Queensland

City of Brisbane Act 2010

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City of Brisbane Act 2010

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City of Brisbane Act 2010

An Act to provide a system of local government in the City of Brisbane

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *City of Brisbane Act 2010*.

2 Commencement

(1) This Act, other than the following, commences on 1 July 2010—

(a) section 344;

(b) schedule 1, amendments of this Act.

(2) Schedule 1, amendments of this Act, commences on 2 July 2010.

3 Purpose of this Act

(1) The purpose of this Act is to provide for—

(a) the way in which the Brisbane City Council is constituted and the unique nature and extent of its responsibilities and powers; and

(b) a system of local government in Brisbane that is accountable, effective, efficient and sustainable.

(2) Compared to other local governments in Queensland, the council is unique in its nature and the extent of its responsibilities and powers for the following reasons—

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(a) Brisbane is the capital city of Queensland;

(b) the council is the largest provider of local government services in Queensland;

(c) there are 26 councillors (other than the mayor) who each represent the interests of the residents of a ward;

(d) the mayor has unique responsibilities as the mayor of a capital city;

(e) the council has an Establishment and Coordination Committee that coordinates its business;

(f) the chairperson of the council presides at all of its meetings and is responsible for ensuring the council's procedures for the conduct of its meetings are observed and enforced.

4 Local government principles underpin this Act

(1) To ensure the system of local government in Brisbane is accountable, effective, efficient and sustainable, Parliament requires—

(a) anyone who is performing a responsibility under this Act to do so in accordance with the local government principles; and

(b) any action that is taken under this Act to be taken in a way that—

(i) is consistent with the local government principles; and

(ii) provides results that are consistent with the local government principles, in as far as the results are within the control of the person who is taking the action.

(2) The ***local government principles*** are—

(a) transparent and effective processes, and decision-making in the public interest; and

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(b) sustainable development and management of assets and infrastructure, and delivery of effective services; and

(c) democratic representation, social inclusion and meaningful community engagement; and

(d) good governance of, and by, local government; and

(e) ethical and legal behaviour of councillors, council employees and councillor advisors.

5 Relationship with Local Government Act

(1) Although the Brisbane City Council is a local government, this Act, rather than the Local Government Act, provides for—

(a) the way in which the Brisbane City Council is constituted and the nature and extent of its responsibilities and powers; and

(b) a system of local government in Brisbane.

(2) Generally, the Local Government Act does not apply to the Brisbane City Council or its councillors, employees, agents or contractors.

(3) However, particular provisions of the Local Government Act apply, or may apply, to the Brisbane City Council as a local government.

Examples—

1 The Local Government Act, chapter 7, part 2 applies to the council as a local government for the purpose of superannuation for certain persons who are connected to the council.

2 The Local Government Act, chapter 2A would apply to the council if the council were a component local government for a joint local government.

3 The Local Government Act, chapter 5, part 1 applies to the council as a local government for the purpose of providing for powers of the State to monitor and evaluate the council and its councillors and to take remedial action, including suspending or dismissing a councillor or dissolving the council.

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4 The Local Government Act, chapter 5A applies to the council as a local government for the purpose of dealing with the conduct of councillors, including at a meeting of the council or its committees.

5 The Local Government Act, chapter 6, part 7 applies to the council as a local government if an interim administrator is appointed to act in place of its councillors under the Local Government Act, chapter 5, part 1.

6 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

Chapter 2 Brisbane City Council

Part 1 City of Brisbane

7 City of Brisbane

(1) The area of Brisbane continues to be a city under the name ‘City of Brisbane’.

(2) The boundaries of Brisbane are the boundaries of the city immediately before 1 July 2010 and as subsequently varied under this Act.

(3) Brisbane is the capital city of Queensland.

(4) A regulation may describe the boundaries of Brisbane.

Part 2 Council constitution, responsibilities and powers

8 What this part is about

This part explains—

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(a) what the Brisbane City Council is; and

(b) who constitutes the council; and

(c) the responsibilities and powers of the council, its councillors and its employees.

9 The Brisbane City Council's responsibility for Brisbane

The Brisbane City Council (the ***council***) is the elected body that is responsible for the good rule and local government of Brisbane.

10 Brisbane City Council is a body corporate

The council—

(a) is a body corporate with perpetual succession; and

(b) has a common seal; and

(c) may sue and be sued, and otherwise exercise its powers, under the name 'Brisbane City Council'.

11 Powers of council generally

(1) The council has the power to do anything that is necessary or convenient for the good rule and local government of Brisbane.

Note—

Also, see section 242 for more information about powers.

(2) However, the council can only do something that the State can validly do.

(3) When exercising a power, the council may take account of Aboriginal tradition and Island custom.

(4) The council may exercise its powers—

(a) inside Brisbane; or

(b) outside Brisbane (including outside Queensland)—

(i) with the written approval of the Minister; or

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(ii) as provided under section 12(5).

(5) When the council is exercising a power in a place that is outside Brisbane, the council has the same jurisdiction in the place as if the place were inside Brisbane.

(6) Subsections (7) and (8) apply if the council is a component local government for a joint local government.

(7) Despite subsection (1), the council may not, within the joint local government's area, exercise a power for which the joint local government has jurisdiction.

(8) However, the council may exercise the power as a delegate of the joint local government.

12 Power includes power to conduct joint government activities

(1) The council may exercise its powers by cooperating with 1 or more other local, State or Commonwealth government to conduct a joint government activity.

(2) A ***joint government activity*** includes providing a service, or operating a facility, that involves the other governments.

(3) The cooperation with another government may take any form, including for example—

(a) entering into an agreement; or

(b) creating a joint local government entity, or joint government entity, to oversee the joint government activity; or

(c) being a component local government for a joint local government.

Note—

For the establishment of joint local governments, see the Local Government Act, chapter 2A.

(4) A joint government activity may be set up for more than 1 purpose.

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Example—

Three local governments may create a joint local government entity to manage an aerodrome that services each of their local government areas, and may also enter into an agreement to sell water in bulk to one of the local governments.

(5) The council may exercise a power in another government's area for the purposes of a joint government activity, in the way agreed by the governments.

(6) However, if the power is to be exercised under a local law, the local law must expressly state that it applies to the other government's area.

Note—

See section 30 for more information about making local laws.

13 Who the council is constituted by

(1) Usually, the council is constituted by the mayor and 26 other councillors who are elected or appointed to the council under this Act or the *Local Government Electoral Act 2011*.

(2) However—

(a) if all of the councillors have been suspended or the council has been dissolved under the Local Government Act, section 123 and an interim administrator is appointed—the council is constituted by the interim administrator; or

(b) if there are no councillors for any other reason and an interim administrator has not been appointed—the council is constituted by its chief executive officer.

14 Responsibilities of councillors

(1) A councillor must represent the current and future interests of the residents of Brisbane.

(2) All councillors have the same responsibilities, but the mayor has some extra responsibilities.

(3) All councillors have the following responsibilities—

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(a) ensuring the council—

(i) discharges its responsibilities under this Act; and

(ii) achieves its corporate plan; and

(iii) complies with all laws that apply to the council;

(b) providing high quality leadership to the council and the community;

(c) participating, for the benefit of Brisbane, in—

(i) meetings of the council; and

(ii) policy development and decision-making about matters being considered at a meeting of the council;

(d) being accountable to the community for the council's performance.

(4) The mayor has the following extra responsibilities—

(a) implementing the policies adopted by the council;

(b) developing and implementing policies, other than policies that conflict with policies adopted by the council;

(c) leading and controlling the business of the council;

(d) preparing a budget to present to the council;

(e) leading, managing, and providing strategic direction to the chief executive officer in order to achieve high quality administration of the council;

(f) ensuring that the council promptly provides the Minister with the information about Brisbane, or the council, that is requested by the Minister;

(g) arranging representation of the council at ceremonial or civic functions;

(h) directing the chief executive officer and senior executive employees of the council under section 170.

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(5) When performing a responsibility, a councillor must serve the overall public interest of the whole of Brisbane.

15 Responsibilities of council employees

(1) All employees of the council have the following responsibilities—

(a) implementing the policies and priorities of the council in a way that promotes—

(i) the effective, efficient and economical management of public resources; and

(ii) excellence in service delivery; and

(iii) continual improvement;

(b) carrying out their duties in a way that ensures the council—

(i) discharges its responsibilities under this Act; and

(ii) complies with all laws that apply to the council; and

(iii) achieves its corporate plan;

(c) providing sound and impartial advice to the council;

(d) carrying out their duties impartially and with integrity;

(e) ensuring their personal conduct does not reflect adversely on the reputation of the council;

(f) improving all aspects of their work performance;

(g) observing all laws relating to their employment;

(h) observing the ethics principles under the *Public Sector Ethics Act 1994*, section 4;

(i) complying with a code of conduct under the *Public Sector Ethics Act 1994*.

(2) The chief executive officer has the following extra responsibilities—

(a) managing the council in a way that promotes—

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(i) the effective, efficient and economical management of public resources; and

(ii) excellence in service delivery; and

(iii) continual improvement;

(b) managing the other council employees through management practices that—

(i) promote equal employment opportunities; and

(ii) are responsive to the council's policies and priorities;

(c) establishing and implementing goals and practices in accordance with the policies and priorities of the council;

(d) establishing and implementing practices about access and equity to ensure members of the community have access to—

(i) council programs; and

(ii) appropriate avenues for reviewing council decisions;

(e) the safe custody of—

(i) all records about the proceedings, accounts or transactions of the council or its committees; and

(ii) all documents owned or held by the council;

(f) complying with particular requests under section 171 from councillors.

Part 3 Wards of Brisbane

16 What this part is about

This part is about the number of electors that are to be in each ward of Brisbane to ensure democratic representation.

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17 Wards of Brisbane

(1) Brisbane is divided into 26 areas called ***wards***.

(2) A regulation may describe the boundaries of any ward of Brisbane.

(3) Each ward of Brisbane must have a reasonable proportion of electors.

(4) A ***reasonable proportion of electors*** is the number of electors that is worked out by dividing the total number of electors in Brisbane (as nearly as can be found out) by the number of councillors (other than the mayor), plus or minus 10%.

Example—

If the total number of electors in Brisbane is 1,500,000, and the number of councillors (other than the mayor) is 5, the reasonable proportion of electors is 300,000 (i.e. 1,500,000 divided by 5) plus or minus 10%, i.e. between 270,000 and 330,000 electors.

(5) When changing the wards of Brisbane, the reasonable proportion of electors must be worked out as near as practicable to the time when the change is to happen.

18 Review of wards of Brisbane

The electoral commission must, no later than 1 October in the year that is 2 years before the year of the quadrennial elections—

(a) review whether each of the wards of Brisbane has a reasonable proportion of electors; and

(b) give the council and the Minister written notice of the results of the review.

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Part 4 Changing Brisbane area or representation

Division 1 Introduction

19 What this part is about

(1) This part is about making a boundary change.

(2) A ***boundary change*** is a change of the boundaries of Brisbane or any ward of Brisbane.

(3) In summary, the process for making a boundary change is as follows—

- *assessment*—the change commission assesses whether a proposed boundary change is in the public interest
- *implementation*—the Governor in Council implements the boundary change under a regulation.

(4) The ***change commission***, which conducts the assessment phase of the process, is an independent body created under the Local Government Act.

Division 2 The process for change

20 Who may start the change process

For a boundary change—

(a) the council; or

(b) the Minister; or

(c) the electoral commission;

may apply to the change commission to assess whether the change should be made.

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21 Assessment

(1) The change commission is responsible for assessing whether a proposed boundary change is in the public interest.

(2) In doing so, the change commission must consider—

(a) whether the proposed boundary change is consistent with a local government related law; and

(b) the views of the Minister about the proposed boundary change; and

(c) any other matters prescribed under a regulation.

(3) The change commission may conduct its assessment in any way that it considers appropriate, including, for example, by—

(a) asking for submissions from any local government that would be affected by the proposed boundary change; or

(b) holding a public hearing (in the way set out in chapter 7, part 1) to ask the public for its views about the proposed boundary change.

(4) However, the Minister may direct the change commission in writing to conduct its assessment of the proposed boundary change in a particular way.

(5) Despite subsection (3), the change commission must comply with the Minister's direction.

(6) The change commission must let the public know the results of its assessment and the reasons for the results, by publishing notice of the results—

(a) in the gazette; and

(b) on the electoral commission's website.

(7) The change commission must also give the results of its assessment to the Minister.

(8) The change commission may recommend that the Governor in Council implement the change commission's assessment.

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22 Implementation

(1) The Governor in Council may implement the change commission's recommendation under a regulation.

(2) The regulation may provide for anything that is necessary or convenient to facilitate the implementation of the boundary change.

(3) For example, the regulation may provide for—

(a) holding or postponing a council election; or

(b) the transfer of assets and liabilities between the council and another local government.

(4) The council is not liable to pay a State tax in relation to a transfer or other arrangement made to implement a boundary change.

(5) A ***State tax*** is a tax, charge, fee or levy imposed under an Act, other than a duty under the *Duties Act 2001*.

23 Decisions under this division are not subject to appeal

A decision of the change commission under this division is not subject to appeal.

Note—

See section 226 for more information.

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Chapter 3 The business of the council

Part 1 Statutory committees and council meetings

Division 1 Statutory committees of the council

24 Establishment and Coordination Committee

(1) The standing committee of the council called the Establishment and Coordination Committee is continued as a statutory committee of the council.

(2) The committee coordinates the business of the council.

(3) The committee consists of the mayor and all committee chairpersons of the standing committees of the council.

(4) Only a councillor may be a member of the committee.

(5) The mayor is the chairperson of the committee.

(6) The committee is collectively responsible to the council.

Division 2 Meetings of the council or its committees

25 Chairperson of the council

(1) The council must, by resolution, appoint a chairperson of the council from its councillors (other than the mayor or deputy mayor) at the first meeting after the office of the chairperson becomes vacant.

(2) The chairperson of the council presides at all meetings of the council and is responsible for ensuring the council's procedures for the conduct of its meetings are observed and enforced.

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Note—

The chairperson of the council also has powers under the Local Government Act, section 150I in relation to particular conduct of councillors at meetings of the council.

(3) However, the chairperson of the council does not preside at meetings of committees of the council.

Note—

A committee chairperson presides at meetings of a committee of the council.

26 Mayor as member of standing committees of the council

(1) The mayor is a member of all standing committees of the council.

(2) The mayor may, at the mayor's discretion, attend, participate in or vote at any meeting of a standing committee of the council.

Part 2 Local laws

Division 1 Introduction

27 What this part is about

(1) This part is about local laws.

(2) A ***local law*** is a law made by the council.

(3) Unless there is a contrary intention, a reference in this Act to a ***local law*** includes a reference to—

(a) an interim local law; and

(b) a subordinate local law; and

(c) a local law that incorporates a model local law.

(4) An ***interim local law*** is a local law that has effect for 6 months or less.

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(5) A ***subordinate local law*** is a local law that—

(a) is made under a power contained in a local law; and

(b) provides for the detailed implementation of the broader principles contained in the local law.

(6) A subordinate local law is called that because it is subordinate to the local law under which it is made, so that if there is any inconsistency between the subordinate local law and the local law, the local law prevails to the extent of the inconsistency.

(7) A ***model local law*** is a local law approved by the Minister under the Local Government Act, section 26(7), as being suitable for incorporation by all local governments into their local laws.

