



Queensland

Local Government Legislation Amendment Regulation (No. 3) 2013

Explanatory Notes for SL 2013 No. 148

made under the

City of Brisbane Act 2010

Local Government Act 2009

General outline

Short title

Local Government Legislation Amendment Regulation (No. 3) 2013.

Authorising law

Section 252 of the *City of Brisbane Act 2010* and section 270 of the *Local Government Act 2009*.

Policy objectives and the reasons for them

Guideline references

The Financial Management (Sustainability) Guideline 2011 was carried over from the previous regulations to the new *City of Brisbane Regulation 2012* (CBR) and *Local Government Regulation 2012* (LGR)

The guideline has been reviewed and rationalised by the Department of Local Government, Community Recovery and Resilience (the department). In general, the new guidelines ensure alignment with the latest local government legislative reforms, correct obsolete references to statute

names, section numbering and the name of the department, and are more succinct, to the point and unambiguous.

The new Financial Management (Sustainability) Guideline 2013 reflects the change in the number of relevant measures of financial sustainability in the regulations from six to three and clarifies for local governments how these measures are calculated.

The objective of the amendment regulation is to update obsolete guideline references in the CBR and LGR with references to the new guideline.

Information to be disclosed in 'activity statement'

A minor anomaly has been identified by the department in the LGR with respect to the nature of the revenue from a business activity that a local government is to disclose in an activity statement.

The objective of the amendment regulation is to clarify that it is revenue from a business activity for goods and services provided to the local government or anyone else that is to be disclosed as opposed to revenue from a business activity that is payable to the local government or anyone else.

This change will ensure the disclosure of internal and external charges which, in practice, local governments are already disclosing in line with government policy and normal accounting practice.

There are no comparable provisions in the CBR.

Definition 'senior executive employee'

The definition of 'senior executive employee' in the *Local Government Act 2009* (LGA) is inconsistent with the definition of 'senior executive employee' in the LGR. The LGR defines a 'senior executive employee' as a local government employee who is employed on a contractual basis and in a position that reports directly to the chief executive officer. The LGA defines 'senior executive employee' as an employee of the local government who reports directly to the chief executive officer; and whose position ordinarily would be considered to be a senior position in the local government's corporate structure. To correct the inconsistency, it is proposed to delete the definition of 'senior executive employee' in the LGR and rely on the definition in the LGA.

In the CBR, the term 'senior executive employee' is referenced but not defined. The *City of Brisbane Act 2010* (COBA) defines 'senior contract employee' to mean a council employee who is employed on a contractual basis and is classified by the council as 'senior executive service'. Brisbane City Council's preferred approach is to maintain the concept and definition of 'senior contract employee' in both the COBA and the CBR. To align the CBR with COBA, it is proposed to replace the references to 'senior executive employee' in the CBR with the defined term 'senior contract employee'.

Achievement of policy objectives

Guideline references

The amendment regulation achieves the policy objectives by replacing existing references in the CBR (section 160) and the LGR (section 169) to the 2011 financial management sustainability guideline with the 2013 financial management sustainability guideline.

Information to be disclosed in 'activity statement'

The amendment regulation achieves the policy objectives by amending section 35(2) of the LGR to provide that it is revenue from a business activity for goods and services provided to the local government or anyone else that is to be disclosed by local governments in their activity statements as opposed to revenue from a business activity that is payable to the local government or anyone else.

Definition 'senior executive employee'

The amendment regulation achieves the policy objectives by:

- deleting the definition *senior executive employee* from schedule 8 (Dictionary) in the LGR; and
- replacing references to 'senior executive' with 'senior contract' in the CBR (sections 267(1) and (2), 268(1), 269(1) and (2), 270(5) and (6), 271(2), 272(1), 274(2)(d) and 275(2) and schedule 3, section 1, definition *relevant person*).

Consistency with policy objectives of authorising law

The general regulation-making powers under the COBA and the LGA are sections 252 and 270 respectively.

The amendment regulation is consistent with the policy objectives of the COBA and the LGA.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

Not applicable.

Consistency with fundamental legislative principles

The proposed amendments are considered to be consistent with the fundamental legislative principles, as defined in the *Legislative Standards Act 1992*.

Consultation

The Queensland Audit Office, Queensland Treasury and Trade and Queensland Treasury Corporation were consulted on the new guideline during its development.

The Financial Management (Sustainability) Guideline 2013 is available on the department's website at www.dlgcr.qld.gov.au.

Brisbane City Council was consulted about the proposal to refine the definition of 'senior executive employee'.

The Office of Best Practice Regulation, Queensland Competition Authority was consulted in relation to the proposed amendments and confirmed that a Regulatory Impact Statement is not required.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Local Government, Community Recovery and Resilience.

© State of Queensland 2013