

Local Government Legislation (Empowering Councils) Amendment Regulation 2025

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Ann Leahy MP, Minister for Local Government and Water and Minister for Fire, Disaster Recovery and Volunteers, provide this human rights certificate with respect to the *Local Government Legislation (Empowering Councils) Amendment Regulation 2025* (Amendment Regulation) made under the *City of Brisbane Act 2010* (COBA) and the *Local Government Act 2009* (LGA).

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Queensland Government is committed to re-empowering Queensland's local governments by reducing red tape and giving local governments the resources and legislative framework they need to deliver for their communities.

The Amendment Regulation delivers on this commitment by creating an environment where the local government sector is empowered, including through fit for purpose legislation. The Amendment Regulation also ensures local governments are held to high levels of integrity and accountability, while enabling councillors to serve their community without unnecessary regulatory burden.

The Amendment Regulation amends the *City of Brisbane Regulation 2012* (CBR) and the *Local Government Regulation 2012* (LGR).

The policy objectives of the amendments to CBR and LGR are as follows.

Firstly, the amendments empower local governments by:

- giving local governments the autonomy to decide whether to dispose of valuable non-current assets other than by tender or auction by resolution, without requiring intervention from the State;
- enabling local governments, other than the Brisbane City Council, to grant concessions to ratepayers if satisfied the concession is appropriate having regard to the cost of living in the locality where the land is situated;
- increasing the thresholds for requiring tenders and quotes; and
- ensuring that all local governments can change the discount period for the early payment of rates if there are extraordinary circumstances.

Secondly, the amendments cut unnecessary red tape by:

- removing the requirement for the Minister to grant an extension of time by which a local government must adopt its annual report;
- removing the requirement for local governments to notify the Minister of reportable losses;
- removing the requirement to include an annual performance plan for each commercial business unit of a local government;
- removing the prohibition on councillors using discretionary funds in a local government election year (from 1 January to the conclusion of the election); and
- allowing local governments to not meet once in a month if impractical or unnecessary to do so, without requiring a ministerial exemption.

Finally, the amendments clarify councillor remuneration by providing certainty to mayors and deputy mayors that their remuneration can only be decreased, by resolution, to be the same proportion of the maximum amount of remuneration payable as all other councillors of the local government are to receive.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 HR Act)

In my opinion, the Amendment Regulation limits the following human rights:

- freedom of expression (section 21 of the HR Act);
- right to take part in public life (section 23 of the HR Act); and
- property rights (section 24 of the HR Act).

Consideration of reasonable limitations on human rights (section 13 HR Act)

Measure 1: Remove requirement to include an annual performance plan for each commercial business unit of a local government

The Amendment Regulation replaces section 167 of CBR and section 175 of LGR to remove annual operational plan and annual operations report requirements regarding a local government's annual performance plan for each commercial business unit of the local government.

This will remove unnecessary red tape for local governments, allowing local governments to prepare and publish information regarding annual performance plans as considered appropriate.

(a) the nature of the rights

The *right to freedom of expression* (section 21 of the HR Act) protects the right of all persons to hold an opinion without interference, and the right of all persons to seek, receive and impart information and ideas of all kinds (including verbal and non-verbal communication).

The forms of protected expression are broad, and include almost all forms of expression, including verbal (oral, writing and print), or through art or conduct. The right to freedom of expression and the free flow of information and ideas between people and through the media, particularly about public and political issues, is considered to be a foundation stone of a free and democratic society.

The underlying values and interests represented by a right to the freedom of expression have been described as freedom, self-actualisation and democratic participation for individuals personally; and freedom, democracy under the rule of law and ensuring governmental transparency and accountability for society generally. The right includes a concept of freedom of expression as a political right, aimed at integrating the individual in society with the focus on the political, collectivising function.

The *right to take part in public life* (section 23 of the HR Act) protects the right and opportunity, without discrimination, of all persons to participate in the conduct of public affairs, directly or through freely chosen representatives.

The United Nations Human Rights Committee (UNHRC) has indicated that the conduct of public affairs is a broad concept which relates to the exercise of political power, in particular, the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels.

In addition, there is an intrinsic connection between the right to participate in public affairs and the right to freedom of expression. The UNHRC has noted that citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organise themselves. This participation is supported by ensuring freedom of expression, assembly and association.

The amendments mean local governments will no longer be required to include information regarding annual performance plans for their commercial business units in annual operational plans and annual operational reports, or to prepare annual performance plans.

This limits the right to freedom of expression and the right to take part in public life for members of the public by removing a requirement which supports the ability of the public to seek and receive information regarding annual performance plans and to participate in dialogue between the public and councillors about these plans.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation imposed by the amendments is to remove unnecessary red tape for local governments by removing the requirement to include information regarding annual performance plans in annual operational plans and annual operational reports.

The amendment is intended to allow local governments to allocate resources more efficiently and to prepare and publish annual performance plans where considered appropriate.

While the limitation may reduce the availability of certain detailed information to the public, the amendments seek to balance the need for transparency with the practical considerations of administrative efficiency and to allow local governments to consider how to prepare annual operational plans and annual operational reports as appropriate for their local context.

