63 (Types of local government matters)	28
Clause	22. Section 63—	29

omit, insert—

‘Meaning of “owner” of land for pt 1

‘63.(1) In this part, an **“owner”** of land⁶ includes—

(a) the State—if the land—

(i) is State land; or

(ii) is to be held as freehold land and is being purchased from the State under an Act; or

(iii) is held under a lease from the State; or

(iv) is dedicated as a reserve, or granted in fee simple in trust, under the *Land Act 1994*, chapter 3, part 1; or

(v) is held under an occupation permit under an Act, a stock grazing permit under an Act or a permit prescribed under a regulation; or

(vi) is held under a permit to occupy under the *Land Act 1994*; or

(vii) is held under a permission to occupy from the Primary Industries Corporation; or

(viii) is held under a licence under the *Land Act 1994*; and

(b) if the land is dedicated as a reserve, or granted in fee simple in trust, under the *Land Act 1994*, chapter 3, part 1—the trustees of the land.

‘(2) In addition to a person mentioned in subsection (1), a regulation may prescribe another person to be an owner of land for this part.’.

Amendment of s 64 (Meaning of “reviewable local government matter”)

Clause **23.(1)** Section 64—

insert—

‘(1A) However, for subsection (1)(d), (i), (j) or (k)—

⁶ This section extends the meaning of “owner”, of land, for this part—see section 4, definition “owner” and section 5 (Meaning of “owner” of land).

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(a) Brisbane City Council is not a local government; and 1

(b) the City of Brisbane is not a local government area. 2

‘**(1B)** Also, for subsection (1)(a), the City of Brisbane is not a local 3
government area except to the extent the provision relates to creating a new 4
local government area from a part excluded from the City of Brisbane. 5

‘**(1C)** In addition, for subsection (1)(f), the City of Brisbane is not a local 6
government area except to the extent the provision relates to the merging of 7
an abolished local government area with the City of Brisbane.’. 8

(2) Section 64— 9

insert— 10

‘**(2A)** Without limiting subsection (2), naming the electoral wards of the 11
City of Brisbane is an aspect of the matters mentioned in subsection (1)(g) 12
and (h).’ 13

Replacement of s 65 (Meaning of “referable local government matter”) 14

Clause **24.** Section 65— 15

omit, insert— 16

‘Meaning of “limited reviewable local government matter” 17

‘**65.(1)** Changing the external boundaries of a local government area by 18
excluding part of the local government area and including the part in another 19
local government area is a **“limited reviewable local government matter”** 20
if the local governments for the areas and all owners of land in the part have 21
agreed to the change. 22

‘**(2)** Also, including in a local government area a part of the State that is 23
not part of a local government area is a **“limited reviewable local 24
government matter”** if the local government for the area and all owners of 25
land in the part have agreed to the inclusion.’ 26

Replacement of ch 3, pt 1, divs 2 and 3 27

Clause **25.** Chapter 3, part 1, divisions 2 and 3— 28

omit, insert— 29

<i>‘Division 2—Local Government Electoral and Boundaries Review Commissions</i>	1 2
<i>‘Subdivision 1—Establishment, constitution and functions of commissions</i>	3 4
‘Establishment	5
‘66. There is to be a Local Government Electoral and Boundaries Review Commission for—	6 7
(a) each reference of a reviewable local government matter made to the commissioner; and	8 9
(b) each application for determination of a limited reviewable local government matter made to the commissioner. ⁷	10 11
‘Constitution	12
‘66A.(1) A commission for a special reference of a reviewable local government matter is constituted by—	13 14
(a) a person who—	15
(i) is a judge or former judge of a court of the Commonwealth or a State or Territory; and	16 17
(ii) has been, or was, a judge for at least 3 years; and	18
(b) the chief executive of a department; and	19
(c) the commissioner or, if the commissioner directs, the deputy commissioner.	20 21
‘(2) A commission for a reference of another reviewable local government matter is constituted by the commissioner or, if the commissioner directs, the deputy commissioner.	22 23 24
‘(3) However, if the commissioner considers it appropriate for the	25

⁷ See division 3 (References of, and applications for, reviewable local government matters), subdivision 1 (References to commissioner by Minister) and subdivision 2 (Applications to commissioner by local governments)

Local Government Legislation Amendment

commission under subsection (2) to be partly constituted by review
 commissioners, the commission is to be partly constituted by the number
 of review commissioners the commissioner considers appropriate for the
 reference.

‘(4) Also, if the Minister has directed in the reference of the matter under
 subsection (2) that a minimum number of review commissioners partly
 constitute the commission for the reference, the commission is to be partly
 constituted by at least that number of review commissioners.

‘(5) A commission for an application for determination of a limited
 reviewable local government matter is constituted by the commissioner or,
 if the commissioner directs, the deputy commissioner.

‘Functions 12

‘66B. The functions of a commission are, under this part, to— 13

- (a) examine and determine reviewable local government matters; and 14
- (b) examine, report and make recommendations to the Minister on 15
 implementation issues for reviewable local government matters. 16

‘Subdivision 2—Business and meetings of commissions 17

‘Conduct of business 18

‘67. A commission must conduct its business in the way prescribed 19
 under a regulation or, in the absence of a regulation, may conduct its 20
 business as it considers appropriate. 21

‘Times and places of meetings 22

‘67A.(1) Meetings of an expanded commission are to be held at the 23
 times and places it decides. 24

‘(2) However, the chairperson of an expanded commission may at any 25
 time call a meeting by giving the other commission members reasonable 26
 notice of the meeting. 27

‘Quorum at meetings	1
‘67B. Business may be conducted at an expanded commission meeting only if a majority of commission members are present.	2 3
‘Presiding member	4
‘67C. At a meeting of an expanded commission—	5
(a) the chairperson of the commission presides; or	6
(b) in the absence of the chairperson, the commission member chosen by the members present as chairperson for the meeting presides.	7 8 9
‘Voting at meetings	10
‘67D. At a meeting of an expanded commission—	11
(a) a question is to be decided by a majority of commission members present and voting; and	12 13
(b) each member (including the member presiding) has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote.	14 15 16
‘Disclosure of interests by members of expanded commission	17
‘67E.(1) This section applies if a member of an expanded commission—	18
(a) has a direct or indirect financial interest in an issue being considered, or about to be considered, at a meeting; or	19 20
(b) could reasonably be otherwise regarded as having a conflict of interest in an issue being considered, or about to be considered, at a meeting.	21 22 23
‘(2) The member must disclose to the meeting the member’s interest in the issue.	24 25
‘(3) The disclosure must be recorded in the commission’s minutes.	26
‘(4) Unless the commission otherwise directs the member must not—	27
(a) be present when the commission considers the issue; and	28

Local Government Legislation Amendment

- (b) take part in the commission’s decision about the issue. 1
- ‘(5) The member must not be present when the commission is 2
considering whether to give a direction under subsection (4). 3
- ‘(6) If there is another member who must, under subsection (2), also 4
disclose an interest in the issue, the other member must not— 5
- (a) be present when the commission is considering whether to give a 6
direction under subsection (4); or 7
- (b) take part in making the decision about giving a direction. 8
- ‘(7) If, because of this section, a member is not present at a commission 9
meeting for considering or deciding the issue, but there would be a quorum 10
if the member were present, the remaining members present are a quorum 11
for considering or deciding the issue at the meeting. 12
- ‘Additional provisions for disclosure of interests by commissioner and 13
deputy commissioner 14**
- ‘67F.(1) This section applies if the commissioner or deputy 15
commissioner constituting a commission established for a reference of a 16
reviewable local government matter or an application for determination of a 17
limited reviewable local government matter— 18
- (a) has a direct or indirect financial interest in an issue relating to the 19
matter; or 20
- (b) could reasonably be otherwise regarded as having a conflict of 21
interest in an issue relating to the matter. 22
- ‘(2) The member must not take part, or take further part, in any 23
consideration of the reviewable local government matter. 24
- ‘(3) As soon as practicable after the member becomes aware of the 25
application of this section to the issue, the member must— 26
- (a) if the member is the commissioner—direct the deputy 27
commissioner to constitute the commission in the 28
commissioner’s place; or 29
- (b) if the member is the deputy commissioner—inform the 30
commissioner. 31

Local Government Legislation Amendment

‘(4) If subsection (3)(b) applies, the commissioner is to constitute the commission in the deputy commissioner’s place. 1
2

‘Subdivision 3—Miscellaneous 3

‘Resignation and removal 4

‘68.(1) A review commissioner who partly constitutes a commission 5
may resign from the commission by giving a signed notice of resignation to 6
the commissioner. 7

‘(2) The *Acts Interpretation Act 1954*, section 25(1)(b) (other than 8
subparagraph (iv)) and (2) to (4) does not apply to the appointment of a 9
review commissioner to partly constitute a commission.⁸ 10

*‘Division 3—References of, and applications for, reviewable local 11
government matters 12*

‘Subdivision 1—References to commissioner by Minister 13

**‘Minister may refer certain reviewable local government matters to 14
commissioner 15**

‘69.(1) The Minister may refer a reviewable local government matter to 16
the commissioner. 17

‘(2) The reference need not separately identify each reviewable local 18
government matter dealt with in, or included in, the reference. 19

‘(3) The reference may be in general or specific terms or a combination 20
of general and specific terms. 21

‘(4) The reference may specify the reviewable local government matter in 22
any way, including, for example— 23

(a) naming the local governments the reference directly affects; or 24

⁸ The *Acts Interpretation Act 1954*, section 25 deals with incidental powers to a power of appointment.

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(b) describing in a suitable way the geographical area to which the reference relates; or	1 2
(c) specifying with reasonable certainty things that are, or are not, included in the reference.	3 4
<i>Examples of suitable ways of describing a geographical area—</i>	5
1. By reference to real property descriptions.	6
2. By reference to a map or plan held by an entity, or to a particular entry in a register kept by an entity, if the map, plan or register is available for inspection by the public.	7 8 9
3. By reference to a region of the State that is identifiable with reasonable certainty.	10 11
4. By reference to areas of named local governments.	12
5. By reference to a part of the area of a named local government that is identifiable with reasonable certainty.	13 14
‘(5) The reference may be made contingent on a determination another commission may make, or proposes to make, on a reference of another reviewable local government matter.	15 16 17
‘References of reviewable local government matters to be tabled etc.	18
‘69A. The Minister must—	19
(a) table a copy of each reference of a reviewable local government matter in the Legislative Assembly within 7 sitting days after it is given to the commissioner; and	20 21 22
(b) give a copy of the reference to each local government mentioned in the reference.	23 24
‘Request by commissioner for reference	25
‘69B.(1) The commissioner may ask the Minister to refer a reviewable local government matter to the commissioner.	26 27
‘(2) The request must include reasons for the request.	28
‘(3) As soon as practicable after receiving the request, the Minister must—	29 30

Local Government Legislation Amendment

(a) refer the matter to the commissioner; or	1
(b) advise the commissioner that the matter will not be referred.	2
‘(4) The Minister must table a copy of the request, and the reference or advice, in the Legislative Assembly within 7 sitting days after giving the reference or advice.	3 4 5
‘ <i>Subdivision 2—Applications to commissioner by local governments</i>	6
‘ Limited reviewable local government matters	7
‘70.(1) A local government may apply to the commissioner for determination of a limited reviewable local government matter.	8 9
‘(2) However, the application may be made only if each local government that would be affected by the matter if it were implemented (an “ affected local government ”), has, by resolution, decided to make or support the application.	10 11 12 13
‘(3) The application must—	14
(a) be in the approved form; and	15
(b) be accompanied by—	16
(i) a report by each affected local government showing that the local government has examined the implementation issues for the matter; and	17 18 19
(ii) each affected local government’s suggestions about the implementation issues.	20 21
‘(4) The approved form must include—	22
(a) the relevant agreements mentioned in section 65(1) or (2); and	23
(b) a certificate by each affected local government that the issues prescribed under a regulation under section 76 have been taken into consideration.	24 25 26

<i>‘Division 3A—Procedures for major and minor references of reviewable local government matters</i>	1 2
<i>‘Subdivision 1—Preliminary</i>	3
‘References of reviewable local government matters	4
‘71.(1) As soon as practicable after a special reference of a reviewable local government matter is referred to the commissioner—	5 6
(a) the Governor in Council is to appoint the commission members mentioned in section 66A(1)(a) and (b) ⁹ to partly constitute a special commission for the reference; and	7 8 9
(b) if the commissioner decides not to partly constitute the commission—the commissioner must direct the deputy commissioner to partly constitute the commission.	10 11 12
‘(2) As soon as practicable after another reference of a reviewable local government matter is referred to the commissioner, the commissioner must—	13 14 15
(a) if the reference is not a major reference, under the definition “major reference”, paragraph (a) or (b)(i)—declare, by gazette notice, whether the reference is a major or minor reference; and	16 17 18
(b) decide the constitution of a commission for the reference; and	19
(c) if an expanded commission (other than a special commission) is, under section 66A, to be constituted for the reference—appoint a review commissioner or commissioners to partly constitute the commission.	20 21 22 23
‘Appointment of additional review commissioners	24
‘71A. The commissioner may, at any time after a commission (other	25

⁹ The commission members under section 66A(1)(a) and (b) are a judge, or former judge, with standing of at least 3 years and the chief executive of a department.

than a special commission) is established, appoint a review commissioner, 1
or an additional review commissioner, to partly constitute the commission. 2

‘Commissions may declare major references 3

‘71B.(1) This section applies if a commission is established for a 4
reference of a reviewable local government matter the commissioner has 5
declared is a minor reference. 6

‘(2) The commission may, at any time before it makes a final 7
determination of the matter, declare, by gazette notice, the reference is a 8
major reference. 9

‘(3) To remove any doubt, if a commission makes a declaration under 10
subsection (2)— 11

(a) subdivision 2 applies to the reference of the matter; and 12

(b) the commission continues in existence to determine the matter. 13

‘Commissions must have regard to prescribed issues 14

‘71C.(1) When considering a reviewable local government matter, a 15
commission must have regard to the issues that may be prescribed under a 16
regulation. 17

‘(2) If the matter relates to the external boundaries of a local government 18
area, the commission also must have regard to the need to ensure the 19
provision of efficient and effective local government in the area. 20

‘Restrictions on determinations for City of Brisbane 21

‘71D.(1) A commission must not make a determination of a reviewable 22
local government matter mentioned in section 64(1)(g) or (h) that would, if 23
implemented, result in a change in the number of electoral wards for the 24
City of Brisbane.¹⁰ 25

‘(2) If the naming of electoral wards of the City of Brisbane is an aspect 26
of a reviewable local government matter, a commission must not determine 27

¹⁰ Under the *City of Brisbane Act 1924*, section 14A, the City of Brisbane is divided into 26 electoral wards for the election of councillors (other than the mayor).