28 Interaction with State laws

If there is any inconsistency between a local law and a law made by the State, the law made by the State prevails to the extent of the inconsistency.

Division 2 Making, recording and reviewing local laws

29 Power to make a local law

(1) The council may make and enforce any local law that is necessary or convenient for the good rule and local government of Brisbane.

(2) However, the council must not make a local law—

(a) that sets a penalty of more than 850 penalty units for each conviction of failing to comply with a local law, including each conviction when there is more than 1 conviction for a continuing offence or repeat offence; or

(b) that purports to stop a local law being amended or repealed in the future; or

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(c) about a subject that is prohibited under division 3.

30 Local law making process

(1) The council may decide its own process for making a local law to the extent that the process is not inconsistent with this part.

(2) The council makes a local law by passing a resolution to make the local law.

(3) If the council proposes to make a local law about a matter (the ***new local law***) and there is an existing local law about the same matter that would be inconsistent with the new local law, the council must amend or repeal the existing local law so that there is no inconsistency.

Note—

The new local law may include the amendment or repeal of the inconsistent law in the same instrument.

(4) An interim local law must include a provision stating when the law expires.

(5) The council must ensure its local laws are drafted in compliance with the guidelines issued by the Parliamentary Counsel under the *Legislative Standards Act 1992*, section 9 for local laws and subordinate local laws.

(6) To remove any doubt, it is declared that the council does not have to carry out any public consultation before making either of the following—

(a) an interim local law;

(b) a local law that only incorporates a model local law and does not contain an anti-competitive provision.

31 State interest check

(1) This section applies if the council proposes to make a local law other than the following—

(a) a local law that incorporates a model local law;

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(b) a subordinate local law.

(2) However, this section also applies to a local law that incorporates a model local law if the local law includes more than—

(a) the model local law; or

(b) any amendment or repeal of an existing local law that would be inconsistent with the model local law.

(3) The council must consult with relevant government entities about the overall State interest in the proposed local law before making the local law.

32 Publication of local laws

(1) The council must let the public know that a local law has been made by the council, by publishing a notice of making the local law—

(a) in the gazette; and

(b) on the council's website.

(2) The notice must be published within 1 month after the day when the council made the resolution to make the local law.

(3) The notice in the gazette must state—

(a) that the notice is made by the council; and

(b) the date when the council made the resolution to make the local law; and

(c) the name of the local law; and

(d) the name of any existing local law that was amended or repealed by the new local law.

(4) The notice on the council's website must state—

(a) that the notice is made by the council; and

(b) the date when the council made the resolution to make the local law; and

(c) the name of the local law; and

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(d) the name of any existing local law that was amended or repealed by the new local law; and

(e) if the local law incorporates a model local law—that fact; and

(f) if the local law is an interim local law—that fact, and the date on which the interim local law expires; and

(g) if the local law is a subordinate local law—the name of the local law that authorises the subordinate local law to be made; and

(h) the purpose and general effect of the local law; and

(i) if the local law contains an anti-competitive provision—that fact; and

(j) that a copy of the local law may be—

(i) inspected and purchased at the council's public office; and

(ii) viewed by the public on the department's website.

(5) As soon as practicable after the notice is published in the gazette, the council must ensure a copy of the local law may be viewed and purchased by the public at the council's public office.

(6) A copy of a local law must cost no more than the cost to the council of making the copy available for purchase.

(7) Within 14 days after the notice is published in the gazette, the council must give the Minister—

(a) a copy of the notice; and

(b) a copy of the local law in electronic form.

33 Expiry of interim local law revives previous law

(1) This section applies if—

(a) an interim local law amends or repeals a local law; and

(b) the interim local law expires; and

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(c) the interim local law is not made (either with or without change) as a local law.

(2) When the interim local law expires—

(a) the local law is revived in its previous form; and

(b) any subordinate local law or provision of a subordinate local law, that stopped having effect because the local law was amended or repealed, is revived in its previous form.

(3) The ***previous form*** of a local law, subordinate local law, or provision of a subordinate local law is the form it was in immediately before the interim local law commenced.

(4) This section does not affect anything that was done or suffered under the interim local law before it expired.

(5) This section applies despite the *Acts Interpretation Act 1954*, section 19.

34 Local law register

(1) The council must keep a register of its local laws, in the way that is required under a regulation.

(2) The council must ensure the public may view the register at its public office or on its website.

(3) The department's chief executive must keep a database of the council's local laws and ensure a copy of the database may be viewed by the public on the department's website.

35 Consolidated versions of local laws

(1) The council must prepare and adopt a consolidated version of a local law.

(2) A ***consolidated version*** of a local law is a document that accurately combines the council's local law, as it was originally made, with all the amendments made to the local law since the local law was originally made.

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(3) When the council adopts the consolidated version of the local law, the consolidated version is taken to be the local law, in the absence of evidence to the contrary.

(4) Within 7 days after the council adopts the consolidated version of the local law, the council must give the Minister a copy of the consolidated version of the local law in electronic form.

Division 3 Local laws that can not be made

37 What this division is about

This division specifies the subjects that the council must not make a local law about.

38 Network connections

(1) The council must not make a local law that regulates network connections.

(2) A ***network connection*** is an installation that has the sole purpose of connecting a home or other structure to an existing telecommunications network.

(3) A local law, to the extent that it is contrary to this section, has no effect.

39 Election advertising

(1) The council must not make a local law that—

(a) prohibits or regulates the distribution of how-to-vote cards; or

(b) prohibits the placement of election signs or posters.

(2) A ***how-to-vote card*** includes a how-to-vote card under the Electoral Act.

(3) An ***election sign or poster*** is a sign or poster that is able, or is intended, to—

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(a) influence a person about voting at any government election; or

(b) affect the result of any government election.

(4) A ***government election*** is an election for a local, State or Commonwealth government.

(5) A local law, to the extent that it is contrary to this section, has no effect.

40 Development processes

(1) The council must not make a local law that establishes an alternative development process.

(2) An ***alternative development process*** is a process that is similar to or duplicates all or part of the development assessment process under the Planning Act.

(3) However, if a local law already contains a provision that establishes an alternative development process, the council may amend or repeal the provision at any time.

(4) A local law has no effect to the extent that it is contrary to this section.

(5) This section does not apply to a local law about any of the following matters unless the matter is covered by the council's planning scheme, the Planning Act or another instrument made under that Act—

(a) advertising devices;

(b) gates and grids;

(c) roadside dining.

40A Regulation of sex work

(1) The council must not make a local law that prohibits or regulates sex work or the conduct of a sex work business.

(2) A local law has no effect to the extent that it is contrary to this section.

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(3) In this section—

sex work means the provision by a person of the following services for payment or reward—

(a) services involving the person participating in a sexual activity with another person;

(b) services involving the use or display of the person's body for the sexual arousal or gratification of another person.

sex work business means a business that provides services that include sex work and includes, for example—

(a) an escort agency providing services that include sex work; or

(b) a home-based sex work business.

41 Anti-competitive provisions

(1) The council must not make a local law that contains an anti-competitive provision unless the council has complied with the procedures prescribed under a regulation for the review of anti-competitive provisions.

(2) A local law, to the extent that it is contrary to this section, has no effect.

(3) This section does not apply to an interim local law.

41A Swimming pool safety

(1) The council must not make a local law that regulates—

(a) the construction or maintenance of barriers for a regulated pool; or

(b) a matter for ensuring the safety of persons using a regulated pool and prescribed under the Building Act, section 231D(1), definition *pool safety standard*, paragraph (b).

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(2) If a local law that is in force before the commencement of this section contains a provision that regulates a matter mentioned in subsection (1), the council—

(a) must not amend the provision after the commencement; and

(b) must repeal the provision by 1 January 2017.

(3) A local law, to the extent that it is contrary to this section, has no effect.

(4) In this section—

barriers, for a regulated pool, includes any of the following—

(a) the fencing for the pool;

(b) the walls of a building enclosing the pool;

(c) another form of barrier mentioned or provided for in the pool safety standard under the Building Act.

Division 4 Action by the Minister about particular local laws

42 Suspending or revoking particular local laws

(1) This section applies if the Minister reasonably believes a local law—

(a) is contrary to any other law; or

(b) is inconsistent with the local government principles; or

(c) does not satisfactorily deal with the overall State interest.

(2) The Minister, by gazette notice, may—

(a) suspend the local law, for a specified period or indefinitely; or

(b) revoke the local law.

(3) The gazette notice must state—

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(a) how the local law is contrary to another law, is inconsistent with the local government principles or does not satisfactorily deal with the overall State interest; and

(b) if the local law has been suspended—how the local law may be amended so that it—

(i) is no longer contrary to the other law; or

(ii) is no longer inconsistent with the local government principles; or

(iii) satisfactorily deals with the overall State interest.

(4) If the Minister suspends a local law, the local law stops having effect for the period specified in the gazette notice.

(5) If the Minister revokes the local law—

(a) the local law stops having effect on the day specified in the gazette notice; or

(b) if no day is specified in the gazette notice—the local law is taken to never have had effect.

(6) The State is not liable for any loss or expense incurred by a person because a local law is suspended or revoked under this section.

(7) A decision of the Minister under this section is not subject to appeal.

Note—

See section 226 for more information.

Division 5 Miscellaneous

42A Local law about seizing and disposing of personal property

(1) This section applies if—

(a) the council has made a local law about seizing and disposing of personal property; and

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(b) personal property is seized under the local law.

(2) If the personal property is sold or disposed of, the proceeds of sale or disposal must be applied in the following order—

(a) in payment of the reasonable expenses incurred in selling or disposing of the property;

(b) in payment of the prescribed fee for seizing and holding the property;

(c) if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;

(d) the balance to the owner of the property.

(3) A secured party can not enforce any security interest in the proceeds of sale or disposal against an entity to whom an amount is payable under subsection (2)(a) or (b).

(4) In this section—

personal property has the meaning given by the *Personal Property Securities Act 2009* (Cwlth), section 10.

secured party has the meaning given by the *Personal Property Securities Act 2009* (Cwlth), section 10.

42B Owners' liability for party houses

(1) The council may make a local law that makes the owner of a residential property liable to a penalty because of excessive noise regularly emitted from the property.

(2) The ***owner*** of a residential property includes a tenant if the tenant has a right of exclusive occupation of the property under a lease.

(3) A ***residential property*** is a property of a type that would ordinarily be used, or is intended to be used, as a place of residence or mainly as a place of residence.

(4) To remove any doubt, it is declared that—

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(a) the local law may fix the number of times that excessive noise must be emitted from a property before the owner becomes liable to the penalty; and

(b) a property is not precluded from being a residential property merely because the property is rented on a short-term basis.

(5) In a proceeding about a contravention of the local law—

(a) a noise abatement direction given to a person at a property is evidence of excessive noise being emitted from the property; and

(b) a copy of information recorded in the register of enforcement acts under the *Police Powers and Responsibilities Act 2000* about the giving of a noise abatement direction is evidence of the matters stated in it.

(6) A ***noise abatement direction*** is a direction given to a person by a police officer under the *Police Powers and Responsibilities Act 2000*, section 581(3).

(7) Despite subsection (5), a defendant may, with the leave of the court, require the prosecution to call any person involved in the giving of the noise abatement direction to give evidence at the hearing.

(8) The court may give leave only if the court is satisfied that—

(a) an irregularity may exist in relation to the information or the giving of the noise abatement direction; or

(b) it is in the interests of justice that the person be called to give evidence.

(9) The chief executive officer may ask the police commissioner to give the chief executive officer information about noise abatement directions given to persons in Brisbane.

(10) The police commissioner must comply with the request.

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Part 3 Beneficial enterprises and business activities

Division 1 Beneficial enterprises

43 What this division is about

(1) This division is about beneficial enterprises that are conducted by the council.

(2) This division does not apply to a business unit of the council.

(3) A ***beneficial enterprise*** is an enterprise that the council considers is directed to benefiting, and can reasonably be expected to benefit, the whole or part of Brisbane.

(4) The council is ***conducting*** a beneficial enterprise if the council is engaging in, or helping, the beneficial enterprise.

44 Conducting beneficial enterprises

(1) The council may conduct a beneficial enterprise.

(2) To conduct the beneficial enterprise, the council—

(a) may participate with an association; but

(b) must not, either directly or by participating with an association, participate with an unlimited corporation.

Note—

Under the *Statutory Bodies Financial Arrangements Act 1982*, the council may need the Treasurer's approval before entering into particular financial arrangements.

(3) An ***association*** is—

(a) a partnership; or

(b) a corporation limited by shares but not listed on a stock exchange; or

(c) a corporation limited by guarantee but not listed on a stock exchange; or

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(d) another association of persons that is not a corporation.

(4) An ***unlimited corporation*** means a corporation whose members have no limit placed on their liability.

(5) The council ***participates*** with an association or unlimited corporation if the council—

(a) forms, or takes part in forming, an association or unlimited corporation; or

(b) becomes a member of an association or unlimited corporation; or

(c) takes part in the management of an association or unlimited corporation; or

(d) acquires or disposes of shares, debentures or securities of an association or unlimited corporation.

45 Identifying beneficial enterprises

The council's annual report for each financial year must contain a list of all the beneficial enterprises that the council conducted during the financial year.

Division 2 Business reform, including competitive neutrality

47 What this division is about

(1) This division is about the application of the National Competition Policy Agreement in relation to the significant business activities of the council.

(2) This includes the application of the competitive neutrality principle if, in the circumstances, the public benefit (in terms of service quality and cost) outweighs the costs of implementation.

(3) Under the ***competitive neutrality principle***, an entity that is conducting a business activity in competition with the private

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sector should not enjoy a net advantage over competitors only because the entity is in the public sector.

(4) A ***significant business activity*** is a business activity of the council that—

(a) is conducted in competition, or potential competition, with the private sector (including off-street parking, quarries, sporting facilities, for example); and

(b) meets the threshold prescribed under a regulation.

(5) However, a ***significant business activity*** does not include a business activity that is—

(a) a building certifying activity; or

(b) a roads activity; or

(c) related to the provision of library services.

Note—

A building certifying activity or roads activity is dealt with under section 51.

(6) In this section—

National Competition Policy Agreement means the Intergovernmental Agreement on National Competition Policy agreed on 29 November 2024 between the Commonwealth and the States, as in force from time to time.

48 Ways to apply the competitive neutrality principle

(1) The competitive neutrality principle may be applied by—

(a) commercialisation of a significant business activity; or

(b) full cost pricing of a significant business activity.

(2) ***Commercialisation*** involves creating a new business unit, that is part of the council, to conduct the significant business activity on a commercial basis.

(3) ***Full cost pricing*** involves pricing the significant business activity on a commercial basis, but without creating a new business unit.

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(4) A regulation may provide for—

(a) matters relating to commercialisation or full cost pricing; or

(b) any other matter relating to the application of the competitive neutrality principle to the significant business activities of the council.

49 Identifying significant business activities

The council's annual report for each financial year must—

(a) contain a list of all the business activities that the council conducted during the financial year; and

(b) identify the business activities that are significant business activities; and

(c) state whether or not the competitive neutrality principle was applied to the significant business activities, and if the principle was not applied, the reason why it was not applied; and

(d) state whether any of the significant business activities were not conducted in the preceding financial year, i.e. whether there are any new significant business activities.