This purpose is consistent with a free and democratic society based on human dignity, equality, and freedom, as it aims to enhance the effective and efficient functioning of local governments, as per the purpose of COBA and LGA, and to uphold the local government principle of good governance of, and by, local government, as provided for in sections 4(2)(d) of COBA and LGA.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The limitation imposed by the amendments directly relates to the purpose of the amendments. Removing unnecessary red tape by removing the requirement to include information regarding annual performance plans in annual operational plans and annual operational reports necessarily means less information is required to be made available to the public.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive and reasonably available ways to achieve the purpose of the amendments.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human rights, taking into account the nature and extent of the limitation

Removing unnecessary red tape for local governments by removing the requirement to include information regarding annual performance plans in annual operational plans and annual operational reports is an important purpose.

Eliminating this unnecessary red tape will provide local governments with greater flexibility to allocate their resources. The amendments aim to streamline processes, enhance efficiency, and allow local governments to prepare and publish annual performance plans where considered appropriate. This is particularly important for smaller councils with limited administrative capacity.

With regards to the limitation on the right to take part in public life and the right to freedom of expression, importantly, although the amendments remove the requirement to publish annual performance plans, local governments still have the option of preparing and publishing annual performance plans where considered appropriate and in accordance with the local government principles provided for in COBA and LGA.

In addition, the broader financial and operational transparency and accountability of local governments is maintained through other existing legislative requirements that apply to local governments, including that members of the public can still make requests for information under the *Right to Information Act 2009* regarding annual performance plans or other related information.

The extent of the limitation is therefore minor, as the public can generally retain access to relevant information through alternative means.

In balancing these considerations, the importance of the amendments' purpose outweighs the limitation on human rights, given that local governments can still publish annual performance plans as appropriate and that other transparency and accountability mechanisms remain in place.

f) any other relevant factors

Not applicable.

Measure 2: provide certainty to mayors and deputy mayors that their remuneration can only be decreased, by resolution, to be same proportion of the maximum amount of remuneration payable as all other councillors of the local government are to receive

The Amendment Regulation amends section 247 of LGR to provide certainty to mayors and deputy mayors that their remuneration can only be decreased, by local government resolution, to be the same proportion of the maximum amount of remuneration payable as all other councillors of the local government are to receive.

This acknowledges the policy intent that local governments will pay greater remuneration to mayors and deputy mayors in recognition of the additional responsibilities of those offices.

(a) the nature of the right

The *right to property* (section 24 of the HR Act) protects the right of all persons to own property and provides that people have a right to not be arbitrarily deprived of their property.

Property includes real and personal property (for example, land, chattels and money), including contractual rights, leases, shares, patents and debts. Property may include statutory rights and non-traditional or informal rights (for example, licence to enter or occupy land and the right to enjoy uninterrupted possession of land) and other economic interests.

The terms 'property' and 'deprived' have been interpreted to encompass economic interests and deprivation in a broad sense.

Although the amendment reflects the existing policy intent that local governments will pay greater remuneration to mayors and deputy mayors in recognition of the additional responsibilities of those offices, the amendment limits councillors' right to property. This is because, if the councillors' local government decides to reduce the mayor or deputy mayor's remuneration, the other councillors' remuneration must also be reduced to a proportionate amount of the maximum amount payable.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation imposed by the amendment is to provide certainty to mayors and deputy mayors that their remuneration can only be decreased, by local government resolution, to be the same proportion of the maximum amount of remuneration payable as all other councillors of the local government are to receive.

This acknowledges the policy intent that local governments will pay greater remuneration to mayors and deputy mayors in recognition of the additional responsibilities of those offices.

The amendment aligns with the principles of a free and democratic society, promoting dignity, equality, and freedom because it ensures mayors and deputy mayors are paid greater remuneration than other councillors in recognition of their additional responsibilities.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The limitation imposed by the amendment directly relates to its purpose. By ensuring that mayors and deputy mayors' remuneration can only be decreased to be the same proportion of the maximum amount of remuneration payable as all other councillors of the local government are to receive, other councillors necessarily receive a lower remuneration if the local government decides to reduce the remuneration of a mayor or deputy mayor.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive and reasonably available ways to achieve the purpose of the amendment.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The purpose of the amendment is important because it ensures mayors and deputy mayors, as leaders of local governments, are given certainty that they are paid more than other councillors, in acknowledgement of the greater responsibilities mayors and deputy mayors take on.

The amendment also promotes fair remuneration by ensuring that pay structures reflect the varying responsibilities for local government elected officials.

Importantly, councillors retain the freedom to reduce the remuneration of mayors, deputy mayors, and other councillors if necessary, preserving their autonomy and decision-making authority.

While the amendment limits councillors' property rights, the limitation is considered minor because the decision to reduce a mayor or deputy mayor's remuneration is the decision of the local government for which the councillors are responsible and for which they hold decision-making authority.

In addition, councillors' remuneration is only required to be reduced to an amount which is proportionate to the amount the mayor or deputy mayor's remuneration is reduced to.

Finally, the limitation is not arbitrary as it directly supports the amendment's purpose, as discussed above under heading '(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose'.

In balancing these considerations, the importance of the amendment's purpose outweighs the limitation on human rights. The amendment addresses the need to ensure that mayors and deputy mayors have certainty that their remuneration can only be decreased, by local government resolution, to be the same proportion of the maximum amount of remuneration payable as all other councillors of the local government are to receive, while imposing only a minor limitation on human rights.

(f) any other relevant factors

Not applicable.

Conclusion

I consider that the *Local Government Legislation (Empowering Councils) Amendment Regulation 2025* is compatible with the HR Act because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

Ann Leahy MP
Minister for Local Government and Water and
Minister For Fire, Disaster Recovery and Volunteers

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