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that a name of an electoral ward be a name that is the name of an electoral district under the *Electoral Act 1992*. 1
2

‘Subdivision 2—Major references of reviewable local government matters 3
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‘Application of subdivision 5

‘72. This subdivision applies for a reviewable local government matter, the subject of a major reference, being considered by a commission. 6
7

‘Commission may make inquiries 8

‘72A. In considering the reviewable local government matter, the commission may make the inquiries it considers appropriate.¹¹ 9
10

‘Preliminary procedures for certain references 11

‘72B.(1) This section applies if— 12

(a) the reference of the reviewable local government matter is a special reference; or 13
14

(b) the reference of the reviewable local government matter is a major reference (other than a special reference) and the commission declares, by gazette notice, that this section applies to the reference. 15
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‘(2) As soon as practicable after the commission’s establishment or the declaration, the commission must, by public notice, invite suggestions from persons and entities on the matter. 19
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‘(3) The notice must state that suggestions are to be given to the commission at a stated address in writing within 30 days after the notice is first published (the **“first notice period”**). 22
23
24

¹¹ If the commission is an expanded commission established to determine a reviewable local government matter the subject of a major reference, the commission’s powers of inquiry include the powers under division 4 (Inquiries by expanded commissions).

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- ‘(4) As soon as practicable after the first notice period, the commission must— 1
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- (a) ensure copies of all suggestions properly given to it are open to inspection at the prescribed offices and other stated offices; and 3
4
 - (b) by public notice— 5
 - (i) state that copies of the suggestions are open to inspection at the prescribed offices and other stated offices; and 6
7
 - (ii) state that any person or other entity may make written comment on the suggestions within 21 days after the notice is first published (the “**second notice period**”); and 8
9
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 - (iii) state the address to which the comments may be sent. 11
- ‘(5) A public notice under subsection (2) or (4) must be published in— 12
- (a) the gazette; and 13
 - (b) a newspaper circulating generally in the local government areas that would be affected by the matter if it were implemented. 14
15
- ‘(6) As soon as practicable after the second notice period, the commission must ensure copies of all comments given to it within the period are open to inspection at the prescribed offices and other stated offices. 16
17
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- ‘(7) The suggestions and comments properly given to the commission must be open to inspection until— 20
21
- (a) if, under section 72C, the commission determines that the matter not be implemented—notification in the gazette of its determination is given; or 22
23
24
 - (b) if the commission proposes to determine that the matter be implemented—the day after the stated day under section 72D. 25
26
- ‘(8) In determining whether the matter should be implemented, the commission must consider all suggestions and comments properly given to it. 27
28
29
- ‘Determination not to implement matter 30**
- ‘72C.(1) If the commission determines that the reviewable local 31

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government matter not be implemented, the commission must prepare a report on the matter.	1 2
‘(2) The report must state the determination and reasons for it.	3
‘Public notice of proposed determination to implement matter	4
‘72D.(1) If the commission proposes to determine that the reviewable local government matter be implemented, the commission must give public notice, by advertisement published at least once in—	5 6 7
(a) the gazette; and	8
(b) a newspaper circulating generally in the local government areas that would be affected by the matter if it were implemented.	9 10
‘(2) The notice must state—	11
(a) the general effect of the proposed determination and, if applicable, recommendations on implementation issues for the matter; and	12 13
(b) that particulars of the proposed determination and recommendations, including reasons and any relevant maps, are open to inspection at the prescribed offices and at other stated offices; and	14 15 16 17
(c) that submissions about the proposed determination and recommendations—	18 19
(i) may be made, in writing, to the commission at a stated address; and	20 21
(ii) must state the grounds of the submission and the facts and circumstances relied on in support of the grounds; and	22 23
(d) a day (the “ stated day ”) on or before which the particulars may be inspected and submissions made.	24 25
‘(3) If the naming of electoral wards of the City of Brisbane is an aspect of the matter, the notice must also state the proposed names of the electoral wards.	26 27 28
‘(4) If the matter is a reviewable local government matter mentioned in section 64(1)(a) or (f), the notice may also state—	29 30
(a) the area the commission considers should be the affected area for	31

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the matter if a compulsory referendum were to be held for the matter; and 1
2

- (b) if the commission considers the affected area should be divided into voting areas—the areas the commission considers should be the voting areas of the affected area. 3
4
5

‘(5) The stated day must be at least 30 days after the later of— 6

- (a) the publication of the advertisement in the gazette; or 7
- (b) the publication, or first publication, of the advertisement in the newspaper. 8
9

‘(6) The particulars are to be open to inspection until the day after the stated day. 10
11

‘Commission to consider submissions 12

‘72E.(1) The commission must consider all submissions properly made about the proposed determination and recommendations on implementation issues for the matter. 13
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‘(2) The commission may amend the proposed determination to take account of the submissions. 16
17

‘(3) However, the commission may substantially amend the proposed determination only if the commission gives public notice, under section 72D, of the amended proposed determination and recommendations on implementation issues for the matter. 18
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‘(4) Section 72D and this section apply to the amended proposed determination as if it were the proposed determination. 22
23

‘Holding of referendum 24

‘72F.(1) A referendum (a “**compulsory referendum**”) must be held in relation to the commission’s proposed determination of the reviewable local government matter if— 25
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- (a) the matter is a reviewable local government matter mentioned in section 64(1)(a) or (f); and 28
29
- (b) after considering the submissions, the commission proposes to 30

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- make a final determination that the matter be implemented.
- ‘(2) Also, the commission may decide that a referendum (a “**non-compulsory referendum**”) be held in relation to the commission’s proposed determination of the reviewable local government matter if—
- (a) the matter is a reviewable local government matter mentioned in section 64(1)(c) or (e); and
- (b) after considering the submissions, the commission proposes to make a final determination that the matter be implemented; and
- (c) the commission considers a referendum should be held for the matter.
- ‘(3) However, the commission may decide to hold a non-compulsory referendum only after it has consulted with the local governments that would be affected by the matter if it were implemented.¹²
- ‘Making final determination and preparation of report**
- ‘**72G.(1)** The commission must make a final determination of the reviewable local government matter and prepare a report for the Minister on the matter as soon as practicable after—
- (a) if a referendum is held for the commission’s proposed determination of the matter—the final result of the referendum for the matter is notified; or
- (b) if a referendum is not held for the commission’s proposed determination of the matter—the commission completes its consideration of submissions properly made about the matter.
- ‘(2) The report must—
- (a) state the determination and reasons for it and, if applicable, include recommendations on implementation issues for the matter; and
- (b) include a summary of—
- (i) the submissions made to the commission on the matter; and

¹² Division 4A applies to the holding of compulsory and non-compulsory referendums.

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- (ii) if section 72B¹³ applies to the matter—the suggestions and comments properly given to the commission on the matter; and
- (c) be accompanied by copies of the submissions and, if applicable, the suggestions and comments.
- ‘(3) Also, if a referendum is held for the commission’s proposed determination of the matter, the report must—
- (a) state the final result of the referendum; and
- (b) if the referendum is a compulsory referendum and the referendum question is not approved—be accompanied by a copy of the commission’s proposed determination and, if applicable, its recommendations on implementation issues for the matter and the reasons for them.
- ‘(4) If a compulsory referendum has been held for the commission’s proposed determination of the matter, the commission—
- (a) must determine that the matter be implemented if the referendum question is approved by the affected area for the matter; but
- (b) must determine that the matter not be implemented if the referendum question is not approved by the affected area for the matter.
- ‘(5) If a non-compulsory referendum has been held for the commission’s proposed determination of the matter, the commission may determine that the matter be implemented regardless of whether the referendum question is approved by the affected area for the matter.
- ‘Notification of determination and report to Minister**
- ‘72H.(1) The commission must—
- (a) give notification of its final determination, or its determination under section 72C—
- (i) by gazette notice; and
- (ii) by advertisement published in a newspaper circulating

¹³ Section 72B (Preliminary procedures for certain references)

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generally in the local government areas affected by the determination; and	1 2
(b) give to the Minister a copy of the gazette notice and the commission’s report on the matter; and	3 4
(c) give a copy of the report to the local governments affected by the determination.	5 6
‘(2) The notification must—	7
(a) contain a summary of the determination; and	8
(b) state that the commission’s report on the matter is—	9
(i) open to inspection; and	10
(ii) available for purchase at the Electoral Commission’s office at Brisbane; and	11 12
(c)—	13
(i) if the commission determines the matter be implemented—state that the matter is to be implemented by regulation; or	14 15 16
(ii) if section 72J applies to the matter—state in general terms the effect of the section.	17 18
‘Implementation of matter on commission’s report	19
‘72I.(1) If the commission determines that the reviewable local government matter be implemented, the Governor in Council must implement the matter as soon as practicable after the Minister receives a copy of the gazette notice and the commission’s report on the matter.	20 21 22 23
‘(2) If a regulation is made to implement the matter and the regulation is to commence on a later day fixed in it, for subsection (1), the matter must not be taken not to have been implemented as soon as practicable merely because of the later commencement.	24 25 26 27
<i>Examples of subsection (2)—</i>	28
1. Because of the holding of triennial elections under this Act, or fresh elections under the regulation, the regulation may commence after its notification.	29 30
2. Because of financial implications, the regulation may commence at the start of	31

a financial year. 1

‘(3) Subsection (1) has effect subject to section 107.¹⁴ 2

‘Implementation of matter at request of Legislative Assembly 3

‘72J.(1) This section applies if— 4

(a) a compulsory referendum has been held for the commission’s 5
proposed determination of the reviewable local government 6
matter; and 7

(b) the commission determines that the matter not be implemented 8
because the referendum question was not approved by the 9
affected area for the matter. 10

‘(2) Within 7 sitting days after the Minister tables the commission’s 11
report on the matter, the Legislative Assembly may resolve that the 12
Governor in Council be asked to make a regulation implementing the 13
matter. 14

‘(3) If the Legislative Assembly resolves that the Governor in Council be 15
asked to implement the matter, the Governor in Council must implement 16
the matter as soon as practicable after the resolution is passed. 17

‘(4) If a regulation is made to implement the matter and the regulation is 18
to commence on a later day fixed in it, for subsection (3), the matter must 19
not be taken not to have been implemented as soon as practicable merely 20
because of the later commencement. 21

Examples of subsection (4)— 22

1. Because of the holding of triennial elections under this Act, or fresh elections 23
under the regulation, the regulation may commence after its notification. 24

2. Because of financial implications, the regulation may commence at the start of 25
a financial year. 26

¹⁴ Section 107 (Requirement before implementation)

<i>‘Subdivision 3—Minor references of reviewable local government matters</i>	1 2
‘Application of subdivision	3
‘73. This subdivision applies for a reviewable local government matter, the subject of a minor reference, being considered by a commission.	4 5
‘Commission may make inquiries	6
‘73A. In considering the reviewable local government matter, the commission may make the inquiries it considers appropriate.	7 8
‘Determination not to implement matter	9
‘73B.(1) If after considering the reviewable local government matter, the commission determines that the reviewable local government matter not be implemented, the commission must prepare a report on the matter.	10 11 12
‘(2) The report must state the determination and reasons for it.	13
‘Notice of proposed determination to implement matter and recommendations	14 15
‘73C.(1) If the commission proposes to determine that the reviewable local government matter be implemented, the commission—	16 17
(a) must give written notice to—	18
(i) each local government that would be affected by the matter if it were implemented; and	19 20
(ii) if the matter is a reviewable local government matter mentioned in section 64(1)(c) or (e)—each owner of land in the part the subject of the matter; and	21 22 23
(b) may give written notice to anyone else the commission considers would be directly affected by the matter if it were implemented.	24 25
‘(2) The notice must state—	26
(a) the general effect of the proposed determination and, if applicable,	27

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recommendations on implementation issues for the matter; and	1
(b) that particulars of the proposed determination and recommendations, including reasons and any relevant maps, are open to inspection; and	2 3 4
(c) that submissions about the proposed determination and recommendations—	5 6
(i) may be made, in writing, to the commission at a stated address; and	7 8
(ii) must state the grounds of the submission and the facts and circumstances relied on in support of the grounds; and	9 10
(d) a day (the “ stated day ”) on or before which the particulars may be inspected and submissions made.	11 12
‘(3) The stated day must be at least 30 days after the particulars mentioned in subsection (2)(b) are first open to inspection at the Electoral Commission’s office at Brisbane.	13 14 15
‘(4) The notice given to the local governments must be accompanied by a copy of the particulars mentioned in subsection (2)(b).	16 17
‘(5) The particulars are to be open to inspection until the day after the stated day.	18 19
‘ Commission to consider submissions	20
‘ 73D.(1) The commission must consider all submissions properly made about the proposed determination and recommendations on implementation issues for the reviewable local government matter.	21 22 23
‘(2) The commission may amend the proposed determination to take account of the submissions.	24 25
‘(3) However, the commission may substantially amend the proposed determination only if the commission gives notice, under section 73C, of the amended proposed determination and recommendations on implementation issues for the matter.	26 27 28 29
‘(4) Section 73C and this section apply to the amended proposed determination as if it were the proposed determination.	30 31

‘Making final determination and preparation of report

‘73E.(1) As soon as practicable after completing its consideration of the submissions, the commission must make a final determination of the matter, and prepare a report for the Minister on the reviewable local government matter.

‘(2) The report must—

- (a) state the determination and reasons for it and, if applicable, include recommendations on implementation issues for the matter; and
- (b) include a summary of the submissions made to the commission on the matter; and
- (c) be accompanied by copies of the submissions.

‘Notification of determination and report to Minister

‘73F.(1) The commission must—

- (a) give notification of its final determination, or its determination under section 73B—
 - (i) by gazette notice; and
 - (ii) by advertisement published in a newspaper circulating generally in the local government areas affected by the determination; and
- (b) give to the Minister a copy of the gazette notice and the commission’s report on the matter; and
- (c) give a copy of the report to the local governments affected by the determination.