50 Assessing public benefit

(1) This section applies to a new significant business activity that is identified in the annual report of the council.

(2) The council must conduct a public benefit assessment of the new significant business activity.

(3) A ***public benefit assessment*** is an assessment of whether the benefit to the public (in terms of service quality and cost) of applying the competitive neutrality principle in relation to a significant business activity outweighs the costs of applying the competitive neutrality principle.

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(4) The council must conduct the public benefit assessment before the end of the financial year in which the significant business activity is first identified in the annual report.

(5) The council must prepare a report on the public benefit assessment that contains its recommendations about the application of the competitive neutrality principle in relation to the significant business activity.

(6) At a meeting of the council, the council must—

(a) consider the report; and

(b) decide, by resolution, whether or not to apply the competitive neutrality principle in relation to the significant business activity.

(7) Any resolution that the competitive neutrality principle should not be applied must include a statement of the reasons why it should not be applied.

(8) If the council decides not to apply the competitive neutrality principle in relation to the significant business activity, the council must, within 3 years after making the decision—

(a) conduct another public benefit assessment of the significant business activity; and

(b) repeat the process relating to a report on the public benefit assessment.

51 Code of competitive conduct

(1) This section is about the code of competitive conduct.

(2) The ***code of competitive conduct*** is the code of competitive conduct prescribed under a regulation under the Local Government Act.

(3) The council must apply the code of competitive conduct to the conduct of the following business activities of the council—

(a) a building certifying activity;

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(b) a roads activity, other than a roads activity for which business is conducted only through a sole supplier arrangement.

(4) A ***building certifying activity*** is a business activity that—

(a) involves performing building certifying functions (within the meaning of the Building Act, section 10); and

(b) is prescribed under a regulation.

(5) A ***roads activity*** is a business activity (other than a business activity prescribed under a regulation) that involves—

(a) constructing or maintaining a State-controlled road, that the State put out to competitive tender; or

(b) submitting a competitive tender in relation to—

(i) constructing or maintaining a road in Brisbane, that the council put out to competitive tender; or

(ii) constructing or maintaining a road in another local government area, that the other local government put out to competitive tender.

(6) The council must start to apply the code of competitive conduct—

(a) for a building certifying activity—from the start of the financial year after the financial year in which the building certifying activity is first conducted; or

(b) for a roads activity—from when the roads activity is first conducted.

(7) The council must decide each financial year, by resolution, whether or not to apply the code of competitive conduct to a business activity prescribed under a regulation.

(8) If the council decides not to apply the code of competitive conduct to the business activity, the resolution must state reasons for not doing so.

(9) Subsection (7) does not prevent the council from applying the code of competitive conduct to any other business activities.

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52 Competitive neutrality complaints

(1) The council must adopt a process for resolving competitive neutrality complaints.

(2) A ***competitive neutrality complaint*** is a complaint that—

(a) relates to the failure of the council to conduct a business activity in accordance with the competitive neutrality principle; and

(b) is made by an affected person.

(3) An ***affected person*** is—

(a) a person who—

(i) competes with the council in relation to the business activity; and

(ii) claims to be adversely affected by a competitive advantage that the person alleges is enjoyed by the council; or

(b) a person who—

(i) wants to compete with the council in relation to the business activity; and

(ii) claims to be hindered from doing so by a competitive advantage that the person alleges is enjoyed by the council.

(4) A regulation may provide for the process for resolving competitive neutrality complaints.

(5) The council does not have to resolve a competitive neutrality complaint relating to a business activity prescribed under a regulation.

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Part 4 Roads and other infrastructure

Division 1 Roads

65 What this division is about

(1) This division is about roads.

(2) A ***road*** is—

(a) an area of land that is dedicated to public use as a road; or

(b) an area of land that—

(i) is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; and

(ii) is open to, or used by, the public; or

(c) a footpath or bicycle path; or

(d) a bridge, culvert, ford, tunnel or viaduct.

(3) However, a ***road*** does not include—

(a) a State-controlled road; or

(b) a road, or that part of a road, within an airport site under the *Airports Act 1996* (Cwlth); or

(c) a public thoroughfare easement.

66 Control of roads

(1) The council has control of all roads in Brisbane.

(2) This control includes being able to—

(a) survey and resurvey roads; and

(b) construct, maintain and improve roads; and

(c) approve the naming and numbering of private roads; and

(d) name and number other roads; and

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(e) make a local law to regulate the use of roads, including—

(i) the movement of traffic on roads, subject to the *Transport Operations (Road Use Management) Act 1995*; and

(ii) the parking of vehicles on roads, subject to the *Transport Operations (Road Use Management) Act 1995* (including the maximum time that a vehicle may be parked in a designated rest area that adjoins a road, for example); and

(iii) by imposing obligations on the owner of land that adjoins a road (including an obligation to fence the land to prevent animals going on the road, for example); and

(f) make a local law to regulate the construction, maintenance and use of—

(i) public utilities along, in, over or under roads; and

(ii) ancillary works and encroachments along, in, over or under roads; and

(g) realign a road in order to widen the road; and

(h) acquire land for use as a road.

(3) Nothing in subsection (1) makes the council liable for the construction, maintenance or improvement of a private road.

(4) A ***private road*** is a road over land that is owned by a person who may lawfully exclude other persons from using the road.

67 Notice of intention to acquire land to widen a road

(1) If the council wants to acquire land in order to widen a road, the council must give the owner of the land a notice of intention to acquire land.

(2) A ***notice of intention to acquire land*** informs the owner in general terms of this section and section 68.

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(3) However, the council can not, without the consent of the Planning and Environment Court, serve a notice of intention to acquire land on an owner of land after the owner has applied to the council—

(a) for approval to subdivide the land; or

(b) for approval, consent or permission—

(i) to erect or use a structure on the land; or

(ii) to use the land for any other purpose.

(4) The court may consent to the notice of intention to acquire land being served only if the court is satisfied that the purpose of the notice is to enable the council to make, in good faith, a reasonable widening of the road.

(5) After the council gives an owner a notice of intention to acquire land, the owner must not erect, place, re-erect, replace or repair any structure, or part of a structure, on the land without the council's permission.

(6) The council must lodge a copy of a notice of intention to acquire land with the registrar of titles for registration on the instrument of title to the land.

(7) The registrar of titles may register the notice of intention to acquire land even if the instrument of title is not produced.

68 Compensation for a notice of intention to acquire land

(1) This section applies to a person who is served with a notice of intention to acquire land, if the person would be entitled to claim compensation for the acquisition of land.

(2) The person is entitled to compensation from the council for injurious affection to the person's interest in the land because of the notice of intention to acquire land.

(3) However, the compensation is not payable until—

(a) the land is sold for the first time after the notice of intention to acquire land was served; or

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(b) after being served with the notice of intention to acquire land, the owner of the land offers the land for sale in good faith, but can not sell the land for a fair and reasonable price.

(4) The compensation must be assessed in accordance with the following principles—

(a) the amount of compensation must represent the difference between—

(i) the market value of the interest in the land immediately after service of the notice of intention to acquire land; and

(ii) what would be the market value of the interest in the land, at that time, if the notice had not been served;

(b) any benefit that may accrue, because of the realignment of the road, to land adjacent to the land that is affected by the realignment of the road, and in which the claimant has an interest, must be taken into account;

(c) the amount of compensation must not be increased because the land that is affected by the realignment of the road has, since the service of the notice of intention to acquire land, become or ceased to be separate from other land.

(5) A claim for compensation must be made—

(a) within 3 years after the entitlement to compensation arose; and

(b) to the chief executive officer in the approved form.

(6) The claim is taken to have been properly made when the claimant has given the council all the information that the council reasonably requires to decide the claim.

(7) If, within 30 days after the claim is made, the council has not given the claimant written notice of its decision on the claim, the council is taken to have refused compensation on the 31st day after the claim is made.

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69 Appeal on a claim for compensation

(1) A person who is aggrieved by the decision of the council on a claim for compensation may appeal against the decision to the Land Court.

(2) The appeal must be started within 30 days after—

(a) notice of the decision is given to the claimant; or

(b) the decision is taken to have been made.

(3) However, the Land Court may extend the period mentioned in subsection (2) if satisfied in all the circumstances that it is reasonable to do so.

(4) In order to award compensation, the Land Court must be satisfied—

(a) if the land has been sold—

(i) the seller took reasonable steps to obtain a reasonable price for the land; and

(ii) the seller sold the land in good faith; and

(iii) the sale price is less than the seller might reasonably have expected to receive had there been no notice of intention to acquire land; or

(b) if the council refused the owner permission to erect, place, re-erect, replace or repair any structure, or part of a structure, on the land—the permission was applied for in good faith.

70 Acquisition of land instead of compensation

(1) After a notice of intention to acquire land is served, but before the land is sold, the council may acquire the land instead of paying compensation for injurious affection.

(2) If, after a notice of intention to acquire land is served, the land is cleared of all structures—

(a) the council may acquire the land; and

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(b) if required by the owner of the land, the council must acquire the land.

(3) The acquired land must be dedicated for public use as a road within 3 months after its acquisition.

(4) Compensation for the acquisition of the land, if not agreed between the parties, must be assessed as at the date of the acquisition.

71 What is to happen if a realignment is not carried out

(1) This section applies if the council decides not to proceed with the realignment of a road or part of a road after giving a notice of intention to acquire land.

(2) This section does not apply to a realignment of road that is necessary to comply with the requirements of the council under a planning scheme in its application to particular developments in Brisbane.

(3) The council must serve notice of its decision not to proceed on all owners of land who were served with a notice of intention to acquire land in connection with that road or part of that road.

(4) With regard to any of the notices of intention to acquire land that were lodged with the registrar of titles in connection with that road or part of that road, the council must—

(a) for any notice of intention to acquire land that has not been registered—withdraw the notice of intention to acquire land; and

(b) for any notice of intention to acquire land that has been registered—lodge with the registrar of titles for registration a notice of its decision not to proceed with the realignment of the road, or part of the road.

(5) The notice of the council's decision must inform the owners in general terms of this section and section 72.

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72 Compensation if realignment not carried out

(1) This section applies if—

(a) the council decides not to proceed with the realignment of a road or part of a road after giving a notice of intention to acquire land; and

(b) structural improvements have been made on land that adjoins the road on the basis of the proposed realignment being effected.

(2) The council must pay the owner of the land reasonable compensation for the decrease in value of the land because of the decision.

(3) The amount of compensation is the difference between the value of the land before and after the decision.

(4) If the council and the owner fail to agree on the amount of compensation, the amount is to be decided by the Land Court.

(5) The provisions of the *Acquisition of Land Act 1967* about the making, hearing and deciding of claims for compensation for land taken under that Act apply, with any necessary changes and any changes prescribed under a regulation, to claims for compensation under this section.

(6) The council's decision not to proceed with the realignment of a road, or part of a road, does not give rise to an entitlement to compensation to, or a cause of action by, any owner or occupier of land or other person other than under this section.

73 Acquiring land for use as a footpath

(1) The council may acquire land that adjoins a road for use as a footpath.

(2) The acquisition of land may be subject to a reservation, in favour of the owner of the land, of any of the following rights that the council decides (at or before the acquisition) is appropriate—

(a) a right to the ownership, possession, occupation and use of any existing structure, room or cellar—

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(i) at a specified height above the level of the new footpath; or

(ii) at a specified depth below the level of the new footpath;

(b) a right—

(i) to erect a structure (in accordance with law) at a specified height above the new footpath; and

(ii) to the ownership, possession, occupation and use of the structure;

(c) a right of support for a structure mentioned in paragraph (a) or (b).

(3) The right mentioned in subsection (2)(a) is subject to the council's right to enter, and make structural alterations to, the structure, room or cellar that the council considers necessary.

74 Notice to the council of opening or closing of roads

(1) This section applies if an application is made under the Land Act for the opening or closing of a road in Brisbane by someone other than the council.

(2) The Land Act Minister, or the applicant for the application, must give written notice of the application to the council.

(3) The ***Land Act Minister*** is the Minister administering the Land Act.

(4) The notice must specify a date (no earlier than 1 month or later than 2 months after the council is given the notice) on or before which the council may object to the opening or closing of the road.

(5) An objection must fully state the reasons for the objection.

(6) The Land Act Minister must have regard to any objections properly made by the council.

(7) If the Land Act Minister decides the road should be opened or closed, the Land Act Minister must give written notice to the council—

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(a) of the decision; and

(b) if the decision is contrary to the council's objection, the reasons for the decision.

75 Closing roads

(1) The council may close a road (permanently or temporarily) to all traffic, or traffic of a particular class, if there is another road or route reasonably available for use by the traffic.

(2) Also, the council may close a road to all traffic, or traffic of a particular class—

(a) during a temporary obstruction to traffic; or

(b) if it is in the interests of public safety; or

(c) if it is necessary or desirable to close the road for a temporary purpose (including a fair, for example).

(3) The council must publish notice of the closing of the road, in the way that the council considers appropriate (including on its website, for example).

(4) The council may do everything necessary to stop traffic using the road after it is closed.

(5) If a road is closed to traffic for a temporary purpose, the council may permit the use of any part of the road (including for the erection of any structure, for example) on the conditions the council considers appropriate.

76 Temporary roads

(1) This section applies if—

(a) the council wants to remake or repair a road; and

(b) it is not reasonably practicable to temporarily close the road to traffic while the road works are conducted.

(2) The council may make a temporary road, through land that adjoins the road, to be used while the road is being remade or repaired.

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(3) However, a council employee or contractor may enter the land only if—

(a) the owner or occupier of the land has agreed, in writing that the council employee or contractor may enter the land; or

(b) the council has given the owner or occupier of the land at least 3 days written notice that states—

(i) the nature of the road works that are to be conducted; and

(ii) the proposed route of the temporary road; and

(iii) an approximate period when the temporary road is expected to remain on the land.

(4) Subsection (3) does not apply if the road works must be urgently conducted, but the council must give the owner or occupier of the land oral notice of the matters mentioned in subsection (3)(b).

(5) The owner of the land may give the chief executive officer a written notice that claims compensation for physical damage caused by the council entering, occupying or using the land under this section.

(6) Compensation is not payable unless the chief executive officer receives the claim—

(a) within 1 year after the occupation or use has ended; or

(b) at a later time allowed by the chief executive officer.

(7) The compensation equals—

(a) the amount agreed between the person and the council; or

(b) if the person and the council can not agree, the amount that is decided by a court.

(8) However, the compensation must not be more than the compensation that would have been awarded if the land had been acquired.

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77 The Brisbane River

(1) This section is about roads that are over, under, on or in the Brisbane River (***river crossings***).

(2) For this section, the ***Brisbane River*** is any part of the Brisbane River that is not within the local government area of another local government.

(3) The council may—

(a) survey and resurvey river crossings; and

(b) construct, maintain and improve river crossings; and

(c) name and number river crossings.

(4) Subject to any restrictions prescribed under a regulation—

(a) local laws apply to a river crossing as if all of the crossing were within Brisbane; and

(b) all a river crossing is taken, for the purpose of any Act, to be a road within Brisbane.

78 Road levels

(1) The owner or occupier of land that adjoins a road may give written notice to the council requiring it to advise the owner or occupier of the permanent level that is fixed or to be fixed for the road.