‘(2) The notification must—

- (a) contain a summary of the determination; and
- (b) state that the commission’s report on the matter is—
 - (i) open to inspection; and
 - (ii) available for purchase at the Electoral Commission’s office at Brisbane; and

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- (c) if the commission determines the matter be implemented—state
that the matter is to be implemented by regulation. 1
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‘Implementation of matter 3

‘73G.(1) If the commission determines that the reviewable local
government matter be implemented, the Governor in Council must
implement the matter as soon as practicable after the Minister receives a
copy of the gazette notice and the commission’s report on the matter. 4
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‘(2) If a regulation is made to implement the matter and the regulation is
to commence on a later day fixed in it, for subsection (1), the matter must
not be taken not to have been implemented as soon as practicable merely
because of the later commencement. 8
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Examples of subsection (2)— 12

1. Because of the holding of triennial elections under this Act, the regulation may
commence after its notification. 13
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2. Because of financial implications, the regulation may commence at the start of
a financial year. 15
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‘(3) Subsection (1) has effect subject to section 107.¹⁵ 17

‘Division 3B—Limited reviewable local government matters 18

‘Application of division 19

‘74.(1) This division applies for an application properly made for a
determination of a limited reviewable local government matter. 20
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‘(2) The application is to be dealt with by a commission determining
whether the matter should be implemented. 22
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‘(3) The commission must determine the application even if the matter
is, at any time, the subject of a reference of a reviewable local government
matter. 24
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¹⁵ Section 107 (Requirement before implementation)

‘Commission may make inquiries	1
‘75. In considering the limited reviewable local government matter, the commission may make the inquiries it considers appropriate.	2 3
‘Commission must have regard to prescribed issues	4
‘76.(1) When considering the limited reviewable local government matter, the commission must have regard to the issues that may be prescribed under a regulation.	5 6 7
‘(2) If the matter relates to the external boundaries of a local government area, the commission also must have regard to the need to ensure the provision of efficient and effective local government in the area.	8 9 10
‘Restriction on determination to implement matter	11
‘77.(1) This section applies if a local government that would be affected by the limited reviewable local government matter if it were implemented is divided.	12 13 14
‘(2) The commission must make a determination not to implement the matter if its implementation would result in the margin of allowance for a quota for a local government’s area not being departed from. ¹⁶	15 16 17
‘Action after determination to implement matter	18
‘78.(1) This section applies if the commission determines that the limited reviewable local government matter be implemented.	19 20
‘(2) The commission must—	21
(a) prepare a report for the Minister on the matter; and	22
(b) give notification of its determination—	23
(i) by gazette notice; and	24
(ii) by advertisement published in a newspaper circulating generally in the local government areas that will be affected	25 26

¹⁶ See chapter 5 (Local government elections), part 5 (Division of local government areas).

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- by the implementation of the matter; and
- (c) give to the Minister a copy of the gazette notice and the commission’s report on the matter; and
- (d) give a copy of the report to the local governments affected by the determination.
- ‘(3) The report must state the determination and reasons for it, and include recommendations on implementation issues for the matter.
- ‘(4) The notification must—
- (a) contain a summary of the determination; and
- (b) state that the commission’s report on the matter is—
- (i) open to inspection; and
- (ii) available for purchase at the Electoral Commission’s office at Brisbane; and
- (c) state that the determination is to be implemented by regulation.
- ‘Action after determination not to implement matter**
- ‘78A.(1) This section applies if the commission determines that the limited reviewable local government matter not be implemented.
- ‘(2) The commission must—
- (a) prepare a report for the Minister on the matter; and
- (b) give written notice of its determination to the landowners whose agreements accompanied the application for the determination of the matter; and
- (c) give to the Minister a copy of the commission’s report on the matter; and
- (d) give a copy of the report to the local governments whose agreements accompanied the application for determination of the matter.
- ‘(3) The report must state the determination and reasons for it.
- ‘(4) The notice must state that the commission’s report on the matter is—

- (a) open to inspection; and 1
- (b) available for purchase at the Electoral Commission's office at 2
Brisbane. 3

‘Implementation of matter 4

‘79.(1) If the commission determines that the limited reviewable local 5
government matter be implemented, the Governor in Council must 6
implement the matter as soon as practicable after the Minister receives a 7
copy of the commission's report on the matter. 8

‘(2) If a regulation is made to implement the matter and the regulation is 9
to commence on a later day fixed in it, for subsection (1), the matter must 10
not be taken not to have been implemented as soon as practicable merely 11
because of the later commencement. 12

Examples of subsection (2)— 13

1. Because of the holding of triennial elections under this Act, the regulation may 14
commence after its notification. 15

2. Because of financial implications, the regulation may commence at the start of 16
a financial year. 17

‘(3) Subsection (1) has effect subject to section 107.¹⁷. 18

Replacement of s 80 (Commissioner may decide to hold inquiry) 19

Clause 26. Section 80— 20

omit, insert— 21

‘Expanded commission may decide to hold inquiry for certain matters 22

‘80. In considering a reviewable local government matter the subject of a 23
major reference, an expanded commission may decide to hold an inquiry 24
under this division.’. 25

Replacement of ch 3, pt 1, divs 5 and 6 26

Clause 27. Chapter 3, part 1, divisions 5 and 6— 27

¹⁷ Section 107 (Requirement before implementation)

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omit, insert—

‘Division 4A—Referendums

‘Subdivision 1—Preliminary

‘Application of div 4A

‘91. This division applies to a compulsory or non-compulsory referendum to be held in relation to a commission’s proposed determination of a reviewable local government matter.

‘ “Approving” or “opposing” referendum question

‘91A.(1) This section applies for deciding whether the referendum question for the proposed determination of the reviewable local government matter is approved.

‘(2) A person **“approves”** the referendum question if the person answers the question in the affirmative.

‘(3) If the affected area for the reviewable local government matter is not divided into voting areas, the affected area **“approves”** the referendum question for the matter if the affected electors for the affected area who vote to approve the question are greater in number than the affected electors who vote to oppose the question.

‘(4) If the affected area is divided into voting areas—

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

(b) the affected area **“approves”** the referendum question if each voting area approves the question.

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

<i>‘Subdivision 2—Holding referendums</i>	1
‘Wording of referendum question	2
‘92. The precise wording for the referendum question must be set under a regulation.	3 4
‘Appointment and role of returning officers for referendum	5
‘92A.(1) The commissioner must appoint a returning officer and an assistant returning officer for the referendum.	6 7
‘(2) As soon as practicable after making an appointment, the commissioner must, by gazette notice, advise of the appointment.	8 9
‘(3) The returning officer and the assistant returning officer are each entitled to the fees and allowances decided by the commissioner.	10 11
‘(4) The returning officer must conduct the referendum.	12
‘(5) If, for any reason, the returning officer cannot perform the functions of office, the assistant returning officer must act as the returning officer.	13 14
‘(6) The returning officer for the referendum must have a public office for the referendum.	15 16
‘(7) The local governments for the affected area must give the returning officer all reasonable assistance the returning officer asks for in conducting the referendum.	17 18 19
‘Referendum day	20
‘92B.(1) The day for holding the referendum for the commission’s proposed determination of the reviewable local government matter (the “referendum day”) must be a Saturday.	21 22 23
‘(2) The returning officer must fix the referendum day.	24
‘(3) However, the Governor in Council may, by gazette notice, fix as the referendum day a day that is later than the day previously fixed by the returning officer as the referendum day.	25 26 27
‘(4) If a gazette notice is published under subsection (3), the returning officer must publish a notice giving necessary directions to affected electors	28 29

- about the procedures to be followed. 1
- ‘(5) The returning officer’s notice must be published in a newspaper 2
circulating generally in the affected area. 3
- ‘Notice of referendum day and other information 4**
- ‘**92C.(1)** The returning officer for the referendum must publish a notice 5
(the “**referendum notice**”)— 6
- (a) stating the referendum day for the referendum; and 7
 - (b) stating the referendum roll cut-off day fixed by the returning 8
officer; and 9
 - (c) advising whether, and if so to what extent, the referendum is to be 10
conducted by postal ballot; and 11
 - (d) giving a brief explanation about— 12
 - (i) the question for the referendum; and 13
 - (ii) who is an affected elector; and 14
 - (e) giving notice of the address and telephone number of the 15
returning officer’s public office. 16
- ‘(2) The referendum notice must be published in a newspaper circulating 17
generally in the affected area. 18
- ‘(3) The returning officer may also publish the referendum notice in 19
other ways the returning officer considers appropriate. 20
- ‘(4) The referendum notice must also be displayed in a conspicuous 21
position at the returning officer’s public office from as soon as practicable 22
after the referendum notice is first published in a newspaper until 6.00 p.m. 23
on the referendum day. 24
- ‘(5) The returning officer may also display a copy of the referendum 25
notice at other places the returning officer considers appropriate. 26
- ‘(6) The referendum notice may be published before the making or 27
commencement of the regulation setting the precise wording for the 28
question for the referendum. 29
- ‘(7) To the extent the referendum is not conducted by postal ballot, the 30
referendum notice must state— 31

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- (a) the location of ordinary polling booths to be used for the referendum; and 1
2
- (b) that the ordinary voting hours are from 8.00 a.m. and 6.00 p.m. 3
- ‘(8) The referendum roll cut-off day must be at least 5 days, but not more than 7 days, after the referendum notice is first published in a newspaper. 4
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- ‘Voters rolls 7**
- ‘92D.(1) As soon as practicable after the referendum roll cut-off day, the returning officer must compile a voters roll for— 8
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- (a) the affected area for the reviewable local government matter; or 10
- (b) if the affected area for the reviewable local government matter is divided into voting areas—each voting area. 11
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- ‘(2) A voters roll must consist of persons who, on the referendum roll cut-off day, are electors under the *Electoral Act 1992* and are enrolled on an electoral roll for an electoral district, or part of an electoral district, included in the affected area or, if subsection (1)(b) applies, the voting area concerned. 13
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- ‘(3) A voters roll— 18
- (a) must be in the form of the electoral roll used for elections of the Legislative Assembly; and 19
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- (b) must not include an elector’s address that, under the *Electoral Act 1992*, is excluded from the publicly available part of an electoral roll. 21
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- ‘Voters roll to be open to inspection and purchase 24**
- ‘92E.(1) A voters roll is open to inspection until the final result of the referendum for the matter is notified. 25
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- ‘(2) The returning officer must sell a copy of a voters roll to anyone who asks to buy it. 27
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- ‘(3) The price of a voters roll must be no more than the cost of making a copy of the roll and, if the copy is posted to the purchaser, the postage cost. 29
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‘Explanatory statement	1
‘92F. The commission for the reviewable local government matter must prepare a statement (the “explanatory statement”) about the advantages and disadvantages of the proposed determination that, in the commission’s opinion, should be taken into account by an affected elector voting in the referendum.	2 3 4 5 6
‘Commission may request information from local government	7
‘92G.(1) The commission for the reviewable local government matter may, by written notice, request a local government to give the commission, in writing, information the commission reasonably needs from the local government for the preparation of an explanatory statement.	8 9 10 11
‘(2) The request must specify a reasonable time within which the information must be given to the commission.	12 13
‘(3) The local government must comply with the request.	14
‘Giving statements to affected electors and display of statements and proposed determination	15 16
‘92H.(1) The returning officer must give the explanatory statement for the referendum to each affected elector on the voters roll for the affected area or, if the affected area is divided into voting areas, a voting area.	17 18 19
‘(2) The statement must be given to the affected elector at a reasonable time before the referendum day.	20 21
‘(3) If the referendum is to be conducted by postal ballot for all or part of the affected area, the explanatory statement may be given to an affected elector when the elector is given the ballot paper for the referendum.	22 23 24
‘(4) An affected elector, other than an affected elector to whom the returning officer has given an explanatory statement, must be given a copy of the statement if the elector asks for it.	25 26 27
‘(5) The returning officer must display a copy of the explanatory statement and the commission’s proposed determination of the matter—	28 29
(a) in a prominent place in the returning officer’s public office; and	30
(b) at other places the returning officer considers appropriate.	31

‘Local government views on referendum

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‘92I. The provisions of this division do not prevent a local government that considers that it will be affected by the proposed determination of the commission about the reviewable local government matter to which the referendum relates from informing affected electors of its views about the referendum question.

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‘Compulsory voting

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‘92J. Voting at the referendum is compulsory, and each affected elector for the affected area for the reviewable local government matter, or a voting area in the affected area, is entitled to only 1 vote.

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‘Conduct of referendum

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‘92K.(1) Chapter 5 (Local government elections), part 6 (Conduct of elections) applies (with any necessary changes and any additional changes specified in subsection (8) or changes prescribed under a regulation) to the referendum as if the referendum were an election.

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

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

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

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(a) section 238A (Assistant returning officers) has no application; and

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(b) chapter 5, part 6, divisions 3 (Candidates for election or appointment) and 11 (Marking of ballot papers) have no application; and

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(c) chapter 5, part 6, division 4 (Nominations of candidates for election), has no application; and

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(d) section 271(2)(d) to (f), (3) and (4) (Requirements of ballot papers) does not apply to the ballot paper to be used for the referendum; and

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| (e) | section 272 (Separate ballot papers for separate polls) has no application; and | 1
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| (f) | section 273 (Order of listing of candidates' names) has no application; and | 3
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| (g) | sections 302 (Effect of ballot papers—optional-preferential voting) and 303 (Effect of ballot papers—first-past-the-post voting) have no application; and | 5
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| (h) | in section 311(1) (Official counting of votes) and 312 (Treatment of ballot paper to which objection is made), the reference to a candidate, but not the reference to a scrutineer, may be ignored; and | 8
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| (i) | sections 313 (Counting of votes for optional-preferential system) and 314 (Counting of votes for first-past-the-post system) have no application; and | 12
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| (j) | section 316(1)(b) (Declaration of poll) has no application; and | 15 |
| (k) | section 327(1)(b) (Bribery) has no application; and | 16 |
| (l) | in section 349(2) (Injunctions to restrain contravention of chapter), the reference to a candidate or nominee as a candidate for election may be ignored, but not the reference to the returning officer. | 17
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| | ‘(5) Necessary changes also include the following changes having general operation— | 21
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| (a) | a reference to chapter 5, part 6 is a reference to that part as applied under this section, and is also taken to include a reference to the other provisions of this division; | 23
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| (b) | a reference to the returning officer is a reference to the returning officer for the referendum; | 26
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| (c) | a reference to an assistant returning officer is a reference to the assistant returning officer for the referendum; | 28
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| (d) | a reference to an elector is a reference to an affected elector for the affected area or, if the affected area is divided into voting areas, each voting area in relation to the referendum; | 30
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| (e) | a reference to a scrutineer for a candidate is a reference to a | 33 |

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- scrutineer for the referendum; 1
- (f) a reference to the voters roll is a reference to the voters roll 2
 compiled under this division for the affected area or, if the 3
 affected area is divided into voting areas, each voting area; 4
- (g) a reference to the local government area, or a division of the local 5
 government area, is, for the referendum, a reference to— 6
- (i) the affected area; or 7
- (ii) a voting area of the affected area; 8
- (h) a reference to the local government’s public office is a reference 9
 to the public office of the returning officer for the referendum; 10
- (i) a reference to the poll for the election is a reference to the poll for 11
 the referendum; 12
- (j) a reference to polling day is a reference to the referendum day for 13
 the referendum; 14
- (k) a reference to the notice under section 257 (Procedure if number 15
 of candidates exceeds number required) is a reference to the 16
 referendum notice for the referendum; 17
- (l) a reference to the election period is a reference to the period— 18
- (i) starting on the day the referendum notice for the referendum 19
 is first published; and 20
- (ii) ending at 6.00 p.m. on the referendum day for the 21
 referendum; 22
- (m) a reference to an electoral officer for an election is a reference to 23
 an electoral officer for the referendum. 24
- ‘(6) Necessary changes also include the following changes having more 25
 specific operation— 26
- (a) for applying sections 267(6) (Declaration of mobile polling 27
 booths), 286(5) (Arrangements for electoral visitor voting) and 28
 310(1) (Procedure for processing declaration envelopes), the 29
 returning officer for the referendum, instead of advising 30
 candidates, must advise the persons and groups who have 31
 appointed scrutineers for the referendum; 32