(2) If the council has not, within 6 months after receiving the notice, given the owner or occupier written advice about the permanent level of the road, the council is taken to have fixed the apparent level of the road when the notice was given as the permanent level of the road.

(3) If—

(a) after the council has fixed the permanent level of a road, the council changes the level of the road; and

(b) the owner or occupier of land that adjoins the road is injuriously affected by the change;

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the council must pay the owner or occupier, or their successor in title, compensation.

(4) The compensation equals—

(a) the amount that is agreed between the owner or occupier, or their successor in title, and the council; or

(b) if the owner or occupier, or their successor in title, and the council can not agree—the amount that is decided by the Planning and Environment Court.

79 Assessment of impacts on roads from certain activities

(1) This section applies if—

(a) a regulation prescribes an activity for this section; and

(b) the council considers that the conduct of the activity is having, or will have, a significant adverse impact on a road in Brisbane; and

(c) the activity is not for—

(i) a coordinated project under the *State Development and Public Works Organisation Act 1971*; or

(ii) development categorised under the council's planning scheme as assessable development for the Planning Act; or

(iii) a road being built under the Land Act, section 110.

(2) The council may require the entity that is conducting the activity to provide information, within a reasonable time, that will enable the council to assess the impact of the activity on the road.

(3) After assessing the impact of the activity on the road, the council may decide to do 1 or more of the following—

(a) give the entity a direction about the use of the road to lessen the impact;

(b) require the entity—

(i) to carry out works to lessen the impact; or

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(ii) to pay an amount as compensation for the impact.

(4) The council may require the works to be carried out or the amount to be paid before the impact commences or intensifies.

(5) The amount of compensation is a debt payable to the council and may be recovered in a court.

(6) A regulation for this section—

(a) must contain a process under which the council's decision may be reviewed; and

(b) may contain a process for enforcing the decision.

80 Categorisation of roads

The council must categorise the roads in Brisbane according to the surface of the road.

81 Roads map and register

(1) The council must prepare and keep up to date—

(a) a map of every road, including private roads, in Brisbane; and

(b) a register of the roads that shows—

(i) the category of every road; and

(ii) the level of every road that has a fixed level; and

(iii) other particulars prescribed under a regulation.

(2) The register of roads may also show other particulars that the council considers appropriate.

(3) The council must ensure the public may view the map and register at its public office or on its website.

(4) On application and payment of a reasonable fee fixed under a resolution or local law, a person may obtain—

(a) a copy of a map or register of roads; or

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(b) a certificate signed by an employee of the council who is authorised for the purpose—

(i) about the category, alignment and levels of roads in Brisbane; or

(ii) about the fact that the alignment or level of a road in Brisbane has not been fixed.

82 Unauthorised works on roads

(1) This section applies to a road in Brisbane.

(2) A person must not, without lawful excuse (including under another Act, for example), or the written approval of the council—

(a) carry out works on a road; or

(b) interfere with a road or its operation.

Maximum penalty—200 penalty units.

(3) ***Works*** do not include the maintenance of ancillary works and encroachments, or landscaping, that does not interfere with the road or its operation.

(4) An approval may be subject to the conditions decided by the council.

(5) A person must not contravene a condition that applies to the person under subsection (4).

Maximum penalty—40 penalty units.

(6) If a person carries out works in contravention of this section, the council may—

(a) dismantle or alter the works; or

(b) fix any damage caused by the works.

(7) If the council dismantles or alters the works, or fixes any damage caused by the works, the person must pay the council the reasonable costs incurred by the council in doing so.

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Division 2 Stormwater drains

83 What this division is about

(1) This division is about stormwater drains and stormwater installations.

(2) A ***stormwater drain*** is a drain, channel, pipe, chamber, structure, outfall or other works used to receive, store, transport or treat stormwater.

(3) A ***stormwater installation*** for a property—

(a) is any roof gutters, downpipes, subsoil drains or stormwater drain for the property; but

(b) does not include any part of a council stormwater drain.

84 Connecting stormwater installation to stormwater drain

(1) The council may, by written notice, require the owner of a property to connect a stormwater installation for the property to a council stormwater drain in the way, under the conditions and within the time stated in the notice.

(2) The way, condition and time stated in the notice must be reasonable in the circumstances.

(3) A person must not connect a stormwater installation for a property to a council stormwater drain unless—

(a) the council has required the owner of the property to do so by a written notice under subsection (1); or

(b) the council has given its approval for the connection.

Maximum penalty—165 penalty units.

(4) The council may impose conditions on its approval for the connection, including conditions about the way the connection must be made.

(5) If a person connects a stormwater installation under a requirement or approval of the council, the person must

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comply with the requirement or approval, unless the owner has a reasonable excuse.

Maximum penalty—165 penalty units.

(6) This section does not apply to a stormwater installation for a property that is an airport site under the *Airports Act 1996* (Cwlth).

85 No connecting sewerage to stormwater drain

(1) The owner of a property must not connect the sewerage installation for property, or allow the sewerage installation for the property to be connected, to any part of—

(a) the stormwater installation for the property; or

(b) a council stormwater drain.

Maximum penalty—165 penalty units.

(2) A ***sewerage installation*** is any of the following—

(a) an on-site sewage facility within the meaning given in the Plumbing and Drainage Act;

(b) a sewer for a property or building unit;

(c) sanitary plumbing i.e. any apparatus, fittings, fixtures or pipes that carry sewage to a sanitary drain;

(d) sanitary drainage i.e. any apparatus, fittings or pipes for collecting and carrying discharges—

(i) from fixtures (that are directly connected to a sanitary drain) to an on-site sewerage facility or a sewerage treatment system; or

(ii) from sanitary plumbing to an on-site sewerage facility or a sewerage treatment system.

Examples of apparatus, fittings or pipes for sanitary drainage—

- disconnector gullies
- bends at the foot of stacks or below ground level
- pipes above ground level that are installed using drainage principles

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- for an on-site sewerage facility—a pipe (other than a soil or waste pipe) used to carry sewage to or from the facility

(3) The owner of a property who becomes aware that the sewerage installation for the property is connected to any part of—

(a) the stormwater installation for the property; or

(b) a stormwater drain of the council;

must, as soon as reasonably practicable, take all necessary steps to disconnect the facility, drainage or sewer from the stormwater installation or drain.

Maximum penalty—165 penalty units.

(4) If the sewerage installation for property is connected to any part of—

(a) the stormwater installation on the property; or

(b) a stormwater drain of the council;

the council may, by written notice, require the owner of the property to perform the work stated in the notice, within the time stated in the notice.

(5) The time stated in the notice must—

(a) be a time that is reasonable in the circumstances; and

(b) be at least 1 month after the notice is given to the owner.

(6) However, the time stated in the notice may be less than 1 month but must not be less than 48 hours if the work stated in the notice—

(a) is required to stop a serious health risk continuing; or

(b) relates to a connection that is causing damage to the council stormwater drain.

(7) The work stated in the notice must be work that is reasonably necessary for fixing or otherwise dealing with the sewerage installation, including for example—

(a) work to remedy a contravention of this Act; or

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(b) work to disconnect something that was connected to a stormwater drain without the council's approval.

(8) The owner must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty for subsection (8)—165 penalty units.

86 No trade waste or prohibited substances in stormwater drain

(1) A person must not put trade waste into a stormwater drain.

Maximum penalty—1,000 penalty units.

(2) ***Trade waste*** is waterborne waste from business, trade or manufacturing property, other than—

(a) stormwater; and

(b) a prohibited substance.

(3) A person must not put a prohibited substance into a stormwater drain.

Maximum penalty—1,000 penalty units.

(4) A ***prohibited substance*** is—

(a) a solid or viscous substance in a quantity, or of a size, that can obstruct, or interfere with the operation of, a stormwater drain; or

Examples for paragraph (a)—

- ash, cinders, mud, sand, shavings and straw
- glass, metal and plastics
- cups, milk containers and paper and plastic dishes
- feathers, rags, tar and wood
- hair and entrails, paunch manure and whole blood
- grease and oil
- cement-laden wastewater including wash down from exposed aggregate concrete surfaces

(b) a flammable or explosive solid, liquid or gaseous substance; or

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(c) sewage, including human waste; or

(d) a substance that, given its quantity, is capable alone, or by interaction with another substance put into a stormwater drain, of—

(i) inhibiting or interfering with the stormwater drain; or

(ii) causing damage or a hazard to the stormwater drain; or

(iii) causing a hazard for humans or animals; or

(iv) creating a public nuisance; or

(v) creating a hazard in waters; or

(vi) contaminating the environment in places where stormwater is discharged or reused; or

Example for paragraph (d)—

a substance with a pH lower than 6.0 or greater than 10.0, or having another corrosive property

(e) a substance that has a temperature of more than—

(i) if the council has approved a maximum temperature for the substance—the approved maximum temperature; or

(ii) otherwise—38ºC.

(5) If—

(a) a person puts a prohibited substance in a council stormwater drain; and

(b) the prohibited substance causes damage to the stormwater drain;

the council may perform work to fix the damage, and may recover the reasonable costs for the work from the person who put the prohibited substance in the stormwater drain.

(6) The costs for the work are in addition to any penalty imposed for the offence.

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87 Interference with path of stormwater

(1) A person must not restrict or redirect the flow of stormwater over land in a way that may cause the water to collect and become stagnant.

Maximum penalty—165 penalty units.

(2) However, this section does not apply to water collected in a dam, wetland, tank or pond, if no offensive material is allowed to accumulate.

Division 3 Other infrastructure

88 Malls

(1) The council may establish a mall in Brisbane.

(2) The council must comply with the procedures prescribed under a regulation for establishing a mall.

(3) The regulation may also provide for any other matter connected with managing, promoting or using a mall, including for example—

(a) the removal of vehicles from a mall; and

(b) review of a decision relating to the removal of a vehicle from a mall; and

(c) matters relating to an advisory committee for a mall.

(4) A person is not entitled to compensation on account of injurious affection to any right or interest of a business, commercial or industrial nature because of the establishment, modification or closing of a mall by the council.

(5) However, the council may, by resolution, decide to pay compensation to the person.

(6) The Land Act, chapter 4, part 4 does not apply to a road in Brisbane that is a mall.

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89 City Botanic Gardens

(1) This section is about the City Botanic Gardens.

(2) The ***City Botanic Gardens*** consist of the reserve for botanic gardens and public park that was established by the council under the repealed City of Brisbane Act.

(3) The council is the trustee of the reserve under the Land Act.

(4) The council has the power to—

(a) do anything that is necessary or desirable for developing, managing, maintaining, promoting, or using the City Botanic Gardens; and

(b) permit the use of any part of the City Botanic Gardens, including the erection of any structure, on the conditions it considers appropriate; and

(c) do anything incidental to its powers under paragraph (a) or (b).

90 Resumption of prescribed land by council

(1) This section applies if—

(a) a development application under the Planning Act is made for a material change of use other than for 'television station purposes'; or

(b) prescribed land is sold or offered for sale and the council is satisfied the land is likely to be used for a purpose other than television station purposes or related purposes; or

(c) prescribed land is being used for a purpose other than television station purposes or related purposes.

(2) ***Prescribed land*** is any scheduled land or trust land under the repealed *Land (Mt Coot-tha Television Stations) Sales Act 1986*.

(3) The council may decide to acquire the prescribed land either by agreement under the *Acquisition of Land Act 1967* or

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compulsorily for a purpose specified in that Act, if the land is to be used for 1 or more of the following purposes—

(a) a park;

(b) a recreation ground;

(c) a road.

(4) The power conferred on the council under this section is in addition to the powers conferred on the council as a constructing authority under the *Acquisition of Land Act 1967*.

(5) A decision of the council under subsection (3) is not subject to appeal.

Note—

See section 226 for more information.

91 Ferry services

(1) The council has the exclusive right to provide a ferry service across a watercourse if the land that forms both banks of the watercourse is in Brisbane.

(2) A ***watercourse*** is a river, creek or channel where water flows naturally.

(3) The council may—

(a) lease the right to provide a ferry service across a watercourse that it has the exclusive right to provide a ferry service across; and

(b) make local laws for managing and regulating the use of ferries operated or leased by it.

(4) A regulation may—

(a) declare another watercourse that the council has the exclusive right to provide a ferry service across; and

(b) provide for any other matter connected with the provision of ferry services (including declaring the approaches to a ferry as being under the control of the council, for example).

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92 Materials in infrastructure are council property

(1) The materials in the following things are the property of the council—

(a) a road constructed by or for the council;

Example of a road constructed for the council—

a road constructed by a developer because of a condition attached to a development approval under the Planning Act

(b) any works relating to a road (including ducting, gutters, stormwater drains, kerbing and channelling, for example) that are constructed by or for the council;

(c) a floating pontoon, jetty, or wharf that is—

(i) constructed by the council; or

(ii) under the control of the council.

(2) If the council, in exercising a power of the council, constructs a structure or carries out any works on someone else's land, the materials in the structure or works are the property of the council.

(3) This section does not apply to the materials in—

(a) an open drain, other than any lining of the drain; or

(b) the outcome of action taken in accordance with a remedial notice under section 130.

(4) For subsection (1), it is irrelevant whether the thing mentioned in the subsection is on, over or under land that is owned by an entity other than the council.

Part 5 Caretaker period arrangements

92A Caretaker period

(1) The ***caretaker period*** for the council is the period during an election for the council that—

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(a) starts on the day when public notice of the holding of the election is given under the *Local Government Electoral Act 2011*, section 25(1); and

(b) ends at the conclusion of the election.

(2) There is no caretaker period during a by-election or fresh election under the *Local Government Electoral Act 2011*.

92B Prohibition on major policy decisions during caretaker period

The council must not make a major policy decision during a caretaker period for the council.

92BA Approval to make major policy decisions in exceptional circumstances

(1) This section applies if the council considers that, because exceptional circumstances exist, it is necessary and in the public interest to make a major policy decision during a caretaker period for the council.

(2) The council may apply to the Minister for approval to make the major policy decision during the caretaker period.

(3) The Minister may give the approval if the Minister is satisfied that, because exceptional circumstances exist, it is necessary and in the public interest for the council to make the major policy decision during the caretaker period.

(4) The approval may be given on conditions with which the council must comply.

(5) Despite section 92B, the council may make the major policy decision in accordance with the approval.

92BB Approval to make major policy decisions related to disaster recovery funding arrangements

(1) This section applies if—

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(a) during a caretaker period for the council, the City of Brisbane is eligible for assistance under the disaster recovery funding arrangements; and

(b) the Minister considers it is necessary for the council to make major policy decisions during the caretaker period to achieve the objectives of the disaster recovery funding arrangements.

(2) The Minister may give approval to the council to make the major policy decisions.

(3) The approval may state—

(a) the types of major policy decisions that may be made by the council; and

(b) that the decisions may be made by the council only in relation to a stated matter.

(4) The approval may be given on conditions with which the council must comply.

(5) Despite section 92B, the council may make major policy decisions in accordance with the approval.

(6) In this section—

disaster recovery funding arrangements means the funding arrangements jointly administered by the State and Commonwealth that are known as the 'Disaster Recovery Funding Arrangements'.

92C Invalidity of major policy decision in caretaker period without approval

(1) A major policy decision made by the council during a caretaker period for the council is invalid to the extent the council—

(a) does not have the Minister's approval under section 92BA or 92BB to make the decision; or

(b) does not comply with any conditions of the approval under section 92BA(4) or 92BB(4).