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| (b) | for applying sections 282(10)(b) (Procedure for voting at polling booth), 287(2)(c) (Help for electors in voting), 294(3)(c) (How declaration vote may be cast at a polling booth) and 297 (Casting a declaration vote by post), a reference to division 11 (Marking of ballot papers) is a reference to the provisions of this division about the marking of a ballot paper; | 1
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| (c) | for applying section 287(2)(a) (Help for electors in voting), a reference to stating the names of candidates is a reference to reading out the referendum question; | 7
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| (d) | for applying sections 308(1)(c)(ii) and (iii) (Preliminary counting by presiding officer) and 311(3)(b) and (4)(c) (Official counting of votes), the returning officer for the referendum must— | 10
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| | (i) count the number of votes approving the referendum question marked on all formal ballot papers, and keep the ballot papers in a separate parcel; and | 13
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| | (ii) count the number of votes opposing the referendum question marked on all formal ballot papers, and keep the ballot papers in a separate parcel; | 16
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| (e) | for applying section 308(1)(d)(i) (Preliminary counting by presiding officer), the written statement must set out, in words and numerals, the number of votes approving the referendum question and the number of votes opposing the referendum question; | 19
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| (f) | for applying section 311(2) (Official counting of votes), the returning officer for the referendum must ascertain the number of votes approving the referendum question and the number of votes opposing the referendum question; | 24
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| (g) | for applying section 311(3) and (4) (Official counting of votes), the returning officer for the referendum must count the number of votes approving the referendum question and the number of votes opposing the referendum question; | 28
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| (h) | for applying section 311(5) (Official counting of votes), the returning officer for the referendum must add together the number of votes counted as approving the referendum question and the number of votes counted as opposing the referendum | 32
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Local Government Legislation Amendment

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| question; | 1 |
| (i) for applying section 312(2) (Treatment of ballot paper to which objection is made), the reference to a vote for a particular candidate is a reference to whether the vote is a vote approving or opposing the referendum question, and the reference to the name of the candidate for whom a vote is counted is a reference to whether the vote is counted as a vote approving or opposing the referendum question; | 2
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| (j) for applying section 317 (Notice of final result of poll), the reference to each candidate is a reference to the commission; | 9
10 |
| (k) the result the returning officer must give under section 317 (Notice of final result of poll) as applied under this division is— | 11
12 |
| (i) if the affected area is divided into voting areas— | 13 |
| (A) for each voting area of the affected area—how the voting area voted on the referendum question, including whether the voting area has approved the referendum question; and | 14
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| (B) for the affected area—whether the affected area has approved the referendum question; or | 18
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| (ii) if the affected area is not divided into voting areas—whether the affected area has approved the referendum question; | 20
21 |
| (l) for applying sections 317A (Resolution about electors who fail to vote), 318(1) and (3)(b) (List of electors failing to vote), 319 (Notice of failure to vote etc.), 319A (Payments for failure to vote) and 320 (Recording response to notice), the reference to the local government is a reference to the local government for the local government area, or part of a local government area, for which a person listed as having failed to vote is enrolled; | 22
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| (m) for applying section 321 (Evidentiary value of list under s 318), the reference to the local government’s chief executive officer is a reference to the returning officer for the referendum; | 29
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31 |
| (n) for applying sections 322 (Disposal of material resulting from election) and 323 (Ballot papers as evidence), a reference to the local government’s chief executive officer is a reference to the commissioner, but section 322(4) has no application at all; | 32
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Local Government Legislation Amendment

- (o) for applying section 323A (Notice to electors whose ballot papers are not accepted), the reference to the local government is a reference to the commissioner; 1
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3
- (p) for applying section 327(1)(c) (Bribery), the reference to support of, or opposition to, a candidate or a political party is a reference to approval of, or opposition to, the referendum question; 4
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6
- (q) sections 333 (No record to be made of vote cast) and 346 (Breach of confidentiality of vote) are about how a person votes at the referendum, rather than the candidate for whom a person votes; 7
8
9
- (r) for applying section 349 (Injunctions to restrain contravention of chapter), the reference in section 349(1)(b) to chapter 5 is a reference to chapter 5, part 6 as applied under this division, and is also taken to include a reference to the other provisions of this division. 10
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- ‘(7) To avoid any doubt, sections 304 (Posted vote presumed valid until contrary proved) and 305 (Formal and informal ballot papers) have application. 15
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- ‘(8) The following additional changes are specified— 18
- (a) for applying section 309(1) (Preliminary processing of declaration votes by returning officer), the returning officer need not wait until after 8.00 a.m. on the referendum day to start the preliminary processing of declaration votes under that section, but may start at any time before the referendum day; 19
20
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23
- (b) for applying section 349 (Injunctions to restrain contravention of chapter), an application to the Supreme Court may additionally be made by— 24
25
26
- (i) a local government; or 27
- (ii) an individual or group of individuals reasonably identified in the community, in the court’s opinion, as supporting or opposing the referendum question. 28
29
30
- ‘(9) Subsections (2) to (8) do not limit by implication the changes that may be prescribed under a regulation. 31
32

<i>‘Subdivision 3—Replacement provisions</i>	1
‘Preliminary	2
‘93. A provision of chapter 5 (Local government elections), part 6 (Conduct of elections) has no application to the extent it is inconsistent with the replacement provisions in this subdivision.	3 4 5
‘Direction that poll be conducted by postal ballot	6
‘93A.(1) The Governor in Council may, by gazette notice, direct that the poll for the referendum for the commission’s proposed determination of the reviewable local government matter be conducted by postal ballot.	7 8 9
‘(2) The direction may be given for—	10
(a) all of the affected area; or	11
(b) a part of the affected area marked on a map.	12
‘(3) The map is open to inspection at the place stated in the gazette notice.	13
‘Ballot papers	14
‘93B. If the affected area for the reviewable local government matter is divided into voting areas, a different coloured ballot paper must be used for each voting area.	15 16 17
‘Mode of voting	18
‘93C.(1) If an affected elector wishes to vote to approve the referendum question, the elector must place a tick in the square opposite the word ‘YES’ on the ballot paper.	19 20 21
‘(2) If an affected elector wishes to vote to oppose the referendum question, the elector must place a tick in the square opposite the word ‘NO’ on the ballot paper.	22 23 24
‘(3) An affected elector is taken to have marked a ballot paper in the way mentioned in subsection (1) if the elector—	25 26
(a) writes the word ‘YES’ in the square opposite the word ‘YES’ on	27

Local Government Legislation Amendment

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- the ballot paper; or
- (b) otherwise marks the ballot paper in a way clearly showing that the voter approves of the referendum question.
- ‘(4) An affected elector is taken to have marked a ballot paper in the way mentioned in subsection (2) if the elector—
- (a) writes the word ‘NO’ in the square opposite the word ‘NO’ on the ballot paper; or
- (b) otherwise marks the ballot paper in a way clearly showing that the voter opposes the referendum question.
- ‘(5) For the application of section 271(2)(a),¹⁸ the approved form of ballot paper must allow for the method of voting stated in this section.
- ‘Effect of ballot paper**
- ‘93D. For a ballot paper to have effect as a vote of an affected elector in the referendum—
- (a) the ballot paper must be completed in the way stated in this subdivision; and
- (b) the ballot paper must not contain any writing or mark (other than a mark authorised under this division) by which the elector can, in the returning officer’s opinion, be identified; and
- (c) the ballot paper must have been put in a ballot box; and
- (d) for a ballot paper put in a declaration envelope as required under section 297¹⁹ as applied under this division—
- (i) section 297(1) must have been complied with; and
- (ii) if the elector is an elector mentioned in section 289 or 290²⁰ or an applicant who is given an approved declaration form under section 293(4) or an elector who is given an approved

¹⁸ Section 271 (Requirements of ballot papers)

¹⁹ Section 297 (Casting a declaration vote by post)

²⁰ Section 289 (Who may cast a declaration vote) or 290 (Who must cast a declaration vote in ordinary elections)

Local Government Legislation Amendment

declaration form under section 295(2),²¹ and the declaration on the envelope is witnessed by a person other than an issuing officer—the signature of the person making the declaration must correspond to the signature of the relevant applicant under section 293, or the relevant elector under section 295; and

- (iii) if the declaration envelope is posted to the returning officer for the referendum—it must be received by the returning officer within 10 days after the referendum day.

‘Scrutineers

‘93E.(1) For the appointment of scrutineers for the referendum, a reference in section 276, 277 or 279²² to a candidate for election is a reference to—

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

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

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

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

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

²¹ Section 295 (Distribution of ballot papers to electors for postal ballot election)

²² Section 276 (Candidates’ entitlement to scrutineers), 277 (Appointment of scrutineers) or 279 (Powers of scrutineers)

Local Government Legislation Amendment

the referendum.	1
‘(6) A scrutineer must comply with a direction given under subsection (5).	2 3
Maximum penalty for subsection (6)—10 penalty units.	4
<i>‘Subdivision 4—Miscellaneous</i>	
‘Referendum cost	6
‘94.(1) The cost of conducting the referendum, including the fees and allowances to which the returning officer and assistant returning officer for the referendum are entitled, must be paid by the local governments prescribed under a regulation for the referendum in the way stated in the regulation.	7 8 9 10 11
‘(2) An amount required for the cost may, without resolution of a local government, be spent by it whether or not the disbursement is provided for in its budget.	12 13 14
‘(3) An amount may be paid only if the returning officer for the referendum has presented an account to the local government’s chief executive officer.	15 16 17
‘Proof of voters roll	18
‘94A. In a proceeding, a document purporting to be a copy of a voters roll for an affected area, or a voting area of an affected area, and to be certified by the returning officer for the referendum, is evidence of the roll and the matters contained in the roll.	19 20 21 22

<i>‘Division 5—Provisions about commission members</i>	1
<i>‘Subdivision 1—Commissioner and deputy commissioner</i>	2
‘Commissioner may direct deputy commissioner to perform commissioner’s functions	3 4
‘95.(1) This section applies if the commissioner—	5
(a) constitutes, or partly constitutes, a commission; and	6
(b) is unable, for any reason, to perform the functions of the commission or a commission member.	7 8
‘(2) For the purpose of the commission performing a function or exercising a power, the commissioner may direct the deputy commissioner to act in the place of the commissioner.	9 10 11
‘(3) Anything done by the deputy commissioner in the place of the commissioner is taken to have been done by the commissioner as constituting the commission or as a commission member.	12 13 14
<i>‘Subdivision 2—Appointment, and duration of appointment, of review commissioners</i>	15 16
‘Appointment	17
‘96.(1) The Governor in Council is to appoint qualified individuals as review commissioners.	18 19
‘(2) The Governor in Council may appoint the number of review commissioners the Governor in Council considers necessary.	20 21
‘(3) An initial appointment as a review commissioner may be made only if the Minister has consulted with the Local Government Association about it.	22 23 24
‘(4) A person is qualified for appointment as a review commissioner only if the person—	25 26
(a) has extensive knowledge and experience in local government, public administration, law, public finance or community affairs;	27 28

or	1
(b) has other qualifications and experience the Governor in Council considers appropriate.	2 3
‘(5) A person is not qualified for appointment as a review commissioner if the person—	4 5
(a) is a member of an Australian Parliament; or	6
(b) is a nominee for election as a member of an Australian Parliament; or	7 8
(c) is a councillor; or	9
(d) is a nominee for election as a councillor; or	10
(e) accepts appointment as a councillor; or	11
(f) is a member of a political party.	12
‘Duration of appointment	13
‘96A. A review commissioner may be appointed for a term not longer than 3 years.	14 15
<i>‘Subdivision 3—Terms of appointment, resignation and termination of appointment of certain commission members</i>	16 17
‘Definition for subdiv 3	18
‘97. In this subdivision—	19
“ commissioner ” means a review commissioner or the chairperson of a special commission. ²³	20 21
‘Terms of appointment	22
‘98.(1) A commissioner is entitled to be paid the remuneration and allowances the Governor in Council may decide.	23 24

²³ The chairperson of a special commission is appointed by the Governor in Council under section 71(1)(a).

Local Government Legislation Amendment

‘(2) A commissioner holds office on the terms, not provided in this Act, the Governor in Council decides. 1
2

‘Resignation 3

‘99. A commissioner may resign by giving a signed notice of resignation to the Minister. 4
5

‘Termination of appointment 6

‘100.(1) The Governor in Council may terminate the appointment of a commissioner for misbehaviour or physical or mental incapacity. 7
8

‘(2) The Governor in Council must terminate the appointment of a commissioner if the person— 9
10

(a) nominates for election to an Australian Parliament; or 11

(b) nominates for election to a local government or accepts appointment as a local government councillor; or 12
13

(c) becomes a member of a political party; or 14

(d) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or 15
16
17

(e) contravenes section 67E²⁴ without reasonable excuse. 18

‘Division 6—Miscellaneous 19

‘Staff and administrative support 20

‘101. The Electoral Commission must ensure that a commission has the staff and administrative support services required to carry out its functions effectively and efficiently. 21
22
23

²⁴ Section 67E (Disclosure of interests by members of expanded commission)

‘Annual reports

‘102.(1) As soon as practicable, but not later than 4 months, after the end of each financial year, the commissioner must give to the Minister a report of Local Government Electoral and Boundaries Review Commissions’ operations for the year (the **“review commissions’ report”**).

‘(2) The Electoral Commission’s annual report prepared under the *Electoral Act 1992*, section 19, for the year must include the review commissions’ report.

‘Certain reports to be tabled etc.

‘103.(1) In this section—

“report” means a report on a major or minor reference of a reviewable local government matter.²⁵

‘(2) The Minister must table a copy of a commission’s report in the Legislative Assembly within 7 sitting days after receiving it.

‘Reports open to inspection and available for purchase

‘104. The commissioner must ensure copies of each commission’s report on a reviewable local government matter or a limited reviewable local government matter—

- (a) are open to inspection at the Electoral Commission’s office at Brisbane; and
- (b) are available for purchase at the Electoral Commission’s office at Brisbane for 6 months after—
 - (i) for a report on a major or minor reference of a reviewable local government matter—it is tabled in the Legislative Assembly; or
 - (ii) for a report on a limited reviewable local government

²⁵ See sections 72C (Determination not to implement matter) and 72H (Notification of determination and report to Minister) for major references of reviewable local government matters and sections 73B (Determination not to implement matter) and 73F (Notification of determination and report to Minister) for minor references of reviewable local government matters.

Local Government Legislation Amendment

matter—notification of the commission’s determination 1
under section 78 or 78A. 2

‘Additional procedures may be prescribed by regulation 3

‘105. A regulation may be made about additional procedures for the 4
following— 5

- (a) major and minor references of reviewable local government 6
matters; 7
- (b) applications relating to limited reviewable local government 8
matters.’. 9

Amendment of s 169 (General qualifications for membership) 10

Clause **28.(1)** Section 169(1)— 11

omit, insert— 12

‘(1) A person is qualified to become a councillor of a local government if 13
the person— 14

- (a) lives in the local government’s area; and 15
- (b) is, under the *Electoral Act 1992*, an elector for an electoral district, 16
or a part of an electoral district, included in the local government’s 17
area— 18
 - (i) for the person’s election as a councillor, other than at a 19
Brisbane City Council election—when the voters roll for the 20
election is compiled under section 225 or 353;²⁶ or 21
 - (ii) for the person’s election as councillor of the Brisbane City 22
Council at a triennial election—on 31 January of the year in 23
which the election is to be held; or 24
 - (iii) for the person’s election as a councillor of the Brisbane City 25
Council at an election other than a triennial election—on the 26

²⁶ Section 225 (Cut-off day for voters roll) or 353 (Voters roll for fresh election)

Local Government Legislation Amendment

cut-off day for the electoral rolls for the election;²⁷ or 1

(iv) for the person’s appointment as a councillor under 2
section 202²⁸—for at least 30 days before the appointment. 3

Example— 4

For a by-election in division 1 of a local government area, a person who lives in 5
division 2 of the area and is an elector for division 2 of the area, when the voters roll 6
is compiled for division 1, may nominate for election even though the person is not 7
on the voters roll for division 1.’. 8

(2) Section 169(1A)— 9

omit, insert— 10

‘(1A) A councillor, whether elected or appointed, is qualified to be a 11
councillor of a local government only while the councillor lives in the local 12
government’s area and is, under the *Electoral Act 1992*, an elector for an 13
electoral district, or a part of an electoral district, included in the local 14
government’s area.’. 15

Amendment of s 170 (General disqualifications) 16

Clause 29. Section 170, after ‘qualified to’— 17

insert— 18

‘be or’. 19

Amendment of s 200 (When councillor’s office becomes vacant) 20

Clause 30.(1) Section 200(1), ‘becomes vacant’— 21

omit, insert— 22

‘is vacated’. 23

(2) Section 200(1)(a), after ‘qualified to’— 24

²⁷ The cut-off day for electoral rolls for an election, other than a triennial election, for Brisbane City Council is decided under the *Electoral Act 1992*, section 80(1)(b) as applied by the *City of Brisbane Act 1924*, section 17(5).

²⁸ Section 202 (Filling of later vacancies by appointment)

	<i>insert—</i>	1
	‘be or’.	2
	Amendment of s 202 (Filling of later vacancies by appointment)	3
Clause	31.(1) Section 202(2), after ‘appointing a’—	4
	<i>insert—</i>	5
	‘qualified’.	6
	(2) Section 202(3)—	7
	<i>omit, insert—</i>	8
	‘ (3) Subsection (3A) applies if—	9
	(a) the last filling of the office of the former councillor was by an election; and	10 11
	(b) the former councillor was a candidate for the election; and	12
	(c) the former councillor was nominated for the election by a registered officer of a political party under—	13 14
	(i) section 250(1)(a); ²⁹ or	15
	(ii) if the former councillor was a councillor of the Brisbane City Council—the <i>Electoral Act 1992</i> , section 84(1)(a). ³⁰	16 17
	‘ (3A) The new councillor must be the political party’s nominee.	18
	‘ (3B) If the last filling of the office of the former councillor was by an appointment of a political party’s nominee made in accordance with subsection (3A) or this subsection, the new councillor must be a nominee of the political party.’.	19 20 21 22
	(3) Section 202(5)—	23
	<i>omit, insert—</i>	24
	‘ (5) Subsection (5A) applies if—	25

²⁹ Section 250 (How and when nomination is given)

³⁰ The *Electoral Act 1992*, section 84 is applied to nominations for election as a councillor of the Brisbane City Council under the *City of Brisbane Act 1924*, section 17(5).

Local Government Legislation Amendment

- (a) the former councillor held office as mayor; and 1
- (b) the last filling of the office of mayor was at an election; and 2
- (c) the former councillor was a candidate for the election; and 3
- (d) the former councillor was nominated for the election by a 4
registered officer of a political party under— 5
 - (i) section 250(1)(a);³¹ or 6
 - (ii) if the former councillor was a councillor of the Brisbane City 7
Council—the *Electoral Act 1992*, section 84(1)(a).³² 8

‘(5A) The person appointed under subsection (4) must be the political 9
party’s nominee.’ 10

‘(5B) If the last filling of the office of mayor was by an appointment of a 11
political party’s nominee made in accordance with subsection (5A) or this 12
subsection, the person appointed under subsection (4) must be a nominee of 13
the political party.’. 14

(4) Section 202(6), ‘(3)’— 15

omit, insert— 16

‘(2)’. 17

(5) Section 202(8), definition— 18

omit, insert— 19

‘ “qualified person” means a person who is qualified to become a 20
councillor of the local government.’. 21

Insertion of new s 219A 22

Clause 32. Chapter 5, part 1, after section 219— 23

insert— 24

³¹ Section 250 (How and when nomination is given)

³² The *Electoral Act 1992*, section 84 is applied to nominations for election as a councillor of the Brisbane City Council under the *City of Brisbane Act 1984*, section 17(5).

	‘Local governments responsible for expenditure for conducting elections	1 2
	‘219A. A local government is responsible for expenditure incurred for the conduct of an election in its local government area.’	3 4
	Amendment of s 220 (Chief executive officer is returning officer)	5
Clause	33. Section 220(2), ‘if chief executive officer cannot act’— <i>omit, insert—</i> ‘in place of the chief executive officer’.	6 7 8
	Replacement of s 221 (Appointment of returning officer if chief executive officer cannot act)	9 10
Clause	34. Section 221— <i>omit, insert—</i>	11 12
	‘Appointment of returning officer in place of the chief executive officer	13
	‘221.(1) If the chief executive officer considers on reasonable grounds that it is appropriate to appoint another individual as returning officer for an election, the chief executive officer may make the appointment in the approved form.	14 15 16 17
	‘(2) An individual who is not a current employee of the local government cannot be appointed as returning officer for an election unless the chief executive officer—	18 19 20
	(a) has to the extent practicable, by public notice in a newspaper circulating generally in the local government area and in any other newspaper the chief executive officer considers appropriate, invited expressions of interest from individuals who are suitably qualified to conduct elections; and	21 22 23 24 25
	(b) if the chief executive officer considers it appropriate—has invited submissions for appointment as returning officer from any individual the chief executive officer considers may be suitably qualified to conduct elections; and	26 27 28 29
	(c) has taken into account—	30

Local Government Legislation Amendment

- (i) the individual's qualifications to be a returning officer; and 1
- (ii) information supplied by the individual and any referees; and 2
- (iii) the cost of the individual providing the services required. 3

'(3) Subsections (4) to (6) apply if a returning officer appointed by the chief executive officer is, for any reason, unable to perform the duties of the returning officer. 4
5
6

'(4) If possible, the returning officer must immediately inform the chief executive officer. 7
8

'(5) The chief executive officer may become the returning officer or appoint another individual to be the returning officer for the election. 9
10

'(6) To the extent practicable, subsection (2) applies to the appointment of a returning officer under subsection (5) who is not a current employee of the local government. 11
12
13

'(7) If the chief executive officer believes he or she cannot properly perform the duties of returning officer for an election because of a possible conflict of interest, the chief executive officer must ask the Minister to appoint another individual as returning officer for the election. 14
15
16
17

'(8) The Minister may appoint another individual as returning officer for the election.'. 18
19

**Amendment of s 233 (Quota to be complied with in division of local government area and assignment of councillors) 20
21**

Clause **35.(1)** Section 233(1), from 'complied with'— 22
omit, insert— 23

'complied with in the determination of— 24

(a) a reviewable local government matter (other than a limited reviewable local government matter); or 25
26

(b) a limited reviewable local government matter.'. 27

(2) Section 233(3)— 28
omit, insert— 29

'(3) For subsection (1)(a), the quota must be worked out as near as 30

practicable to the time notice of the proposed determination of the matter is given under section 72D or 73C.³³

‘(4) For subsection (1)(b), the quota must be worked out as near as practicable to the time notification in the gazette of the determination of the matter is given under section 78.³⁴’.

Insertion of new s 238A

Clause 36. After section 238—

insert—

‘Assistant returning officers

‘**238A.(1)** The returning officer for an election may appoint 1 or more assistant returning officers for the election.

‘(2) An appointment under subsection (1) must be in the approved form.’.

Amendment of s 240 (Issuing officers)

Clause 37.(1) Section 240(1), after ‘adults’—

insert—

‘(“**issuing officers**”)’.

(2) Section 240—

insert—

‘(3) Anything done by an issuing officer under subsection (1)(b) is taken to be done by the returning officer or the presiding officer.’.

³³ Section 72D (Public notice of proposed determination to implement matter) and section 73C (Notice of proposed determination to implement matter and recommendations)

³⁴ Section 78 (Action after determination to implement matter)

	Replacement of s 242 (Returning officer may act through authorised issuing officer)	1
		2
Clause	38. Section 242—	3
	<i>omit, insert—</i>	4
	‘Returning officer may act through other officers	5
	‘242. If—	6
	(a) the returning officer may, under this part, do anything; and	7
	(b) the returning officer authorises an assistant returning officer, presiding officer or issuing officer (the “authorised officer”) to do the thing; and	8
		9
		10
	(c) the authorised officer does the thing;	11
	the thing is taken to have been done by the returning officer.	12
	<i>Examples—</i>	13
	1. For an election, if the returning officer authorises an assistant returning officer to conduct the election in a division, and the assistant returning officer does so, the returning officer is taken to have conducted the election in the division.	14
		15
		16
	2. For an election, if the returning officer authorises an assistant returning officer to carry out the functions of the returning officer under section 311, ³⁵ the returning officer is taken to have carried out those functions.	17
		18
		19
	3. Under section 297, declaration envelopes are to be posted or given to the returning officer. For an election, the returning officer could authorise an issuing officer to receive declaration envelopes, to remove the declaration envelopes containing the ballot papers from the return address envelopes and place the declaration envelopes in a ballot box.’.	20
		21
		22
		23
		24
	Insertion of new s 242A	25
Clause	39. After section 242—	26
	<i>insert—</i>	27
	‘Assistant returning officer may act through certain authorised officers	28
		29
	‘242A. If—	30

³⁵ Section 311 (Official counting of votes)

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- (a) an assistant returning officer may, under this part, do anything; 1
and 2
- (b) the assistant returning officer authorises a presiding officer or 3
issuing officer to do the thing; and 4
- (c) the presiding officer or issuing officer does the thing; 5
- the thing is taken to have been done by the assistant returning officer.’. 6

Amendment of s 244 (Qualification for nomination) 7

- Clause 40. Section 244(1), ‘appointment to a’— 8
omit, insert— 9
‘appointment to the’. 10

Repeal of s 247 (Endorsed candidates must identify endorsement) 11

- Clause 41. Section 247— 12
omit. 13

Amendment of s 249 (Who may nominate) 14

- Clause 42. Section 249— 15
insert— 16
‘(2) This section applies to the Brisbane City Council.’. 17

Insertion of new s 251A 18

- Clause 43. After section 251— 19
insert— 20
‘**Special grounds for deciding a person is not properly nominated** 21
‘**251A.(1)** In this section— 22
“**nomination name**” means the name proposed by a candidate to be used 23

- on the ballot paper as the candidate’s name under section 271(3).³⁶ 1
- “parliamentary party”** means an organisation— 2
- (a) whose object or activity, or 1 of whose objects or activities, is the 3
promotion of the election to an Australian parliament of a 4
candidate or candidates endorsed by it or by a body or 5
organisation of which it forms a part; and 6
 - (b) of which at least 1 member is a member of an Australian 7
parliament. 8
- “party name”** means the name, or an abbreviation or acronym of the name 9
of— 10
- (a) a parliamentary party; or 11
 - (b) a political party; or 12
 - (c) an organisation or group whose object or activity, or 1 of whose 13
objects or activities, is the promotion of the election of a candidate 14
or candidates endorsed by it or by a body or organisation of 15
which it forms a part to— 16
 - (i) an Australian parliament; or 17
 - (ii) an office of councillor of a local government. 18
- “public body name”** means the name, or an abbreviation or acronym of 19
the name, of a prominent public body. 20
- ‘(2) The returning officer may decide that a person whose name has been 21
changed is not properly nominated because the nomination name— 22
- (a) is a party name; or 23
 - (b) so nearly resembles a party name that it is likely to be confused 24
with or mistaken for the party name; or 25
 - (c) includes the word ‘independent’; or 26
 - (d) is a public body name; or 27
 - (e) so nearly resembles a public body name that it is likely to be 28
confused with or mistaken for the public body name; or 29

³⁶ Section 271 (Requirements of ballot papers)

Local Government Legislation Amendment

(f) is obscene or offensive. 1

‘(3) The returning officer may also decide that a person whose name has 2
been changed is not properly nominated if the returning officer considers 3
the name could cause confusion. 4

Example of subsection (3)— 5

If a person’s name is Informal, the returning officer may consider that the name 6
could cause confusion to electors. 7

‘(4) If the returning officer decides a person is not properly nominated 8
under this section for an election, the returning officer must give the person 9
a notice stating— 10

(a) the decision; and 11

(b) the reasons for the decision; and 12

(c) the person’s right to apply for an injunction.³⁷. 13

Amendment of s 252 (Certificate of returning officer) 14

Clause 44.(1) Section 252— 15

insert— 16

‘(1A) The certificate must specify the time, day and place proposed for a 17
draw, if necessary, for the order of listing of candidates’ names on the ballot 18
paper.’. 19

(2) Section 252(3)(c)— 20

omit, insert— 21

‘(c) documentary evidence produced by the nominee or nominator 22
that at the time the voters roll is compiled for the election— 23

(i) the nominator is an elector for the election or the registered 24
officer under the *Electoral Act 1992* of a political party; or 25

(ii) the nominee is, under the *Electoral Act 1992*, an elector for 26
an electoral district, or part of an electoral district, included in 27
the local government’s area.’. 28

³⁷ For a person’s right to seek an injunction, see section 349 (Injunctions to restrain 3
contravention of chapter).