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(2) A contract is void if it is the subject of a major policy decision that is invalid.

(3) A person who acts in good faith in relation to a major policy decision of the council, or in relation to a contract that is the subject of a major policy decision, but who suffers loss or damage because of any invalidity of the decision under subsection (1) or because the contract is void under subsection (2), has a right to be compensated by the council for the loss or damage.

(4) The person may bring a proceeding to recover the compensation in a court of competent jurisdiction.

92D Prohibition on election material in caretaker period

(1) The council or a controlled entity of the council must not, during a caretaker period for the council, publish or distribute election material.

(2) ***Election material*** is anything able to, or intended to—

(a) influence an elector about voting at an election; or

(b) affect the result of an election.

Examples—

a fact sheet or newsletter that raises the profile of a councillor

(3) The prohibition under subsection (1) does not apply to making a how-to-vote card available under the *Local Government Electoral Act 2011*, section 179(6).

(4) In this section—

control means the capacity of an entity to dominate decision-making, directly or indirectly, in relation to the financial and operating policies of another entity so as to enable the other entity to operate with the first entity in pursuing the first entity's objectives.

controlled entity, of the council, means an entity subject to the control of either or both of the following—

(a) the council;

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(b) another entity subject to the control of the council.

Chapter 4 Finances and accountability

Part 1 Rates and charges

93 What this part is about

(1) This part is about rates and charges.

(2) ***Rates and charges*** are levies that the council imposes—

(a) on land; and

(b) for a service, facility or activity that is supplied or undertaken by—

(i) the council; or

(ii) someone on behalf of the council (including a garbage collection contractor, for example).

94 Types of rates and charges

(1) There are 4 types of rates and charges—

(a) general rates (including differential rates); and

(b) special rates and charges; and

(c) utility charges; and

(d) separate rates and charges.

(2) ***General rates*** are for services, facilities and activities that are supplied or undertaken for the benefit of the community in general (rather than a particular person).

Example—

General rates contribute to the cost of roads and library services that benefit the community in general.

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(3) ***Special rates and charges*** are for services, facilities and activities that have a special association with particular land because—

(a) the land or its occupier—

(i) specially benefits from the service, facility or activity; or

(ii) has or will have special access to the service, facility or activity; or

(b) the land is or will be used in a way that specially contributes to the need for the service, facility or activity; or

(c) the occupier of the land specially contributes to the need for the service, facility or activity.

Examples—

Special rates and charges could be levied—

- for the cost of maintaining a road in an industrial area that is regularly used by heavy vehicles
- for the cost of replacing the drainage system in only part of Brisbane
- on land that is used only by businesses that would benefit from the promotion of tourism in Brisbane.

(4) ***Utility charges*** are for a service, facility or activity for any of the following utilities—

(a) waste management, including recycling;

(b) gas;

(c) another utility prescribed under a regulation.

(5) ***Separate rates and charges*** are for any other service, facility or activity.

95 Land on which rates are levied

(1) Rates may be levied on rateable land.

(2) ***Rateable land*** is any land or building unit, in Brisbane, that is not exempted from rates.

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(3) The following land is exempted from rates—

(a) unallocated State land within the meaning of the Land Act;

(b) land that is occupied by the State or a government entity, unless—

(i) the government entity is a GOC or its subsidiary (within the meaning of the *Government Owned Corporations Act 1993*) and the government entity is not exempt from paying rates; or

(ii) the land is leased to the State or a government entity by someone who is not the State or a government entity;

(c) land in a State forest or timber reserve, other than land occupied under—

(i) an occupation permit or stock grazing permit under the Forestry Act; or

(ii) a lease under the Land Act;

(d) the following land under the Transport Infrastructure Act—

(i) strategic port land that is occupied by a port authority, the State, or a government entity;

(ii) existing or new rail corridor land;

(iii) commercial corridor land that is not subject to a lease;

(e) airport land, within the meaning of the *Airport Assets (Restructuring and Disposal) Act 2008*, that is used for a runway, taxiway, apron, road, vacant land, buffer zone or grass verge;

(f) land that is exempted from rating—

(i) under another Act or a regulation;

(ii) by resolution of the council, for religious, charitable, educational or other public purposes.

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96 Power to levy rates and charges

(1) The council—

(a) must levy general rates on all rateable land within Brisbane; and

(b) may levy—

(i) special rates and charges; and

(ii) utility charges; and

(iii) separate rates and charges.

(1A) Without limiting subsection (1), the council may categorise rateable land, and decide differential rates for rateable land, according to whether or not the land is the principal place of residence of the owner.

(2) The council must decide, by resolution at the council budget meeting for a financial year, what rates and charges are to be levied for that financial year.

97 Overdue rates and charges are a charge over rateable land

(1) This section applies if the owner of rateable land owes the council for overdue rates and charges.

(2) The overdue rates and charges are a charge on the land.

(3) The council may register the charge over the land by lodging the following documents with the registrar of titles—

(a) a request to register the charge over the land, in the appropriate form;

(b) a certificate signed by the chief executive officer that states there is a charge over the land for overdue rates and charges.

(4) After the charge is registered over the land, the charge has priority over any other encumbrances over the land, other than encumbrances in favour of—

(a) the State; or

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(b) a government entity.

(5) If the overdue rates and charges are paid, the council must lodge the following documents with the registrar of titles—

(a) a request to release the charge over the land, in the appropriate form;

(b) a certificate signed by the chief executive officer that states the overdue rates and charges have been paid.

(6) This section does not limit any other remedy that the council has to recover the overdue rates and charges (including selling the land, for example).

98 Regulations for rates and charges

A regulation may provide for any matter connected with rates and charges, including for example—

(a) concessions; and

(b) the categorisation of land for rates and charges; and

(c) the process for recovering overdue rates and charges including by the sale of the land to which the rates and charges relate.

Part 2 Fees

99 Cost-recovery fees

(1) The council may, under a local law or a resolution, fix a cost-recovery fee.

(2) A ***cost-recovery fee*** is a fee for—

(a) an application for the issue or renewal of a licence, permit, registration or other approval under a local government related law (an ***application fee***); or

(b) recording a change of ownership of land; or

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(c) giving information kept under a local government related law; or

(d) seizing property or animals under a local government related law; or

(da) doing an activity mentioned in the Planning Act, section 106ZM(1); or

(e) the performance of another responsibility imposed on the council under the Building Act or the Plumbing and Drainage Act.

(3) A local law or resolution for subsection (2)(d), (da) or (e) must state—

(a) the entity liable to pay the cost-recovery fee; and

(b) the time within which the fee must be paid.

(4) A cost-recovery fee must not be more than the cost to the council of taking the action for which the fee is charged.

(5) However, an application fee may also include a tax—

(a) in the circumstances and for a purpose prescribed under a regulation; and

(b) if the council decides, by resolution, that the purpose of the tax benefits Brisbane.

(6) The local law or resolution that fixes an application fee that includes a tax must state the amount, and the purpose, of the tax.

(7) If an application fee that includes a tax is payable in relation to land, the tax applies only in relation to land that is rateable land.

(8) The council may fix a cost-recovery fee by resolution even if the fee had previously been fixed by a local law.

100 Register of cost-recovery fees

(1) The council must keep a register of its cost-recovery fees.

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(2) The register must state the paragraph of section 99(2) under which the cost-recovery fee is fixed.

(3) Also, the register must state—

(a) for a cost-recovery fee under section 99(2)(a)—the provision of the local government related law under which the licence, permit, registration or other approval is issued or renewed; or

(b) for a cost-recovery fee under section 99(2)(c)—the provision of the local government related law under which the information is kept; or

(c) for a cost-recovery fee under section 99(2)(d)—the provision of the local government related law under which the property or animals are seized; or

(d) for a cost-recovery fee under section 99(2)(da)—the activity, mentioned in the Planning Act, section 106ZM(1), to which the fee relates; or

(e) for a cost-recovery fee under section 99(2)(e)—the provision of the Building Act or the Plumbing and Drainage Act under which the responsibility is imposed.

(4) The council must ensure the public may view the register at its public office or on its website.

101 Fees on occupiers of land below the high-water mark

(1) This section applies to the occupier (other than the State or a government entity) of a structure that is on land that—

(a) is not rateable land, and therefore not subject to rates; and

(b) is in, or is adjoining, Brisbane; and

(c) is below the high-water mark.

(2) The ***high-water mark*** is the ordinary high-water mark at spring tides.

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(3) The council may, by resolution, levy a fee on the occupier of the structure for the use of the council's roads and other infrastructure.

(4) For subsection (3), ***fee*** includes a tax.

Part 3 Financial planning and accountability

102 Statutory Bodies Financial Arrangements Act applies to council

(1) The council is a statutory body for the Statutory Bodies Financial Arrangements Act.

(2) Part 2B of that Act sets out the way in which that Act affects the council's powers.

103 Systems of financial management

(1) To ensure it is financially sustainable, the council must establish a system of financial management that—

(a) ensures regard is had to the sound contracting principles when entering into a contract for—

(i) the supply of goods or services; or

(ii) the disposal of assets; and

(b) includes the following—

(i) an annual budget;

(ii) an asset register;

(iii) a corporate plan;

(iv) a long-term financial forecast;

(v) a long-term asset management plan;

(vi) an efficient and effective internal audit function.

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(2) The council is ***financially sustainable*** if the council is able to maintain its financial capital and infrastructure capital over the long term.

(3) The ***sound contracting principles*** are—

(a) value for money; and

(b) open and effective competition; and

(c) the development of competitive local business and industry; and

(d) environmental protection; and

(e) ethical behaviour and fair dealing.

(4) A ***contract for the supply of goods or services*** includes a contract about carrying out work.

(5) To remove any doubt, it is declared that subsection (1)(a) does not require equal consideration to be given to each of the sound contracting principles.

104 Approval of budget

The council must consider the budget presented by the mayor and, by resolution, adopt the budget with or without amendment.

Part 4 Councillors' financial accountability

105 What this part is about

This part is about councillors' financial accountability.

106 Councillor's discretionary funds

(1) A councillor must ensure the councillor's discretionary funds are used in accordance with the requirements prescribed under a regulation.

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(2) ***Discretionary funds*** are funds in the council's operating fund that are—

(a) budgeted for community purposes; and

(b) allocated by a councillor at the councillor's discretion.

107 Councillors liable for improper disbursements

(1) This section applies if—

(a) the council disburses council funds in a financial year; and

(b) the disbursement—

(i) is not provided for in the council's budget for the financial year; and

(ii) is made without the approval of the council by resolution.

(2) The council must, within 14 days after the disbursement is made, publish a notice of the disbursement—

(a) on the council's website; and

(b) in other ways the council considers appropriate.

(3) If the disbursement is not made for a genuine emergency or hardship, the councillors who knowingly agree to the disbursement are jointly and severally liable to pay the council—

(a) the amount of the disbursement; and

(b) interest on the amount of the disbursement, at the rate at which interest accrues on overdue rates, calculated from the day of the disbursement to the day of repayment; and

(c) any fees, charges, penalties or other expenses incurred by the council in relation to the disbursement.

(4) Those amounts may be recovered as a debt payable to the council.

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108 Councillors liable for loans to individuals

(1) The council must not, either directly or indirectly, make or guarantee a loan to an individual.

(2) ***Guarantee a loan*** includes provide a security in connection with a loan.

(3) The councillors who knowingly agree to loan the money are jointly and severally liable to pay the council—

(a) the amount of the loan; and

(b) interest on the amount of the loan, at the rate at which interest accrues on overdue rates, calculated from the day of the borrowing to the day of repayment; and

(c) any fees, charges, penalties or other expenses incurred by the council in relation to the loan.

(4) Those amounts may be recovered as a debt payable to the council.

109 Councillors liable for improper borrowings

(1) This section applies if the council borrows money—

(a) for a purpose that is not for the good rule and government of Brisbane; or

(b) in contravention of this Act or the Statutory Bodies Financial Arrangements Act.

(2) The councillors who knowingly agree to borrow the money are jointly and severally liable to pay the council—

(a) the amount borrowed; and

(b) interest on the amount borrowed, at the rate at which interest accrues on overdue rates, calculated from the day of the borrowing to the day of repayment; and

(c) any fees, charges, penalties or other expenses incurred by the council in relation to the borrowing.

(3) Those amounts may be recovered as a debt payable to the council.

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(4) This section applies despite—

(a) the fact that a security was issued for the borrowing; or

(b) the Statutory Bodies Financial Arrangements Act.

Chapter 5 Monitoring and enforcing the local government related laws

Part 2 Monitoring and enforcement powers

Division 1 Powers of authorised persons

Subdivision 1 Introduction

114 What this division is about

(1) This division is about the powers that may be used by an authorised person.

(2) An ***authorised person*** is a person who is appointed under this Act to ensure members of the public comply with the local government related laws.

Note—

See chapter 6, part 5 for more information about the appointment of authorised persons.

(3) The powers of an authorised person include the power, in certain circumstances—

(a) to ask a person for their name and address; and

(b) to enter a property, including private property.

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(4) ***Private property*** is a property that is not a public place.

(5) A ***public place*** is a place, or that part of a place, that—

(a) is open to the public; or

(b) is used by the public; or

(c) the public is entitled to use;

whether or not on payment of money.

Example—

A person uses a room at the front of their home as a business office. While the business office is open to the public it is a public place. However, the home is private property and not part of the public place.

(6) An ***occupier*** of a property includes a person who reasonably appears to be the occupier of, or in charge of, the property.

(7) Force must not be used to enter a property under this division, other than when the property is entered under a warrant that authorises that use of force.

115 Producing authorised person's identity card

(1) An authorised person may exercise a power under this division, in relation to a person, only if the authorised person—

(a) first produces his or her identity card for the person to inspect; or

(b) has his or her identity card displayed so it is clearly visible to the person.

(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the person's inspection at the first reasonable opportunity.

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Subdivision 2 Power to require a person's name and address

116 Power to require a person's name and address

(1) This section applies if an authorised person—

(a) finds a person committing an infringement notice offence; or

(b) finds a person in circumstances that lead the authorised person to suspect, on reasonable grounds, that the person has just committed an infringement notice offence; or

(c) has information that leads the authorised person to suspect, on reasonable grounds, that a person has just committed an infringement notice offence.

(2) An ***infringement notice offence*** is an offence prescribed under the *State Penalties Enforcement Act 1999* to be an infringement notice offence.

(3) The authorised person may require the person to state the person's name and address.

(4) If the authorised person does so, the authorised person must also warn the person that it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.

(5) The authorised person may require the person to give evidence of the person's name or address if the authorised person suspects, on reasonable grounds, that the person has given a false name or address.

(6) The person must comply with an authorised person's requirement under subsection (3) or (5), unless the person has a reasonable excuse.

Maximum penalty—35 penalty units.

(7) However, the person does not commit an offence under subsection (6), if the person is not proved to have committed the infringement notice offence.

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Subdivision 3 Powers to enter property etc.

117 Entering a public place that is open without the need for permission

(1) This section applies if an authorised person wants to enter a public place to ensure the public place complies with the local government related laws.

(2) The authorised person may enter the public place, without the permission of the occupier of the place, if the place is not closed to the public (by a locked gate, for example).

118 Entering private property with, and in accordance with, the occupier's permission

(1) An authorised person may enter private property, that is not closed to entry by the public (by a locked gate, for example), in order to ask the occupier of the property for permission to stay on the property and exercise powers under a local government related law.