	Amendment of s 264 (Direction that poll be conducted by postal ballot)	1 2
Clause	45. Section 264(3), after ‘inspection’—	3
	<i>insert—</i>	4
	‘at the public office of the local government’.	5
	Amendment of s 265 (Polling booths—general)	6
Clause	46. Section 265—	7
	<i>insert—</i>	8
	‘(4) The returning officer may arrange for all polling booths or specified polling booths for an election in a division of the local government area to also be used for any other election conducted at the same time for, or for a division of, the local government area.’.	9 10 11 12
	Amendment of s 273 (Order of listing of candidates’ names)	13
Clause	47. Section 273(5)—	14
	<i>omit, insert—</i>	15
	‘(5) The returning officer must allow each candidate, or the candidate’s representative, to be present when the order of candidates’ names is decided.’.	16 17 18
	Amendment of s 293 (Distribution of ballot papers to electors who may or must cast declaration vote)	19 20
Clause	48.(1) Section 293(3), ‘and the approved declaration envelope’—	21
	<i>omit, insert—</i>	22
	‘, the approved declaration envelope and written instructions in the approved form on how the vote may be cast’.	23 24
	(2) Section 293(5), ‘and the approved declaration envelope’—	25
	<i>omit, insert—</i>	26
	‘, the approved declaration envelope and written instructions in the	27

approved form on how the vote may be cast’.	1
(3) Section 293(6), ‘prepaid’—	2
<i>omit, insert—</i>	3
‘reply paid’.	4
(4) Section 293—	5
<i>insert—</i>	6
‘(7) The returning officer may give things to be given to an applicant under subsection (3) or (5) by posting the things to the applicant’s address stated in the voters roll, an electoral roll mentioned in the <i>Electoral Act 1992</i> , section 58(5), ³⁸ the application or the declaration form.	7
	8
	9
	10
<i>Example of addresses—</i>	11
An applicant’s address could be stated as a residential address, post office box number, mail service number or in another appropriate way.	12
	13
‘(8) If things mentioned in subsection (6) are posted to an address outside Australia, the envelope mentioned in subsection (6) need not be reply paid.’.	14
	15
	16
Amendment of s 295 (Distribution of ballot papers to electors for postal ballot election)	17
	18
Clause 49.(1) Section 295(1), ‘and approved declaration envelope’—	19
<i>omit, insert—</i>	20
‘, the approved declaration envelope and written instructions in the approved form on how the vote may be cast’.	21
	22
(2) Section 295(3), ‘and the approved declaration envelope’—	23
<i>omit, insert—</i>	24
‘, the approved declaration envelope and written instructions in the approved form on how the vote may be cast’.	25
	26
(3) Section 295(4), ‘prepaid’—	27

³⁸ An electoral roll mentioned in the *Electoral Act 1992*, section 58(5) may be in a form other than a printed form.

Local Government Legislation Amendment

omit, insert— 1

‘reply paid’. 2

(4) Section 295— 3

insert— 4

‘(5) The returning officer may post the things to an elector under subsection (1), by posting them to the elector’s address stated in the voters roll or an electoral roll mentioned in the *Electoral Act 1992*, section 58(5).³⁹ 5
6
7

‘(6) The returning officer may give the things to a person to whom subsection (2) applies by posting them to the elector’s address stated in the voters roll or an electoral roll mentioned in the *Electoral Act 1992*, section 58(5), or to another address given by the person. 8
9
10
11

‘(7) The returning officer may give the things to an elector under subsection (3), by posting them to the elector’s address stated in the voters roll, an electoral roll mentioned in the *Electoral Act 1992*, section 58(5)⁴⁰ or the declaration form. 12
13
14
15

Example of addresses for subsections (6) and (7)— 16

An address could be stated as a residential address, post office box number, mail service or in another appropriate way. 17
18

‘(8) If things for an elector mentioned in subsection (4) are posted to an address outside Australia, the envelope mentioned in subsection (4) need not be reply paid.’. 19
20
21

Amendment of s 298 (Declaration voting before polling day) 22

Clause **50.(1)** Section 298(1), after ‘declare’— 23

insert— 24

‘at least’. 25

(2) Section 298(1)(c)— 26

³⁹ An electoral roll mentioned in the *Electoral Act 1992*, section 58(5) may be in a form other than a printed form.

⁴⁰ An electoral roll mentioned in the *Electoral Act 1992*, section 58(5) may be in a form other than a printed form.

	<i>omit, insert—</i>	1
	‘(c) another convenient place in the local government area.’	2
	Insertion of new s 298A	3
Clause	51. After section 298—	4
	<i>insert—</i>	5
	‘Distribution of declaration envelopes when separate ballot papers or polls on same day	6
		7
	‘298A.(1) This section applies if a local government—	8
	(a) under section 272, ⁴¹ instructs the use of separate ballot papers in polls for elections of the mayor and another councillor conducted on the same day; or	9 10 11
	(b) under this part, conducts a poll under chapter 6, part 2 (Polls) ⁴² on the day of the poll for an election.	12 13
	‘(2) In the conduct of the polls—	14
	(a) only 1 declaration envelope may be distributed to a declaration voter with the ballot papers for use in the polls; and	15 16
	(b) this part, other than this section, applies (with any necessary changes) as if the references to the distribution, marking and other dealing with a ballot paper were a reference to all or each of the ballot papers in the polls, as the case requires.’	17 18 19 20
	Amendment of s 302 (Effect of ballot papers—optional-preferential voting)	21 22
Clause	52. Section 302(2)(d)(ii)—	23
	<i>omit, insert—</i>	24

⁴¹ Section 272 (Separate ballot papers for separate polls)

⁴² Chapter 6, part 2 (Polls)

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‘(ii) if the elector is an elector mentioned in section 289 or 290,⁴³ 1
 or an applicant who is given an approved declaration form 2
 under section 293(4)⁴⁴ or an elector who is given an 3
 approved declaration form under section 295(2),⁴⁵ and the 4
 declaration on the envelope is witnessed by a person other 5
 than an issuing officer—the signature of the person making 6
 the declaration must correspond to the signature of the 7
 relevant applicant under section 293, or the relevant elector 8
 under section 295; and’.

Amendment of s 303 (Effect of ballot papers—first-past-the-post voting) 10
 11

Clause **53.(1)** Section 303(2)(d)(ii)— 12
omit, insert— 13

‘(ii) if the elector is an elector mentioned in section 289 or 290⁴⁶ 14
 or an applicant who is given an approved declaration form 15
 under section 293(4)⁴⁷ or an elector who is given an 16
 approved declaration form under section 295(2),⁴⁸ and the 17
 declaration on the envelope is witnessed by a person other 18
 than an issuing officer—the signature of the person making 19
 the declaration must correspond to the signature of the 20
 relevant applicant under section 293, or the relevant elector 21
 under section 295; and’.

(2) Section 303(3), ‘If 2 or more candidates are to be elected, a’— 23

⁴³ Section 289 (Who may cast a declaration vote) or 290 (Who must cast a declaration vote in ordinary elections)

⁴⁴ Section 293 (Distribution of ballot papers to electors who may or must cast declaration vote)

⁴⁵ Section 295 (Distribution of ballot papers to electors for postal ballot election)

⁴⁶ Section 289 (Who may cast a declaration vote) or 290 (Who must cast a declaration vote in ordinary elections)

⁴⁷ Section 293 (Distribution of ballot papers to electors who may or must cast declaration vote)

⁴⁸ Section 295 (Distribution of ballot papers to electors for postal ballot election)

	<i>omit, insert—</i>	1
	‘A’.	2
	Amendment of s 308 (Preliminary counting by presiding officer)	3
Clause	54.(1) Section 308(2)(c), after ‘statement’—	4
	<i>insert—</i>	5
	‘in the approved form’.	6
	(2) Section 308(3)—	7
	<i>omit, insert—</i>	8
	‘ (3) The returning officer or other person who receives things from the presiding officer under subsection (2) must give to the presiding officer a receipt for the things.	9 10 11
	‘ (4) The presiding officer may do anything required under subsection (1) or (2) through an issuing officer authorised by the presiding officer for that purpose.	12 13 14
	<i>Example for subsection (4)—</i>	15
	An issuing officer could be authorised to sort and bundle ballot papers and prepare a reconciliation statement for the presiding officer.’.	16 17
	Amendment of s 310 (Procedure for processing declaration envelopes)	18
Clause	55.(1) Section 310(2) and (3)—	19
	<i>omit, insert—</i>	20
	‘ (2) On examining the declaration envelopes, if the returning officer is satisfied the declaration has been properly completed, the envelope is sealed and the declarant on the envelope is entitled to cast a declaration vote, the returning officer must—	21 22 23 24
	(a) detach the elector’s declaration from the envelope; and	25
	(b) either—	26
	(i) place a mark in ink against the declarant’s name on the voters roll; or	27 28
	(ii) if the voters roll is kept in an electronic form—record in a	29

Local Government Legislation Amendment

way approved by the returning officer that the declarant has
voted; and

(c) place the envelope containing the ballot paper (the “**accepted envelope**”) in a locked or sealed ballot box; and

(d) keep the accepted envelope in the ballot box until dealt with under subsection (3) or section 311.⁴⁹

‘(3) The returning officer may take the accepted envelopes from the locked or sealed ballot box and remove the ballot papers from the envelopes, without unfolding them, or allowing anyone else to unfold them, and keep them in a locked or sealed ballot box until dealt with under section 311.⁵⁰’.

(2) Section 310(4)(a), after ‘into a’—

insert—

‘locked or’.

(3) Section 310(6), ‘opened and unopened declaration envelopes’—

omit, insert—

‘rejected declaration envelopes, accepted envelopes from which ballot papers have been removed and electors’ declarations that have been removed from declaration envelopes’.

Amendment of s 311 (Official counting of votes)

Clause **56.** After section 311(4)(a)—

insert—

‘(aa) open all accepted envelopes mentioned in section 310(2)(d)⁵¹ that have not yet been opened and remove the ballot papers; and’.

⁴⁹ Section 311 (Official counting of votes)

⁵⁰ Section 311 (Official counting of votes)

⁵¹ Section 310 (Procedure for processing declaration envelopes)

	Amendment of s 315 (Returning officer’s duty after counting votes)	1
Clause	57. Section 315(1)(a), ‘declaration envelopes’—	2
	<i>omit, insert—</i>	3
	‘, rejected declaration envelopes, accepted envelopes from which ballot papers have been removed, electors’ declarations that have been removed from declaration envelopes’.	4 5 6
	Insertion of new s 317A	7
Clause	58. After section 317—	8
	<i>insert—</i>	9
	‘Resolution about electors who fail to vote	10
	‘317A. As soon as practicable after the conclusion of the election, the local government must make a resolution deciding whether to take action under section 319 ⁵² about electors who failed to vote in the election.’.	11 12 13
	Amendment of s 318 (List of electors failing to vote)	14
Clause	59.(1) Section 318(1), (2) and (3)—	15
	<i>renumber</i> as section 318(2), (3) and (4) respectively.	16
	(2) Section 318—	17
	<i>insert—</i>	18
	‘(1) This section applies only if the local government makes a resolution under section 317A ⁵³ deciding to take action under section 319 about electors who failed to vote in the election.’.	19 20 21
	(3) Section 318(3)(c) as renumbered—	22
	<i>omit.</i>	23

⁵² Section 319 (Notice of failure to vote etc.)

⁵³ Section 317A (Resolution about electors who fail to vote)

	Replacement of s 319 (Notice to elector failing to vote)	1
Clause	60. Section 319—	2
	<i>omit, insert—</i>	3
	‘Notice of failure to vote etc.	4
	‘319.(1) Subject to subsection (2), the local government—	5
	(a) must, as soon as practicable after a resolution by the local	6
	government to take action under this section, send a notice in the	7
	approved form to each elector shown on the list deposited under	8
	section 318 ⁵⁴ at the elector’s address shown on the list; and	9
	(b) must record on the list, against the elector’s name, the fact that the	10
	notice has been given.	11
	‘(2) The notice must—	12
	(a) show the elector’s full name and address and number on the	13
	voters roll; and	14
	(b) state that—	15
	(i) the elector appears to have failed to vote at the election; and	16
	(ii) it is an offence to fail, without a valid and sufficient reason,	17
	to vote at an election; and	18
	(iii) the elector may, if the elector considers the elector has	19
	committed the offence, pay one-half of a penalty unit (the	20
	“penalty”) to the local government by a specified day, not	21
	earlier than 21 days after the elector receives the notice (the	22
	“appropriate day”), and, if the local government receives	23
	the payment by the appropriate day, no further steps will be	24
	taken against the elector about the offence; and	25
	(c) require the elector—	26
	(i) if the elector intends paying the penalty by the appropriate	27
	day—to sign the approved form about payment of the	28
	penalty included in or with the notice and post or give the	29
	form, together with the amount of the penalty, to the local	30
	government so it is received by the appropriate day; or	31

⁵⁴ Section 318 (List of electors failing to vote)

Local Government Legislation Amendment

- (ii) if the elector does not intend paying the penalty by the appropriate day—to state, in the approved form included in or with the notice, whether the elector voted and, if not, the reason for failing to vote and to sign the form and post or give it to the local government so it is received by the appropriate day.

‘(3) The elector must comply with the requirements of the notice.’

‘(4) If—

- (a) the elector is absent, or unable, because of physical incapacity, to comply with the requirements of the notice; and
- (b) another elector who has personal knowledge of the facts complies with the requirements and in doing so also has his or her signature on the form witnessed;

the first elector is taken to have complied with the notice’s requirements.

‘Payments for failure to vote

‘319A.(1) If the local government sends an elector a notice under section 319(1) for an election and payment is made to the local government under section 319(2) to (4), the local government must—

- (a) accept the payment; and
- (b) give the person a receipt for the payment; and
- (c) not take any proceeding against the elector for failing to vote at the election.

‘(2) In this section—

“proceeding” includes serving an infringement notice.’.

Amendment of s 320 (Recording response to notice)

Clause **61.** Section 320(a), after ‘notice’—

insert—

‘under section 319(2)(c)’.