(2) When asking the occupier for permission, the authorised person must inform the occupier—

(a) of the purpose of entering the property; and

(b) that any thing or information that the authorised person finds on the property may be used as evidence in court; and

(c) that the occupier is not obliged to give permission.

(3) If the occupier gives permission, the authorised person may ask the occupier to sign a document that confirms that the occupier has given permission.

(4) The document must state—

(a) that the authorised person informed the occupier—

(i) of the purpose of entering the property; and

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(ii) that any thing or information that the authorised person finds on the property may be used as evidence in court; and

(iii) that the occupier was not obliged to give the permission; and

(b) that the occupier gave the authorised person permission to enter the property and exercise powers under a local government related law; and

(c) the date and time when the occupier gave the permission.

(5) If the occupier signs the document, the authorised person must immediately give a copy of the document to the occupier.

(6) If, in any proceedings—

(a) a question arises as to whether the occupier of a property gave permission to allow an authorised person to stay on the property under this Act; and

(b) a document that confirms the occupier gave permission is not produced in evidence;

the court may assume that the occupier did not give the permission, unless the contrary is proved.

(7) If the occupier gives permission, the authorised person may stay on the property and exercise the powers that the occupier has agreed to be exercised on the property.

(8) However, the right to stay on the property—

(a) is subject to any conditions that the occupier imposes (including about the times when the property may be entered, for example); and

(b) may be cancelled by the occupier at any time.

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119 Entering private property with, and in accordance with, a warrant

(1) An authorised person may enter private property with, and in accordance with, a warrant.

(2) An authorised person must apply to a magistrate for a warrant.

(3) The application for the warrant must—

(a) be in the form approved by the department's chief executive; and

(b) be sworn; and

(c) state the grounds on which the warrant is sought.

(4) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information that the magistrate requires about the application, in the way that the magistrate requires.

Example—

The magistrate may require additional information in support of the application to be given by statutory declaration.

(5) The magistrate may issue the warrant only if the magistrate is satisfied that there are reasonable grounds for suspecting—

(a) there is a particular thing or activity that may provide evidence of an offence against a local government related law (the ***evidence***); and

(b) the evidence is at the place, or may be at the place within the next 7 days.

(6) The warrant must state—

(a) the evidence for which the warrant is issued; and

(b) that the authorised person may, with necessary and reasonable help and force, enter the property and exercise an authorised person's powers under this Act; and

(c) the hours of the day or night when the property may be entered; and

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(d) the day (within 14 days after the warrant's issue) when the warrant ends.

(7) The magistrate must keep a record of the reasons for issuing the warrant.

(8) A warrant is not invalidated by a defect in the warrant, or in compliance with section 120, unless the defect affects the substance of the warrant in a material particular.

(9) As soon as an authorised person enters private property under a warrant, the authorised person must do, or make a reasonable attempt to do, the following things—

(a) inform any occupier of the property—

(i) of the reason for entering the property; and

(ii) that the warrant authorises the authorised person to enter the property without the permission of the occupier;

(b) give any occupier a reasonable opportunity to allow the authorised person to immediately enter the property without using force.

(10) However, the authorised person does not need to comply with subsection (9) if the authorised person believes that immediate entry to the property is required to ensure the warrant is effectively executed.

120 Warrants—applications made electronically

(1) An authorised person may make an electronic application for a warrant if the authorised person considers it necessary because of—

(a) urgent circumstances; or

(b) special circumstances (including the authorised person's remote location, for example).

(2) An ***electronic application*** is an application made by phone, fax, radio, email, videoconferencing or another form of electronic communication.

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(3) The authorised person must prepare an application for the warrant that states the grounds on which the warrant is sought, before applying for the warrant.

(4) However, the authorised person may apply for the warrant before the application is sworn.

(5) The magistrate may issue the warrant only if the magistrate is satisfied that—

(a) it was necessary to make the application electronically; and

(b) the way that the application was made was appropriate in the circumstances.

(6) If the magistrate issues the warrant, and it is reasonably practicable to send a copy of the warrant to the authorised person (by fax or email, for example), the magistrate must immediately do so.

(7) If it is not reasonably practicable to send a copy of the warrant to the authorised person—

(a) the magistrate must—

(i) inform the authorised person of the date and time when the magistrate signed the warrant; and

(ii) inform the authorised person of the terms of the warrant; and

(b) the authorised person must write on a warrant form—

(i) the magistrate's name; and

(ii) the date and time when the magistrate signed the warrant; and

(iii) the terms of the warrant.

(8) The copy of the warrant sent to the authorised person, or the warrant form properly completed by the authorised person, authorises the authorised person to enter the property, and to exercise the powers, mentioned in the warrant that was signed by the magistrate.

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(9) The authorised person must, at the first reasonable opportunity, send the magistrate—

(a) the sworn application; and

(b) if the authorised person completed a warrant form—the completed warrant form.

(10) When the magistrate receives those documents, the magistrate must attach them to the warrant that was signed by the magistrate, and give the warrant to the clerk of the court.

(11) Unless the contrary is proven, a court must presume that a power exercised by an authorised person was not authorised by a warrant issued under this section if—

(a) a question arises, in any proceedings before the court, whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence.

121 Entering under an application, permit or notice

(1) This section applies if an authorised person wants to enter a property—

(a) to inspect the property in order to process an application made under any local government related law; or

(b) to inspect a record that is required to be kept for a budget accommodation building under the Building Act, chapter 7; or

(c) to find out whether the conditions on which a permit or notice was issued have been complied with; or

(d) to inspect work that is the subject of, or was carried out under, a permit or notice.

(2) A ***permit*** is an approval, authorisation, consent, licence, permission, registration or other authority issued under any local government related law.

(3) A ***notice*** is a notice issued under any local government related law.

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(4) The authorised person may enter the property without the permission of the occupier of the property—

(a) at any reasonable time during the day; or

(b) at night, if—

(i) the occupier of the property asks the authorised person to enter the property at that time; or

(ii) the conditions of the permit allow the authorised person to enter the property at that time; or

(iii) the property is a public place and is not closed to the public.

(5) However, the authorised person—

(a) must, as soon as the authorised person enters the property, inform any occupier of the property—

(i) of the reason for entering the property; and

(ii) that the authorised person is authorised under this Act to enter the property without the permission of the occupier; and

(b) may enter a home that is on the property only if the occupier of the relevant part of the property accompanies the authorised person.

122 Entering property under an approved inspection program

(1) An authorised person may enter a property (other than a home on the property) without the permission of the occupier of the property, at any reasonable time of the day or night, under an approved inspection program.

(2) An ***approved inspection program*** is a program, approved by the council, under which an authorised person may enter and inspect properties in Brisbane to ensure the local government related laws are being complied with.

(3) The council must give, or must make a reasonable attempt to give, the occupier of the property a written notice that informs the occupier of the following—

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(a) the council's intention to enter the property;

(b) the reason for entering the property;

(c) an estimation of when the property will be entered.

Example—

The council may give the written notice to an occupier of a property by dropping a flyer in the letterbox for the property.

(4) The council must give, or make a reasonable attempt to give, the written notice to the occupier within a reasonable time before the property is to be entered.

(5) The authorised person—

(a) must, as soon as the authorised person enters the property, inform any occupier of the property—

(i) of the reason for entering the property; and

(ii) that the authorised person is authorised under this Act to enter the property without the permission of the occupier; and

(b) may enter a budget accommodation building on the property only to monitor compliance with the Building Act, chapter 7.

123 Approving an inspection program

(1) The council may, by resolution, approve the following types of inspection programs—

(a) a systematic inspection program;

(b) a selective inspection program.

(2) A ***systematic inspection program*** allows an authorised person to enter and inspect all properties, or all properties of a certain type, in Brisbane.

(3) A ***selective inspection program*** allows an authorised person to enter and inspect those properties in Brisbane that have been selected in accordance with objective criteria specified in the resolution.

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(4) The resolution must state—

(a) the purpose of the program; and

(b) when the program starts; and

(c) for a systematic inspection program that allows a type of property to be entered and inspected—a description of the type of property; and

(d) for a selective inspection program—the objective criteria for selecting the properties to be entered and inspected; and

(e) the period (of not more than 3 months or another period prescribed under a regulation) over which the program is to be carried out.

(5) The council must give the public notice of the approval of an inspection program, at least 14 days, but not more than 28 days, before the approved inspection program starts.

(6) The notice must be published—

(a) on the council's website; and

(b) in other ways the council considers appropriate.

(7) The notice must state the following—

(a) that the notice is made by the council;

(b) the purpose and scope of the program, in general terms;

(c) when the program starts;

(d) the period over which the program is to be carried out;

(e) that the public may view a copy of the resolution that approved the program at the council's public office until the end of the program;

(f) that a copy of the resolution that approved the program may be purchased at the council's public office until the end of the program;

(g) the price of a copy of the resolution that approved the program.

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(8) The price of a copy of the resolution that approved the program must be no more than the cost to the council of making the copy available for purchase.

(9) From the time when the notice is published under subsection (6) until the end of the program—

(a) the public may view a copy of the resolution that approved the program at the council's public office; and

(b) copies of the resolution that approved the program must be available for purchase at the council's public office at the price stated in the notice.

123A Entry by authorised person, at reasonable times, to inspect regulated pools

(1) At all reasonable times, an authorised person may enter a property (other than a home on the property) without permission of the occupier of the property to inspect a regulated pool, and barriers or fencing for the pool, for compliance with—

(a) if, under the Building Act, the owner of the pool must ensure the pool complies with the pool safety standard or a part of the standard—the pool safety standard or part; or

(b) if paragraph (a) does not apply—a provision of a law that regulates—

(i) the construction or maintenance of barriers or fencing for the pool; or

(ii) another matter relating to the safety of persons using the pool.

(2) However, the authorised person must, as soon as the authorised person enters the property—

(a) inform any occupier of the property—

(i) of the reason for entering the property; and

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(ii) that the authorised person is authorised under this Act to enter the property without the permission of the occupier; and

(b) produce his or her identity card for the occupier of the property to inspect.

(3) In this section—

pool safety standard see the Building Act, section 231D.

124 General powers after entering a property

(1) This section explains the powers that an authorised person has after entering a property, other than entering a property—

(a) to ask the occupier of the property for permission to stay on the property; or

(b) under section 121, 122 or 123A.

(2) The authorised person may—

(a) search any part of the property; or

(b) inspect, test, photograph or film anything that is in or on the property; or

(c) copy a document that is in or on the property; or

(d) take samples of or from anything that is in or on the property; or

(e) take into or onto the property any persons, equipment and materials that the authorised person reasonably requires for exercising the authorised person's powers; or

(f) require the occupier of the property, or a person in or on the property, to give the authorised person reasonable help to exercise the authorised person's powers under paragraphs (a) to (e).

(3) An authorised person may exercise a power under subsection (2) only if exercising the power is necessary for the purpose related to the entry of the property.

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(4) If a person is required to give reasonable help under subsection (2)(f), the person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—8 penalty units.

(5) If the requirement is to be complied with by the person giving information or producing a document, it is a reasonable excuse for the person to fail to comply with the requirement if complying with the requirement might incriminate the person.

125 Authorised person to give notice of damage

(1) This section applies if—

(a) something is damaged by—

(i) an authorised person, when the authorised person exercises a power under this division; or

(ii) a person who is authorised by an authorised person to take action under this division, when the person takes the action; or

(b) the authorised person considers, on reasonable grounds, that the damage is more than trivial damage.

(2) The authorised person must immediately give written notice of the particulars of the damage to the person who appears to be the owner of the thing that was damaged.

(3) However, if for any reason it is not practicable to do so, the authorised person must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the thing was damaged.

(4) The ***owner*** of a thing includes a person in possession or control of the thing.

(5) If the authorised person believes the damage was caused by a latent defect in the thing, or other circumstances beyond the authorised person's control, the authorised person may state that in the notice.

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126 Compensation for damage or loss caused after entry

(1) If a person incurs damage or loss because of the exercise, or purported exercise, of a power under this division, the council must pay the person compensation.

(2) The compensation equals—

(a) the amount agreed between the person and the council; or

(b) if the person and the council can not agree, the amount that is decided by a court.

(3) The person may claim the compensation in—

(a) any proceedings for compensation; or

(b) any proceedings brought against the person for an offence against any local government related law.

(4) A court may order compensation to be paid only if the court is satisfied it is just to do so in all the circumstances.

(5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

(6) The court may make any order about costs that the court considers just.

Division 2 Powers of other persons

127 What this division is about

(1) This division is about the powers that may be used—

(a) to enable the council to perform its responsibilities; or

(b) to ensure a person complies with this Act, and the other local government related laws, including by complying with a remedial notice.

(2) This division explains the circumstances in which a person is authorised to enter a property under this division, namely—

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(a) in a potentially dangerous situation, to take urgent action; or

(b) to take action in relation to council facilities on the property (including water or sewerage pipes, for example); or

(c) with (and in accordance with) the permission of the occupier of the property; or

(d) with (and in accordance with) a court order; or

(e) with (and in accordance with) a reasonable entry notice.

(3) The following persons may enter a property under this division—

(a) if the occupier of the property is not the owner of the property—the owner or the owner's employee;

(b) a council worker.

(4) A ***council worker*** is an employee, or agent, of the council who is authorised by the council to act under this division.

Note—

Not every employee or agent of the council would ordinarily be authorised to act under this division.

(5) However, the council may authorise an employee or agent to act under this division only if the employee or agent is appropriately qualified or trained to exercise a power or perform a responsibility under this division.

(6) Force must not be used to enter a property under this division, unless the property is entered under a court order that specifically authorises the use of that force.

127A Notices for this division

(1) A ***remedial notice*** is a written notice that requires the owner or occupier of a property to take action under a local government related law in relation to the property (including fencing a pool, for example).

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(2) A remedial notice may only be given by the council to the person who, under a local government related law, is required to take the action stated in the notice.

(3) A ***reasonable entry notice*** is a written notice about a proposed entry of a property that—

(a) informs the owner or occupier of the property of—

(i) who is to enter the property; and

(ii) the reason for entering the property; and

(iii) the days and times when the property is to be entered; and

(b) is given to the owner or occupier of the property at least 7 days before the property is proposed to be entered.

(4) A remedial notice and a reasonable entry notice may not be combined unless—

(a) the owner of the property is also the occupier of the property; or

(b) the occupier of the property is the person who, under a local government related law, is required to take the action stated in the remedial notice.

(5) A notice given under this division in contravention of this section is of no effect.

128 Identity card for use under this division

(1) The council is not required to give a council worker an identity card unless the worker is exercising a power of entry under this division.

(2) This section does not stop a single identity card being issued to a person for this Act and for another purpose.

(3) A person who stops being a council worker must return the person's identity card to the council within 21 days after stopping being a council worker, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

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129 Entry with, and in accordance with, permission of occupier

(1) Any person may enter a property with the permission of the occupier of the property.

(2) However, the right to enter the property—

(a) is subject to any conditions that the occupier imposes (including about the times when the property may be entered, for example); and

(b) may be cancelled by the occupier at any time.

130 Entry by an owner, with reasonable entry notice, under a remedial notice

(1) This section applies if—

(a) the council gives a remedial notice to the owner of a property; and

(b) the owner is not the occupier of the property.