	Insertion of new s 323A	1
Clause	62.(1) After section 323—	2
	<i>insert—</i>	3
	‘Notice to electors whose ballot papers are not accepted	4
	‘323A.(1) Subsection (2) applies if—	5
	(a) in an election, a person makes a declaration vote under	6
	section 290(a); ⁵⁵ and	7
	(b) the person’s ballot paper is not accepted for counting under	8
	section 310 ⁵⁶ because the returning officer is not satisfied that the	9
	declarant on the declaration envelope is entitled to cast a	10
	declaration vote in the election.	11
	‘(2) As soon as practicable after an election, the local government must	12
	send a notice in the approved form to the person advising the person why	13
	the ballot paper was not accepted for counting.’.	14
	Amendment of s 349 (Injunctions to restrain contravention of	15
	chapter)	16
Clause	63.(1) After section 349(1)—	17
	<i>insert—</i>	18
	‘(1A) Without limiting the operation of subsection (1), an application	19
	may also be made to the Supreme Court for an injunction if a returning	20
	officer for an election decides a person is not properly nominated for the	21
	election.’.	22
	(2) Section 349(2), ‘or a candidate’—	23
	<i>omit, insert—</i>	24
	‘or a candidate, or nominee as a candidate.’.	25
	(3) Section 349(5)—	26
	<i>insert—</i>	27

⁵⁵ Section 290 (Who must cast a declaration vote in ordinary elections)

⁵⁶ Section 310 (Procedure for processing declaration envelopes)

‘(c) if subsection (1A) applies—grant an injunction requiring the returning officer to accept the person’s nomination for the election.’. 1
2
3

Insertion of new ch 7A 4

Clause **64.** After section 458— 5

insert— 6

‘CHAPTER 7A—NATIONAL COMPETITION 7

REFORM OF SIGNIFICANT BUSINESS 8

ACTIVITIES 9

‘PART 1—OBJECT AND APPLICATION 10

‘Object 11

‘**458A.** The object of this chapter is to provide ways to facilitate the implementation of the National Competition Policy Inter-Governmental Agreements to the extent that the agreements are intended to be applied to significant business activities of local governments. 12
13
14
15

‘Application to Brisbane City Council 16

‘**458B.** This chapter applies to the Brisbane City Council. 17

‘PART 2—DEFINITIONS 18

‘Definitions for ch 7A 19

‘**458C.** In this chapter— 20

“Competition Policies Agreement” means the Competition Policies Agreement made on 11 April 1995 between the Commonwealth, the State of New South Wales, the State of Victoria, the State of 21
22
23

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Queensland, the State of Western Australia, the State of South Australia, the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia, as in force for the time being.	1 2 3
“Conduct Code Agreement” means the Conduct Code Agreement made on 11 April 1995 between the Commonwealth, the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia, the State of South Australia, the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia, as in force for the time being.	4 5 6 7 8 9
“Implementation Agreement” means the Agreement to Implement National Competition Policy and Related Reforms made on 11 April 1995 between the Commonwealth, the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia, the State of South Australia, the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia, as in force for the time being.	10 11 12 13 14 15 16
“National Competition Policy Inter-Governmental Agreements” means the Conduct Code Agreement, the Competition Principles Agreement and the Implementation Agreement.	17 18 19
“public benefit assessment” means an assessment of a significant business activity of a local government under this chapter.	20 21
“public benefit assessment report” means the report, including recommendations, on a public benefit assessment.	22 23
“significant business activity” , of a local government, means a type 1 business activity or a type 2 business activity.	24 25
“type 1 business activity” means the provision of the following—	26
(a) for Brisbane City Council—	27
• public transport services	28
• cleansing services	29
• water and sewerage services;	30
(b) for Gold Coast City Council—	31
• cleansing services	32
• water and sewerage services;	33

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- | | |
|---|----|
| (c) for Ipswich City Council— | 1 |
| • water and sewerage services; | 2 |
| (d) for Logan City Council— | 3 |
| • water and sewerage services; | 4 |
| (e) for Townsville City Council— | 5 |
| • water and sewerage services. | 6 |
| “type 2 business activity” means the provision of the following— | 7 |
| (a) for Caboolture Shire Council— | 8 |
| • water and sewerage services; | 9 |
| (b) for Cairns City Council— | 10 |
| • cleansing services | 11 |
| • water and sewerage services; | 12 |
| (c) for Caloundra City Council— | 13 |
| • water and sewerage services; | 14 |
| (d) for Hervey Bay City Council— | 15 |
| • water and sewerage services; | 16 |
| (e) for Ipswich City Council— | 17 |
| • cleansing services; | 18 |
| (f) for Logan City Council— | 19 |
| • cleansing services; | 20 |
| (g) for Mackay City Council— | 21 |
| • water and sewerage services; | 22 |
| (h) for Maroochy Shire Council— | 23 |
| • cleansing services; | 24 |
| • water and sewerage services; | 25 |
| (i) for Noosa Shire Council— | 26 |
| • water and sewerage services; | 27 |

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- | | |
|------------------------------------|----|
| (j) for Pine Rivers Shire Council— | 1 |
| • water and sewerage services; | 2 |
| (k) for Redland City Council— | 3 |
| • water and sewerage services; | 4 |
| (l) for Rockhampton City Council— | 5 |
| • water and sewerage services; | 6 |
| (m) for Thuringowa City Council— | 7 |
| • water and sewerage services; | 8 |
| (n) for Toowoomba City Council— | 9 |
| • water and sewerage services; | 10 |
| (o) for Townsville City Council— | 11 |
| • cleansing services. | 12 |

‘PART 3—PUBLIC BENEFIT ASSESSMENT OF	13
 TYPES 1 AND 2 BUSINESS ACTIVITIES	14

<i>‘Division 1—Subject matter of public benefit assessments</i>	15
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‘Matters to be addressed by public benefit assessment for type 1	16
business activity	17

‘458D. A public benefit assessment for a type 1 business activity must	18
consider how the activity should be carried on by—	19

- | | |
|--|----|
| (a) reviewing the appropriateness of each of the following reforms | 20 |
| for the activity— | 21 |
| (i) corporatisation of the activity; | 22 |
| (ii) commercialisation of the activity; | 23 |
| (iii) full cost pricing for the activity; and | 24 |

- (b) concluding whether or not and, if so, to what extent, the benefits that would be realised from implementation of the reforms mentioned in paragraph (a) would outweigh the costs. 1
2
3

**‘Matters to be addressed by public benefit assessment for type 2 business activity’ 4
5**

‘458E. A public benefit assessment for a type 2 business activity must consider how the activity should be carried on by— 6
7

- (a) reviewing the appropriateness of each of the following reforms for the activity— 8
9
- (i) commercialisation of the activity; 10
 - (ii) full cost pricing for the activity; 11
 - (iii) if the local government decides, by resolution, it is appropriate for consideration—corporatisation of the activity; 12
and 13
14
- (b) concluding whether or not and, if so, to what extent, the benefits that would be realised from implementation of the reforms mentioned in paragraph (a) would outweigh the costs. 15
16
17

‘What is corporatisation’ 18

‘458F.(1) For a public benefit assessment, corporatisation of a significant business activity of a local government involves— 19
20

- (a) the establishment of a legal entity for the activity separate from, but owned by, the local government and supported by a full corporate governance structure, including a board of directors; 21
and 22
23
24
- (b) the entity providing goods and services on a commercial basis; 25
and 26
- (c) the entity receiving subsidies to provide goods and services, as community service obligations, that it would not otherwise be in the commercial interests of the entity to provide. 27
28
29

‘(2) Implications of corporatisation include— 30

Local Government Legislation Amendment

(a) the question of—	1
(i) payment of Commonwealth, State and local government taxes or rates or retention by the local government of amounts equivalent to taxes or rates; and	2 3 4
(ii) retention by the local government of amounts equivalent to debt guarantee fees for State guarantees; and	5 6
(b) compliance with Commonwealth, State and local government requirements that apply only if the activity is carried on by a private sector business, such as those relating to the protection of the environment and planning and approval processes.	7 8 9 10
‘(3) If, before corporatisation of a significant business activity by a local government, the local government is not liable to pay a State tax that would be payable if the activity were corporatised, an amount equivalent to the tax is to be payable by the entity to the local government in place of payment of the tax to the State.	11 12 13 14 15
‘What is commercialisation	16
‘458G.(1) For a public benefit assessment, commercialisation of a significant business activity of a local government involves—	17 18
(a) the activity being carried on by a business unit of the local government that is not a legal entity separate from the local government; and	19 20 21
(b) the unit providing goods and services on a commercial basis; and	22
(c) the unit receiving subsidies to provide goods and services, as community service obligations, that it would not otherwise be in the commercial interests of the unit to provide.	23 24 25
‘(2) Implications of commercialisation include—	26
(a) the question of retention by the local government of—	27
(i) amounts equivalent to Commonwealth, State and local government taxes or rates that are not otherwise payable to the Commonwealth, State or local government; and	28 29 30
(ii) amounts equivalent to debt guarantee fees for State guarantees; and	31 32

- (b) compliance with Commonwealth, State and local government requirements that apply only if the activity is carried on by a private sector business, such as those relating to the protection of the environment and planning and approval processes. 1
2
3
4

‘What is full cost pricing 5

‘458H. For a public benefit assessment, full cost pricing for a significant business activity means prices are charged for goods and services taking into account the full cost of providing the goods or services including estimates of the amounts mentioned in 458G(2)(a).⁵⁷ 6
7
8
9

‘Division 2—Content of public benefit assessment report 10

‘Matters to be addressed in public benefit assessment reports 11

‘458I. A public benefit assessment report must include— 12

- (a) a statement on whether or not and, if so, to what extent, the benefits that would be realised from implementation of any of the reforms considered under section 458D or 458E would outweigh the costs; and 13
14
15
16
- (b) details of those costs and benefits; and 17
- (c) a recommendation on whether any of the reforms should be implemented for the significant business activity; and 18
19
- (d) if reform is recommended— 20
- (i) a statement of which reform should be implemented; and 21
- (ii) a timetable for its implementation. 22

⁵⁷ Section 458G (What is commercialisation)

<i>Division 3—Local government to undertake assessments</i>	1
‘Public benefit assessments to be undertaken	2
‘458J. A local government must ensure that a public benefit assessment is undertaken and a public benefit assessment report prepared for each of its significant business activities.	3 4 5
‘Local government to resolve on assessment and report process	6
‘458K.(1) The local government must, by resolution, decide—	7
(a) how the public benefit assessment is to be conducted; and	8
(b) the matters the public benefit assessment report must deal with; and	9 10
(c) when the report is to be presented to the local government.	11
<i>Example for paragraph (a)—</i>	12
The local government may decide the public benefit assessment is to be undertaken by the local government or by external consultants or in cooperation with other local governments undertaking public benefit assessments of similar significant business activities.	13 14 15 16
‘(2) The resolution must provide for a consultation process and state how the process is to be used in the assessment.	17 18
<i>Example for subsection (2)—</i>	19
A local government may resolve that the consultation process must include—	20
(a) giving notice of the assessment and inviting submissions about the assessment; and	21 22
(b) a period for submissions to be received; and	23
(c) direct consultation with interested parties; and	24
(d) consideration of the submissions received about the assessment; and	25
(e) publication of a draft public benefit assessment report for public comment before the report is finalised.	26 27
‘(3) The resolution is subject to section 458I and a regulation under section 458M.	28 29

	‘Timing for assessments and reports	1
	‘458L.(1) The public benefit assessment report must be completed before 30 June 1997 or a day, not later than 30 September 1997, approved by the Minister.	2 3 4
	(2) The report must be presented to a meeting of the local government as soon as practicable after the report is completed.	5 6
	‘Regulation about public benefit assessment and public benefit assessment reports	7 8
	‘458M. A regulation may prescribe requirements for public benefit assessments and public benefit assessment reports.’.	9 10
	Amendment of s 493 (Local law policy binding on local government)	11
Clause	65.(1) Section 493, heading— <i>omit, insert—</i>	12 13
	‘Extent to which local law policy is binding’.	14
	(2) Section 493— <i>insert—</i>	15 16
	(2) A local government’s local law policy on a matter is, and it is declared always was, binding on anyone else to the extent stated in the local law stating the matter about which the local law policy may be made.’.	17 18 19
	Amendment of s 552 (Expiry of part)	20
Clause	66. Section 552, ‘1997’— <i>omit, insert—</i> ‘1999’.	21 22 23
	Amendment of s 569 (Utility charges)	24
Clause	67. Section 569— <i>insert—</i>	25 26

Local Government Legislation Amendment

- ‘(7) A local government may, and it is declared always could from the commencement of this section, do 1 or more of the following—
- (a) make and levy a utility charge for services supplied or to be supplied during part of the financial year and part of another financial year;
 - (b) make and levy differing charges for services supplied or to be supplied during various periods in 1 or more financial years;
 - (c) in making and levying differing charges under paragraph (b), decide the way the charges are to be apportioned.
- Examples of application of subsection (7)—*
1. For water used between 30 April 1998 and 31 July 1998, the local government may resolve to charge—
 - (a) for water used (as measured) during the period 30 April 1998 to 31 July 1998 on the basis of the charge made at the budget meeting for the 1997-1998 financial year; or
 - (b) for water used (as measured) during the period 30 April 1998 to 31 July 1998 on the basis of the charge made at the budget meeting for the 1998-1999 financial year; or
 - (c) for—
 - (i) water used (as measured) during the period 30 April 1998 to 30 June 1998 on the basis of the charge made at the budget meeting for the 1997-1998 financial year; and
 - (ii) water used (as measured) during the period 1 July 1998 to 31 July 1998 on the basis of the charge made at the budget meeting for the 1998-1999 financial year; or
 - (d) an apportioned charge for water used during the 2 periods (30 April 1998 to 30 June 1998 and 1 July 1998 to 31 July 1998) on the basis of—
 - (i) the total amount of water used (as measured) during the period 30 April 1998 to 31 July 1998—93 days—being apportioned to each period according to the respective lengths of the periods—62 days and 31 days respectively; or
 - (ii) another basis set out in the resolution.
 2. The local government may resolve to charge for water supplied between 1 July 1998 and 30 June 1999—
 - (a) for the period 1 July 1998 to 28 February 1999—a flat charge of \$300 with an excess charge of \$1 per kL of water used greater than 350 kL; and

Local Government Legislation Amendment

(b) for the period 1 March 1999 to 30 June 1999—an amount based on the actual consumption of water during the period.

‘(8) Despite subsection (7) a local government must not for a financial year make and levy a utility charge for services supplied or to be supplied other than in that, the previous or the next financial year.

‘(9) Charges made and levied in accordance with a decision under subsection (7) are lawfully made and levied under this Act.

‘(10) Subsections (7) to (9) apply despite the reference in sections 559 and 560⁵⁸ to the making and levying of rates and charges for a financial year.

‘(11) If—

(a) a meter or other measuring device is to be read on a particular day for working out the amount of a charge to be levied by a local government for a service; and

(b) the local government resolves to apply this subsection to the reading of meters or other measuring devices;

it is taken to have been read on that day if it is read within a period of 2 weeks before or after that day.

Example for subsection (11)—

If a local government resolves to apply this subsection to the supply of water that is to be charged on the basis of usage for a period ended 30 April and a meter is read on 10 May, that reading is taken to be the reading at 30 April for the purposes of calculating the water usage during the period.

‘(12) Subsection (11) does not restrict a local government’s power to make local laws relating to other aspects of the administration of metered consumption for a utility service.

Example for subsection (12)—

A local law may be made to provide for water consumption to be estimated on the basis of the best information reasonably available if a water meter is found to be malfunctioning or inoperative during any period of consumption.’