(2) After the owner gives a reasonable entry notice to the occupier of the property, the owner or the owner's agent may—

(a) enter the property at the times stated in the reasonable entry notice; and

(b) take the action that is required under the remedial notice.

(3) If the occupier asks to inspect the remedial notice, the owner must allow the occupier to inspect the remedial notice.

(4) This section does not affect any rights that the owner has apart from this section.

131 Occupier may discharge owner's obligations

(1) This section applies if—

(a) the owner of a property fails—

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(i) to take the action in relation to the property that is required under a remedial notice; or

(ii) to pay money that is payable in relation to the property under a local government related law (including rates, for example); and

(b) the occupier of the property is not the owner of the property.

(2) The occupier of the property may—

(a) take the action that is required, and recover the amount that the occupier properly and reasonably incurs in taking the action as a debt payable by the owner; or

(b) pay the money that is payable, and recover the money as a debt payable by the owner.

(3) For example, if the occupier is the owner's tenant, the occupier may deduct the money from any rent that the occupier owes the owner, without being in breach of the tenancy agreement.

132 Entry by a council worker, with reasonable entry notice, under a remedial notice

(1) This section applies if—

(a) the council gives a remedial notice to the owner or the occupier of a property (the ***responsible person***); and

(b) the responsible person fails to take the action required under the remedial notice.

(2) After giving a reasonable entry notice to the occupier of the property, a council worker may—

(a) enter the property (other than a home on the property) without the permission of the occupier; and

(b) take the action that is required under the remedial notice.

(3) However, the council worker must, as soon as the council worker enters the property—

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(a) inform any occupier of the property—

(i) of the reason for entering the property; and

(ii) that the council worker is authorised under this Act to enter the property without the permission of the occupier; and

(b) produce his or her identity card for the occupier of the property to inspect.

(4) The council may recover the amount that the council properly and reasonably incurs in taking the action as a debt payable by the person who failed to take the action.

(5) Interest is payable on the debt at the same rate that interest is payable on overdue rates levied by the council.

(6) The council must give the person who failed to take the action written notice of the amount of the debt.

(7) Subsection (8) applies if the person who failed to take the action is the owner of the property.

(8) If the debt is not paid within 30 days after the date of the written notice, the council may recover the debt as if the debt were overdue rates.

133 Entry by a council worker, with reasonable entry notice, to take materials

(1) This section applies if, in the circumstances, the council has no other reasonably practicable way of obtaining materials other than by removing the materials from relevant land.

(2) ***Relevant land*** means land, other than protected land, that is—

(a) within Brisbane; or

(b) if the council has the written approval of the Minister, under section 11(4)(b)(i), to exercise its powers outside of Brisbane—outside of Brisbane; or

(c) if the council may exercise a power in another local government's area for the purpose of a joint government activity—within the other local government's area.

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(3) ***Protected land*** is land that is—

(a) the site of, or curtilage around, a home or other structure; or

(b) a court, lawn, park, planted walk or avenue or yard; or

(c) under cultivation (including a garden, nursery or plantation, for example); or

(d) a State forest or timber reserve under the Forestry Act; or

(e) a protected area under the *Nature Conservation Act 1992*.

(4) After giving a reasonable entry notice to the owner and the occupier of the rateable land, a council worker may—

(a) enter the land without the permission of the occupier of the land; and

(b) search for materials that the council requires to perform its responsibilities; and

(c) remove the materials from the land.

Example—

The council may remove dirt from the land for use in mopping up an oil spill on a neighbouring road to prevent the oil entering a stormwater drain.

(5) However, the council worker must, as soon as the council worker enters the property—

(a) inform any occupier of the property—

(i) of the reason for entering the property; and

(ii) that the council worker is authorised under this Act to enter the property without the permission of the occupier; and

(b) produce his or her identity card for the occupier of the property to inspect.

(6) The council worker must not search for, or remove materials from, within 50m of any structure or works on the land (including a home, bridge, dam or wharf, for example).

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134 Entry by a council worker, at reasonable times, to repair etc. facilities

(1) At all reasonable times, a council worker may enter a property (other than a home on the property) without the permission of the occupier of the property—

(a) to investigate the future installation of council facilities on, over or under the property; or

(b) to install council facilities on, over or under the property; or

(c) to inspect, maintain, operate, repair, replace or remove council facilities, that are on, over or under the property, for their routine operations.

(2) ***Council facilities*** are facilities that are installed by the council (including sewerage pipes, for example).

(3) However, the council worker must, as soon as the council worker enters the property—

(a) inform any occupier of the property—

(i) of the reason for entering the property; and

(ii) that the council worker is authorised under this Act to enter the property without the permission of the occupier; and

(b) produce his or her identity card for the occupier of the property to inspect.

135 Entry by a council worker, at any time, for urgent action

(1) A council worker may enter a property (other than a home on the property), at any time without the permission of the occupier of the property, in a potentially dangerous situation to take urgent action for local government purposes.

Example—

A council worker may enter a property to cut down a tree that was blown over in a storm and is in danger of falling and injuring someone or damaging property.

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(2) However, the council worker must, as soon as reasonably practicable after the council worker enters the property—

(a) inform any occupier of the property—

(i) of the reason for entering the property; and

(ii) that the council worker is authorised under this Act to enter the property without the permission of the occupier; and

(b) produce his or her identity card for the occupier of the property to inspect.

136 Entry with, and in accordance with, a court order

(1) A person may enter a property with, and in accordance with, a court order made under this section.

(2) The person must apply to a magistrate for the court order.

(3) The application must—

(a) be in the form approved by the department's chief executive; and

(b) be sworn; and

(c) state the grounds on which the court order is sought.

(4) The person must, as soon as practicable, give a copy of the application to—

(a) if the person is not the owner of the property—the owner of the property; and

(b) the occupier of the property.

(5) The magistrate may refuse to consider the application until the person gives the magistrate all the information that the magistrate requires about the application in the way that the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

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(6) If the magistrate is satisfied that entry to the property is necessary to allow the person to take action under any of the local government related laws, the magistrate may make the court order.

(7) The court order must—

(a) direct the occupier of the property to allow the person to enter the property and take all action that is necessary under any local government related law; and

(b) state the hours of the day or night when the property may be entered; and

(c) state the day (within 14 days after the court order is made) when the court order ends.

(8) If the person who applied for the court order is a council worker, the court order may authorise the council worker to use necessary and reasonable help and force to enter the property.

(9) The magistrate must record the reasons for making the court order.

(10) As soon as the person enters the property under the court order, the person must do, or make a reasonable attempt to do, the following things—

(a) inform any occupier of the property—

(i) of the reason for entering the property; and

(ii) that the person is authorised under the court order to enter the property without the permission of the occupier;

(b) if the court order authorises the person to use force to enter the property—give the occupier a reasonable opportunity to allow the person to immediately enter the property without using force.

137 Compensation for damage or loss caused

(1) A council worker who enters a property—

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(a) must not cause, or contribute to, damage to any structure or works on the property; and

(b) must take all reasonable steps to ensure the worker causes as little inconvenience, and does as little other damage, as is practicable in the circumstances.

(2) If a person incurs damage or loss because of the exercise, or purported exercise, of a power under this division (including the loss of the value of materials removed from a property, or the reduction in the value of the property, for example), the council must pay the person compensation.

(3) The compensation equals—

(a) the amount agreed between the person and the council; or

(b) if the person and the council can not agree, the amount that is decided by a court.

(4) The court may make any order about costs that the court considers just.

138 Limitation of time in absence of notice of work done

(1) This section applies if work is done on a property without an approval that is required under a local government related law.

(2) For the purposes of any limitation of time for taking any proceedings or doing anything else about the work, the work is taken to have been done when a council worker first finds out about the work.

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Part 3 Investigation of council records

Division 1 Introduction

139 What this part is about

This part is about investigations conducted by the department or the council into the accuracy of the council's registers or records that are required to be kept under this Act or the Local Government Act, chapter 5A.

Division 2 Investigations by department

140 Producing authorised officer's identity card

(1) This section applies if the department's chief executive directs an authorised officer to exercise a power under this division.

(2) The authorised officer may exercise the power, in relation to a person, only if the officer—

(a) first produces his or her identity card for the person to inspect; or

(b) has his or her identity card displayed so it is clearly visible to the person.

141 Making of inquiries for department

(1) This section applies if the department's chief executive suspects or believes, on reasonable grounds, that information included in a register or record of the council is incorrect because of an error or omission.

(2) An authorised officer, if directed by the department's chief executive, may make all inquiries the chief executive considers to be reasonable to find out whether and to what extent the register or record is incorrect.

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142 Power to require information or document for department investigation

(1) This section applies if the department's chief executive suspects or believes, on reasonable grounds, that—

(a) either or both of the following apply—

(i) information included in a register or record of the council is incorrect because of an error or omission;

(ii) an offence against this Act, or the Local Government Act, chapter 5A, has been committed relating to a register or record; and

(b) a person—

(i) is able to give information about the error, omission or offence; or

(ii) holds a document relating to the error, omission or offence.

(2) The department's chief executive or, if directed by the department's chief executive, an authorised officer may require the person to give the information or produce the document.

(3) When making the requirement, the department's chief executive or authorised officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

(4) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(5) If the person is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the information or producing the document might tend to incriminate the person.

(6) It is a defence in a prosecution under subsection (4) that the information or document sought by the department's chief

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executive or authorised officer is not relevant to the error, omission or offence.

(7) If the person produces the document to the department's chief executive or authorised officer, the chief executive or officer—

(a) may keep the document to take an extract from it or make a copy of it; and

(b) must return the document to the person as soon as practicable after taking the extract or making the copy.

Division 3 Investigations by council

143 Producing authorised person's identity card

(1) This section applies if the chief executive officer directs an authorised person to exercise a power under this division.

(2) The authorised person may exercise the power, in relation to another person, only if the authorised person—

(a) first produces his or her identity card for the other person to inspect; or

(b) has his or her identity card displayed so it is clearly visible to the other person.

144 Making of inquiries for council

(1) This section applies if the chief executive officer suspects or believes, on reasonable grounds, that information included in a register or record of the council is incorrect because of an error or omission.

(2) The chief executive officer or, if directed by the chief executive officer, an authorised person may make all inquiries the chief executive officer considers to be reasonable to find out whether and to what extent the register or record is incorrect.

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145 Power to require information or document for council investigation

(1) This section applies if the chief executive officer suspects or believes, on reasonable grounds, that—

(a) either or both of the following apply—

(i) information included in a register or record of the council is incorrect because of an error or omission;

(ii) an offence against this Act, or the Local Government Act, chapter 5A, has been committed relating to a register or record; and

(b) a person—

(i) is able to give information about the error, omission or offence; or

(ii) holds a document relating to the error, omission or offence.

(2) The chief executive officer or, if directed by the chief executive officer, an authorised person may require the person to give the information or produce the document.

(3) When making the requirement, the chief executive officer or authorised person must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

(4) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(5) If the person is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the information or producing the document might tend to incriminate the person.

(6) It is a defence in a prosecution under subsection (4) that the information or document sought by the chief executive officer or authorised person is not relevant to the error, omission or offence.

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(7) If the person produces the document to the chief executive officer or authorised person, the chief executive or authorised person—

(a) may keep the document to take an extract from it or make a copy of it; and

(b) must return the document to the person as soon as practicable after taking the extract or making the copy.

146 Referral to department

(1) This section applies if, because of inquiries made under this division, the chief executive officer concludes on reasonable grounds that an offence has been committed under this Act, or the Local Government Act, chapter 5A, relating to a register or record.

(2) The chief executive officer must report the chief executive officer's conclusion, including the reasons for the conclusion, to the department's chief executive.

(3) Subsection (2) does not limit any duty the chief executive officer may have under the Crime and Corruption Act to notify the CCC of any complaint, information or matter that the chief executive officer suspects involves, or may involve, corrupt conduct under that Act.

147 Chief executive officer not subject to direction

The chief executive officer is not subject to direction by the mayor in acting under this division.

Part 4 Offences

148 Obstructing enforcement of this Act or local laws etc.

(1) A person must not obstruct an official in the exercise of a power under this Act or a local law, unless the person has a reasonable excuse.

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Maximum penalty—50 penalty units.

(2) An ***official*** is any of the following persons—

(a) the Minister;

(b) the department's chief executive;

(c) an authorised officer;

(d) an investigator;

(e) the mayor;

(f) the chief executive officer;

(g) an authorised person.

(3) A person must not obstruct a council worker in the exercise of a power under part 2, division 2, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

Notes—

1 Council workers are only those employees and agents of the council who are authorised to act under part 2, division 2.

2 In particular circumstances a council worker may enter a property and carry out work or obtain materials in compliance with part 2, division 2.

(4) If a person has obstructed an official or council worker and the official or worker decides to proceed with the exercise of the power, the official or worker must warn the person that—

(a) it is an offence to obstruct the official or worker, unless the person has a reasonable excuse; and

(b) the official or worker considers the person's conduct an obstruction.

(5) A person must not pull down, damage, deface or destroy a board or anything else that is displaying a local law, order, notice or other matter authorised by the council.

Maximum penalty for subsection (5)—35 penalty units.

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149 Impersonating an authorised person

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

150 Duty to make documents available

A person who has charge of a document owned or held by the council must not obstruct the viewing or copying of the document by another person who is authorised to view or copy the document under this Act or the Local Government Act.

Example—

preventing a councillor from copying a council record under section 172

Maximum penalty—10 penalty units.

Chapter 6 Administration

Part 1 Introduction

151 What this chapter is about

(1) This chapter contains provisions about—

(a) persons who are elected or appointed to perform responsibilities under this Act; and

(b) bodies that perform responsibilities under this Act.

(2) For example, this chapter contains provisions about—

(a) qualifications for election or appointment; and

(b) acting appointments; and

(c) conditions of appointment; and

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(d) ending appointments.

Part 2 Councillors

Division 1 Qualifications of councillors

152 Qualifications of councillors

A person is qualified to be a councillor of the council only if the person—

(a) is an adult Australian citizen; and

(b) resides in Brisbane; and

(c) is, under the Electoral Act, enrolled on an electoral roll for an electoral district in Brisbane; and

(d) is not disqualified from being a councillor because of a section in this division.

Note—

See the *Local Government Electoral Act 2011*, section 26 about who may be nominated as a candidate, or for appointment, as a councillor.

153 Disqualification for certain offences or if dismissed

(1) A person can not be a councillor—

(a) after the person is convicted of a treason offence, unless the person is pardoned for the treason offence; or

(b) for 10 years after the person is convicted of an electoral offence; or

(c) for 7 years after the person is convicted of a serious integrity offence; or

(d) for 4 years after the person is convicted of an integrity offence; or

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(e) for the remainder of the term before the next quadrennial elections, if the person has been dismissed.

(2) A ***treason offence*** is an offence of treason, sedition or sabotage under the law of Queensland, another State or the Commonwealth.

(3) An ***electoral offence*** is—

(a) a disqualifying electoral offence under the Electoral Act; or

(b) an offence that would be a disqualifying electoral offence had the conviction been recorded after the commencement of the *Electoral and Other Acts Amendment Act 2002*.

(4) A ***serious integrity offence*** is an offence against—

(a) a provision of a law mentioned in schedule 1, part 1 if, for a circumstance stated for the offence (if any), the stated circumstance applies to the offence; or

(b) a provision of a law of another State or the Commonwealth that corresponds to a provision mentioned in paragraph (a).