⁵⁸ Section 559 (Power to make and levy rates and charges) and 560 (Making of rates and charges)

	Amendment of s 611 (Payment by instalments)	1
Clause	68. Section 611(3)—	2
	<i>omit, insert—</i>	3
	‘(3) The terms may provide, if an instalment is not paid by the last day of the period identified in the resolution as the period within which the amount of the instalment is payable, for 1 or more of the following—	4
		5
		6
	(a) on the default day, for division 3 ⁵⁹ —	7
	(i) the unpaid instalment becomes an overdue rate; or	8
	(ii) the unpaid instalment and all remaining instalments become an overdue rate;	9
		10
	(b) the unpaid instalment, or the unpaid instalment and all remaining instalments, may bear interest as an overdue rate from the default day or a later day decided by the local government under section 614. ⁶⁰	11
		12
		13
		14
	‘(3A) For subsection (3)—	15
	“default day” means the day after the last day of the period identified in the resolution as the period within which the amount of the instalment is payable.’.	16
		17
		18
	Amendment of s 612 (Meaning of “overdue rate”)	19
Clause	69. Section 612, after ‘include the amount of a rate’—	20
	<i>insert—</i>	21
	‘(other than amounts that, by terms under section 611, 627 or 628, become an overdue rate)’.	22
		23
	Amendment of s 619 (Other benefits for prompt payment)	24
Clause	70. Section 619—	25
	<i>insert—</i>	26

⁵⁹ Division 3 (Overdue rates)

⁶⁰ Section 614 (Overdue rates may bear interest)

Local Government Legislation Amendment

- ‘(2) In subsection (1)— 1
“benefits” include chances of winning a prize in a lottery conducted by the 2
 local government. 3
- ‘(3) For a lottery conducted by a local government solely to provide a 4
 benefit for this section— 5
- (a) the *Art Unions and Public Amusements Act 1992* does not apply; 6
 and 7
 - (b) the local government must— 8
 - (i) by resolution make rules for the conduct of the lottery; and 9
 - (ii) conduct the lottery in accordance with the rules. 10
- ‘(4) Subsections (2), (3) and this subsection expire on 30 June 1998.’. 11

Amendment of s 627 (Remission, composition and settlement of rates) 12

- Clause 71. Section 627(3)— 13
omit, insert— 14
- ‘(3) The terms of an arrangement may provide for 1 or more of the 15
 following, if an amount identified in the arrangement is not paid by the last 16
 day of the period specified in the arrangement as the period within which 17
 the amount is payable— 18
- (a) on the default day, for division 3⁶¹— 19
 - (i) the unpaid amount becomes an overdue rate; or 20
 - (ii) the unpaid amount and all other amounts (the **“remaining 21
 amounts”**) payment of which is provided for under the 22
 arrangement and which have not been paid become an 23
 overdue rate; 24
 - (b) the unpaid amount, or the unpaid amount and all remaining 25
 amounts, may bear interest as an overdue rate from the default 26
 day, or a later day decided by the local government, under 27

⁶¹ Division 3 (Overdue rates)

Local Government Legislation Amendment

section 614.⁶²

‘(3A) For subsection (3)—

“**default day**” means the day after the last day of the period specified in the arrangement as the period within which the amount is payable.’.

Amendment of s 628 (Deferral of liability to pay rates)

Clause 72. Section 628(4)—

omit, insert—

‘(4) The terms of an arrangement may provide for 1 or more of the following, if an amount identified in the arrangement is not paid by the last day of the period specified in the arrangement as the period within which the amount is payable—

(a) on the default day, for division 3⁶³—

(i) the unpaid amount becomes an overdue rate; or

(ii) the unpaid amount and all other amounts (the “**remaining amounts**”) payment of which is provided for under the arrangement and which have not been paid become an overdue rate;

(b) the unpaid amount, or the unpaid amount and all remaining amounts, may bear interest as an overdue rate from the default day, or a later day decided by the local government, under section 614.⁶⁴

‘(4A) For subsection (4)—

“**default day**” means the day after the last day of the period specified in the arrangement as the period within which the amount is payable.’.

Amendment of s 638 (Starting and ending of sale procedures)

Clause 73. Section 638(1) and (3), ‘the overdue rate’—

⁶² Section 614 (Overdue rates may bear interest)

⁶³ Division 3 (Overdue rates)

⁶⁴ Section 614 (Overdue rates may bear interest)

Local Government Legislation Amendment

	<i>omit, insert—</i>	1
	‘all overdue rates levied on the land’.	2
	Amendment of s 640 (Reserve price at auction)	3
Clause	74. Section 640(2)(a), ‘the overdue rate for’—	4
	<i>omit, insert—</i>	5
	‘all overdue rates levied on’.	6
	Amendment of s 697 (Local laws about dogs)	7
Clause	75. Section 697(5), ‘2 years after it commences’—	8
	<i>omit, insert—</i>	9
	‘on 30 June 1998’.	10
	Amendment of s 721 (Personnel practices)	11
Clause	76. Section 721(2)—	12
	<i>omit, insert—</i>	13
	‘(2) A regulation may—	14
	(a) require each local government to adopt and implement a plan for equal opportunity in employment; and	15 16
	(b) state criteria the Minister must consider before granting an exemption to a local government from complying with a requirement under paragraph (a).	17 18 19
	‘(3) A regulation under subsection (2)(a) does not apply to a local government if—	20 21
	(a) the Minister, after considering the criteria set out in the regulation, exempts the local government from complying with the regulation; and	22 23 24
	(b) the local government complies with any conditions of the exemption.’.	25 26

	Amendment of s 774 (Permanent employees' liability for contributions)	1
		2
Clause	77. Section 774—	3
	<i>insert—</i>	4
	‘(2) Subsection (1) does not apply if, under the employee’s remuneration agreement with the local government, a contribution equivalent to the contribution mentioned in subsection (1) is made by the local government in addition to any contribution the local government is required to make under this Act.’	5
		6
		7
		8
		9
	Insertion of new s 792A	10
Clause	78. Chapter 14, part 2, after section 792—	11
	<i>insert—</i>	12
	‘Approval of forms	13
	‘ 792A. The chief executive may approve forms for use under this Act.’	14
	Insertion of new s 793A	15
Clause	79. Chapter 14, part 2, after section 793—	16
	<i>insert—</i>	17
	‘Declaration of existing electoral wards of City of Brisbane	18
	‘ 793A.(1) On or before 1 March 1997, a regulation must be made declaring the existing names and boundaries of the electoral wards of the City of Brisbane.	19
		20
		21
	‘(2) In this section—	22
	“existing names and boundaries” means the names and boundaries in force immediately before the commencement of this section.’	23
		24
	Replacement of s 802 (Repeal if no review of pre-existing law)	25
Clause	80. Section 802—	26
	<i>omit, insert—</i>	27

	‘Repeal if no review of pre-existing law	1
	‘802. A pre-existing law for which a notice is not published under section 801 before 1 July 1999 expires on 1 July 1999.’.	2 3
	Amendment of s 803 (Expiry of division)	4
Clause	81. Section 803, ‘3 years after it commences’— <i>omit, insert—</i> ‘on 2 July 1999’.	5 6 7
	Amendment of ch 15 (Transitional and savings provisions, repeals and amendments)	8 9
Clause	82. Chapter 15, heading, after ‘transitional’— <i>insert—</i> ‘, validation’.	10 11 12
	Amendment of ch 15, pt 1 (Transitional and savings provisions)	13
Clause	83. Chapter 15, part 1, heading, after ‘transitional’— <i>insert—</i> ‘, validation’.	14 15 16
	Replacement of ch 15, pt 1, div 5 (Local Government staff)	17
Clause	84. Chapter 15, part 1, division 5— <i>omit, insert—</i> <i>‘Division 5—Transitional and savings provisions for amendments under Local Government Legislation Amendment Act 1996</i>	18 19 20 21
	‘Rosalie Shire undivided for 1997 triennial election	22
	‘810.(1) Despite any other provision of this Act—	23

Local Government Legislation Amendment

- (a) for the purposes of section 215⁶⁵—the Shire of Rosalie does not have divisions for the 1997 triennial election of its councillors; and
- (b) subsequently, the Shire of Rosalie does not have divisions until divided in accordance with this Act.
- ‘(2) A regulation may amend a regulation that is inconsistent with subsection (1) to make the regulation consistent with subsection (1).
- ‘(3) This section expires on 1 May 1997.
- ‘Water charges by Livingstone Shire Council for 1993–1994 financial year**
- ‘**811.(1)** Subsection (2) applies to the purported utility charges (the **“relevant charges”**) imposed by Livingstone Shire Council (the **“council”**) for water services provided to a structure or land under the council’s Capricorn Coast Water Supply Scheme (the **“scheme”**) for the relevant period.
- ‘(2) It is declared that the charges amounting to \$130 per unit of water supplied for the fixed component part of the relevant charge—
- (a) applied only to the relevant period; and
- (b) were lawfully charged.
- ‘(3) In this section—
- “anniversary date”** means the anniversary date for the Capricorn Coast Water Undertaking Fund that occurred in the first week in April 1994 under the council’s resolutions titled ‘Anniversary Date—Meter Readings’ made at a special pre-budget meeting on 27 July 1993 and ‘Adoption of Fees and Charges 1993/94’ made at a budget meeting on 28 July 1993.
- “relevant period”**, for water services provided to a structure or land under the scheme, means the period from 1 July 1993 to the anniversary date for the relevant charges for the water services.
- ‘(4) This section expires on the day it commences.

⁶⁵ Section 215 (Types of elections)

‘Electoral wards of City of Brisbane for 1997 triennial election	1
‘812.(1) The electoral wards of the City of Brisbane in force immediately before the commencement of this section are the electoral wards for the city for the 1997 triennial election.	2 3 4
‘(2) Subsection (1) has effect despite—	5
(a) any other provision of this Act; and	6
(b) the amendment of the <i>City of Brisbane Act 1924</i> by the <i>Local Government Legislation Amendment Act 1996</i> .	7 8
‘(3) This section expires on 1 May 1997.	9
‘Local government commissioner reports	10
‘813.(1) This section applies for the implementation of a reviewable local government matter referred to the local government commissioner for a report if the commissioner’s report on the matter was tabled in the Legislative Assembly before the commencement.	11 12 13 14
‘(2) The matter may be implemented and for that purpose chapter 3, part 1, division 7, ⁶⁶ as in force immediately before the commencement, applies.	15 16 17
‘(3) Terms used in this section have the meaning they had under this Act as in force immediately before the commencement.	18 19
‘Approved forms	20
‘814.(1) This section applies if, immediately before its commencement, there was a form approved by the chief executive for a matter under section 237 or a regulation.	21 22 23
‘(2) The form is taken to be the approved form for the matter under section 792A until another form is approved for the matter.	24 25
‘(3) This section expires on the day it commences.’.	26

⁶⁶ Chapter 3 (Interaction with the State), part 1 (Reviewable local government matters), division 7 (Implementing reviewable local government matters)

**PART 4—AMENDMENT OF PUBLIC SERVICE ACT
1996**

		1
		2
	Act amended in pt 4	3
Clause	85. This part amends the <i>Public Service Act 1996</i> .	4
	Amendment of s 109 (Who is a “term appointee”)	5
Clause	86. Section 109(3)(d)—	6
	<i>omit, insert—</i>	7
	‘(d) a review commissioner appointed under the <i>Local Government Act 1993</i> ’.	8
		9

SCHEDULE	1
MINOR AND CONSEQUENTIAL AMENDMENTS OF LOCAL GOVERNMENT ACT 1993	2 3
section 15	4
1. Section 5(1)(d)(ii), ‘schedule 2’—	5
<i>omit, insert—</i>	6
‘schedule’.	7
2. Section 5(1)(h)—	8
<i>omit, insert—</i>	9
‘(h) a licensee under the <i>Land Act 1994</i> ; or’.	10
3. Section 11(3), ‘(Local’ to ‘part)’—	11
<i>omit, insert—</i>	12
‘(Definitions for pt 1), definition “local government” ’.	13
4. Chapter 3, part 1, heading—	14
<i>omit, insert—</i>	15
‘PART 1—REVIEWABLE LOCAL GOVERNMENT MATTERS’.	16 17
5. Chapter 3, part 1, division 4, heading—	18
<i>omit, insert—</i>	19
<i>‘Division 4—Inquiries by expanded commissions’.</i>	20

SCHEDULE (continued)

6. Sections 81, 83 to 85, 86(1), 87, 88 and 89(c) and (d), ‘commissioner’—	1
<i>omit, insert—</i>	2
<i>omit, insert—</i>	3
‘commission’.	4
7. Section 82—	5
<i>omit, insert—</i>	6
‘Presiding member	7
‘82. The chairperson presides at the inquiry.’.	8
8. Sections 83 and 86, headings, ‘Commissioner’s’—	9
<i>omit, insert—</i>	10
‘Commission’s’.	11
9. Section 84, heading, ‘Commissioner’—	12
<i>omit, insert—</i>	13
‘Commission’.	14
10. Section 84(1)(b), ‘himself or herself’—	15
<i>omit, insert—</i>	16
‘itself’.	17
11. Section 86(2), ‘The commissioner’—	18
<i>omit, insert—</i>	19
‘A commission member’.	20

SCHEDULE (continued)

12. Section 89, heading—	1
<i>omit, insert—</i>	2
‘Contempt’.	3
13. Section 89(a), ‘the commissioner’—	4
<i>omit, insert—</i>	5
‘the commission or a commission member’.	6
14. Section 90—	7
<i>omit, insert—</i>	8
‘Change of commission members	9
‘90. The inquiry is not affected by a change in the commission members.’.	10 11
15. Section 106(2)(g)—	12
<i>omit, insert—</i>	13
‘(g) implementation issues for the matter; or’.	14
16. Section 107(1), ‘commissioner has’—	15
<i>omit, insert—</i>	16
‘commissioner, and the commission that determined the matter, have’.	17
17. Section 107(3) and (4)—	18
<i>omit.</i>	19

SCHEDULE (continued)

18. Section 108, after ‘implement a’—	1
<i>insert—</i>	2
‘reviewable’.	3
19. Chapter 5, part 5—	4
<i>insert—</i>	5
‘Application of pt to Brisbane City Council	6
‘231A. This part applies to the Brisbane City Council.’.	7
20. Section 234(1), ‘1 March’ to ‘governments’—	8
<i>omit, insert—</i>	9
‘the information date’.	10
21. Section 234—	11
<i>insert—</i>	12
‘(3) In this section—	13
“information date” means—	14
(a) for Brisbane City Council—1 October in the year that is 2 years	15
before the year of the triennial elections for local governments; or	16
(b) for another local government—1 March in the year before the	17
year of the triennial elections for local governments.’.	18
22. Section 237—	19
<i>omit.</i>	20

SCHEDULE (continued)

23. Section 350(2), ‘part 1 (Review of local government matters)’—	1
<i>omit, insert—</i>	2
‘part 1 (Reviewable local government matters)’.	3
24. Section 553(2), ‘(1)(e)’—	4
<i>omit, insert—</i>	5
‘(1)(f)’.	6
	7