(5) An ***integrity offence*** is an offence against a provision of a law mentioned in schedule 1, part 2 if, for a circumstance stated for the offence (if any), the stated circumstance applies to the offence.

(6) A person automatically stops being a councillor when the person is convicted of any of the following offences (each a ***disqualifying offence***)—

(a) a treason offence; or

(b) an electoral offence; or

(c) a serious integrity offence; or

(d) an integrity offence.

(7) A person is taken to have been convicted of an offence—

(a) if the person appeals the conviction—when the appeal is dismissed, struck out or discontinued; or

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(b) if the person does not appeal the conviction—at the end of the time within which an appeal must by law be started.

(8) In this section—

dismissed means dismissed as a councillor—

(a) under the Local Government Act, section 122; or

(b) because of the dissolution of the council under the Local Government Act, section 123.

154 Disqualification of prisoners

(1) A person can not be a councillor while the person is a prisoner.

(2) A ***prisoner*** is a person who—

(a) is serving a period of imprisonment; or

(b) is liable to serve a period of imprisonment, even though the person has been released from imprisonment (on parole or leave of absence, for example); or

(c) would be serving a term of imprisonment had the term of imprisonment not been suspended under the *Penalties and Sentences Act 1992*, section 144.

(3) A person automatically stops being a councillor when the person becomes a prisoner.

155 Disqualification of government members and electoral candidates

(1) A person can not be a councillor while the person is a government member or electoral candidate.

(2) A ***government member*** is—

(a) a member of a Parliament of the Commonwealth or a State (including Queensland); or

(b) a councillor of a local government of another State.

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(3) A person is an ***electoral candidate*** if, under the Electoral Act, section 93(3), the person becomes a candidate for an election of a member of the Legislative Assembly.

(4) A person automatically stops being a councillor when the person becomes a government member or electoral candidate.

156 Disqualification during bankruptcy

(1) A person can not be a councillor while the person is a bankrupt.

(2) A person is a ***bankrupt*** if, under a bankruptcy law—

(a) the person is an undischarged bankrupt; or

(b) the person has executed a deed of arrangement, and the terms of the deed have not been fully complied with; or

(c) the person's creditors have accepted a composition, and a final payment has not been made under the composition.

(3) A ***bankruptcy law*** is—

(a) the *Bankruptcy Act 1966* (Cwlth); or

(b) a corresponding law of another jurisdiction, including a jurisdiction outside Australia.

(4) A person automatically stops being a councillor when the person becomes a bankrupt.

157 Judicial review of qualifications

(1) Any person who is entitled to vote in a council election may apply for a judicial review of the eligibility, or continued eligibility, of a person to be a councillor on the basis that the person is disqualified under this division.

(2) This section does not limit the Judicial Review Act.

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158 Acting as councillor without authority

A person must not act as a councillor if the person knows that—

(a) the person is not qualified to be a councillor; or

(b) the person's office as a councillor has been vacated; or

(c) the person is suspended as a councillor.

Maximum penalty—85 penalty units.

158A Councillor must give notice of disqualification

(1) This section applies if a councillor becomes aware the councillor is not qualified to be a councillor under this division.

(2) The councillor must immediately give a written notice that complies with subsection (3) to each of the following, unless the councillor has a reasonable excuse—

(a) the Minister;

(b) if the councillor is not the mayor—the mayor;

(c) the chief executive officer.

Maximum penalty—100 penalty units.

(3) For subsection (2), the notice must state—

(a) details about why the councillor is not qualified to be a councillor under this division; and

(b) the day the councillor became disqualified.

Division 2 Councillor's term of office and entitlement to remuneration

159 When a councillor's term starts

A councillor's term starts on—

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(a) if the councillor is elected—the day after the conclusion of the councillor's election; or

(b) if the councillor is appointed—the day on which the councillor is appointed.

160 When a councillor's term ends

A councillor's term ends—

(a) if the councillor is elected at quadrennial elections for the council or at a fresh election—at the conclusion of the next quadrennial elections; or

(b) if the councillor is elected at a fresh election and a declaration is also made under a regulation under section 160AA—at the conclusion of the quadrennial elections after the next quadrennial elections; or

(c) if the councillor is elected or appointed to fill a vacancy in the office of another councillor—at the end of the other councillor's term; or

(d) when the councillor's office becomes otherwise vacant.

Note—

See section 162 for an explanation of when this happens.

160AA Extension of term of councillors elected at fresh elections

A regulation may declare that the councillors elected at a fresh election are elected for a term ending at the conclusion of the quadrennial elections after the next quadrennial elections.

160A Remuneration to be paid for term

A councillor is entitled to remuneration for the period—

(a) starting on the day the councillor's term starts under section 159; and

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(b) ending on the day the councillor's term ends under section 160.

Division 3 Vacancies in councillor's office

161 What this division is about

(1) This division is about when a councillor's office becomes vacant, and the way in which the vacancy is to be filled.

(2) The way in which a vacancy is to be filled depends on—

(a) whether the vacancy is in the office of the mayor or of another councillor; and

(b) if the vacancy is in the office of another councillor—whether the office becomes vacant during the beginning, middle or end of the council's term.

(3) The ***beginning*** of the council's term is the period of 12 months that—

(a) starts on the day when the last quadrennial elections were held; and

(b) ends on the day before the first anniversary of the last quadrennial elections.

(4) The ***middle*** of the council's term is the period of 24 months that—

(a) starts on the first anniversary of the last quadrennial elections; and

(b) ends on the day before the final part of the council's term starts.

(5) The ***final part*** of the council's term is the period that—

(a) starts 36 months after the last quadrennial elections were held; and

(b) ends on the day before the next quadrennial elections are held.

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162 When a councillor's office becomes vacant

A councillor's office becomes vacant if the councillor—

(a) ceases to be qualified to be a councillor under division 1; or

(b) is found, on a judicial review, to be ineligible to continue to be a councillor; or

(c) does not comply with section 169; or

(d) is absent from 2 or more consecutive ordinary meetings of the council over a period of at least 2 months, unless the councillor is absent—

(i) in compliance with an order made by the conduct tribunal, the council or the chairperson of the council or a committee of the council; or

(ii) with the council's leave; or

(iii) while the councillor is suspended under section 186B or the Local Government Act, section 122 or 123; or

(e) is absent, without the council's leave, for 2 or more consecutive ordinary meetings of the council over at least 2 months, unless the councillor is absent while the councillor is suspended under section 186B; or

(f) resigns as a councillor by signed notice of resignation given to the chief executive officer; or

(g) is elected or appointed as mayor of the council; or

(h) dies; or

(i) becomes a council employee.

163 When a vacancy in an office must be filled

(1) This section explains when a vacant office of a councillor (including the mayor) must be filled.

(2) If a councillor's office (other than the mayor's office) becomes vacant 12 months or more before quadrennial

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elections are required to be held, the council must fill the vacant office.

(3) If the mayor's office becomes vacant before quadrennial elections are required to be held, the council must fill the vacant office.

(4) The council must fill the vacant office within 2 months after the office becomes vacant.

(5) If the council does not do so, the Governor in Council may appoint a qualified person to fill the vacant office.

(6) If a councillor's office (other than the mayor's office) becomes vacant within 3 months of when quadrennial elections are required to be held, the council may decide not to fill the vacant office.

164 Filling a vacancy in the office of mayor

(1) This section applies if the council is to fill a vacant office of a mayor.

(2) The vacant office must be filled by—

(a) if the mayor's office becomes vacant 12 months or less before quadrennial elections are required to be held—the council appointing, by resolution, another councillor to the office; or

(b) otherwise—a by-election.

165 Acting mayor

(1) The deputy mayor acts for the mayor during—

(a) the absence or temporary incapacity of the mayor; or

(b) a vacancy in the office of mayor.

(2) If—

(a) the office of mayor is vacant and the deputy mayor is prevented, by absence or temporary incapacity, from acting as the mayor; or

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(b) the mayor and deputy mayor are both prevented, by absence or temporary incapacity, from performing the role of mayor; or

(c) the offices of both the mayor and deputy mayor are vacant;

the council may, by resolution, appoint an acting mayor from its councillors.

(3) The council may, by resolution, declare that the office of deputy mayor is vacant.

(4) The resolution may be passed only if written notice of the resolution has been given to the councillors at least 14 days before the meeting.

(5) If the council declares that the office of deputy mayor is vacant, it must immediately appoint another deputy mayor from its councillors.

166 Filling a vacancy in the office of another councillor

(1) This section applies if the council is to fill a vacant office of a councillor (the ***former councillor***) who is not the mayor.

(2) If the office becomes vacant during the beginning or middle of the council's term, the vacant office must be filled by a by-election.

(3) If the office becomes vacant during the final part of the council's term, the vacant office must be filled by the council appointing, by resolution, a person who is—

(a) qualified to be a councillor; and

(b) if the former councillor was elected or appointed to office as a political party's nominee—the political party's nominee.

(4) If the person who is to be appointed is to be the political party's nominee, the chief executive officer must request the political party to advise the full name and address of its nominee.

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(5) The request must be made by a written notice given to the political party's registered officer, within 14 days after the office becomes vacant.

(6) If the person who is to be appointed need not be a political party's nominee, the chief executive officer must, within 14 days after the office becomes vacant, invite nominations from—

(a) any person who is qualified to be a councillor, by written notice published—

(i) on the council's website; and

(ii) in other ways the chief executive officer considers appropriate; and

(b) each person who was a candidate for the office of the former councillor at the last quadrennial elections for the council, by written notice.

(7) If the chief executive officer receives any nominations from qualified persons or candidates, the council must fill the vacant office by appointing one of those persons or candidates.

Division 4 Councillors with other jobs

167 Councillors and council jobs

If a person becomes a councillor while the person is a council employee, the person is taken to have resigned as a council employee on the day before the person becomes a councillor.

Division 5 Obligations of councillors

169 Obligations of councillors before acting in office

(1) A councillor must not act in office until the councillor makes the declaration of office.

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(2) The ***declaration of office*** is a declaration prescribed under a regulation.

(3) The chief executive officer is authorised to take the declaration of office.

(4) The chief executive officer must keep a record of the taking of the declaration of office.

(5) A person ceases to be a councillor if the person does not comply with subsection (1) within—

(a) 30 days after being appointed or elected; or

(b) a longer period allowed by the Minister.

169A Councillor training

(1) A councillor must complete each approved training course unless the councillor has, at any time, previously completed the approved training course.

(2) The training must be completed by the councillor—

(a) within the period prescribed by regulation; or

(b) if the department's chief executive extends the period for the councillor—within the extended period.

(3) The department's chief executive may extend the period under subsection (2)(b) only if the department's chief executive is satisfied it would be appropriate in the circumstances.

Example of when an extension may be appropriate in the circumstances—

the councillor is unable to complete the training due to unavoidable absence

(4) The department's chief executive must publish a notice about the approved training course on the department's website within the period prescribed by regulation.

(5) Also, the department's chief executive must give a written notice about the approved training course—

(a) to the council and each councillor within the period prescribed by regulation; and

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(b) if a councillor is appointed or elected to fill a vacancy in the office of another councillor—to the council and the councillor within 20 business days after the councillor is appointed or elected.

(6) A notice under subsections (4) and (5) must state the following—

(a) a description of the approved training course;

(b) the requirements for successful completion of the course;

(c) for a notice given under subsection (5)—when the course must be completed by the councillor.

(7) A regulation may prescribe requirements for the training required under this section, including—

(a) the format of the training; and

(b) how the training may be successfully completed.

(8) In this section—

approved training course means a course of training approved by the department's chief executive that—

(a) is about a councillor's responsibilities under section 14; and

(b) meets the requirements under subsection (7).

170 Giving directions to council staff

(1) The mayor may give a direction to the chief executive officer or senior executive employees.

(2) However, a direction under subsection (1)—

(a) must not be given if it is inconsistent with a resolution, or a document adopted by resolution, of the council; and

(b) must not be given to the chief executive officer if it relates to—

(i) the appointment of a council employee under section 193(3); or

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(ii) disciplinary action by the chief executive officer in relation to a council employee under section 194 or a councillor advisor; and

(c) must not be given to the chief executive officer or a senior executive employee if it would result in the chief executive officer or senior executive employee contravening a provision of an Act.

(3) No councillor, including the mayor, may give a direction to any other council employee except in accordance with guidelines made under section 171A about the provision of administrative support to councillors.

(4) The mayor or another councillor must not give a direction in contravention of subsection (2) or (3).

Note—

Contravention of this subsection is misconduct under the Local Government Act that could result in disciplinary action being taken against the councillor under that Act. See the Local Government Act, sections 150L(1)(c)(iv), 150AQ and 150AR.

171 Requests for assistance or information

(1) A councillor may ask a council employee to provide advice to assist the councillor to carry out his or her responsibilities under this Act.

(2) A councillor may, subject to any limits prescribed under a regulation, ask the chief executive officer to provide information, that the council has access to, relating to the council.

Example of a limit prescribed under a regulation—

A regulation may prescribe the maximum cost to the council of providing information to a councillor.

(3) If the advice or information requested under subsection (1) or (2) relates to a document, the requirement under subsection (9) to comply with the request includes a requirement to provide a copy of the document.

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(4) Subsections (2) and (3) do not apply to information or a document—

(a) that is a record of the conduct tribunal; or

(b) that was a record of the former conduct review panel; or

(c) that comprises proceedings in the Assembly under the *Parliament of Queensland Act 2001*, section 9; or

(d) if disclosure of the information or document to the councillor would be contrary to an order of a court or tribunal; or

(e) that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

(5) Also, subsections (2) and (3) apply to a councillor in relation to committee information—

(a) only if the councillor is a member of the Establishment and Coordination Committee; or

(b) if the councillor is not a member—

(i) only if the information is general committee information; and

(ii) only to the extent the general committee information relates to a matter that has been finally resolved.

(6) A request of a councillor under subsection (1) or (2) is of no effect if the request—

(a) relates to any ward other than the ward the councillor represents; or

(b) does not comply with the acceptable requests guidelines.

(7) Subsection (6) does not apply to—

(a) the mayor; or

(b) the chairperson of the council if the request relates to the role of the chairperson; or

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(c) the chairperson of a committee of the council if the request relates to the role of the chairperson.

(8) In this section a ***council employee*** includes a person prescribed under a regulation.

(9) The chief executive officer must comply with a request made to the chief executive officer under subsection (1) or (2)—

(a) within 10 business days after receiving the request; or

(b) if the chief executive officer reasonably believes it is not practicable to comply with the request within 10 business days—within 20 business days after receiving the request.

Maximum penalty—20 penalty units.

(10) If the chief executive officer forms the belief mentioned in subsection (9)(b), the chief executive officer must give the councillor written notice about the belief and the reasons for the belief within 10 business days after receiving the request.

(11) In this section—

committee information means information in a document made about, by or for the purposes of the Establishment and Coordination Committee, including the following documents—

(a) committee submissions;

(b) committee briefing notes;

(c) committee agendas;

(d) notes of discussions in committee meetings;

(e) committee minutes;

(f) committee decisions;

(g) a document prepared for presentation to the committee;

(h) a draft of, or another document prepared for the purpose of, a document mentioned in any of paragraphs (a) to (g).

finally resolved, in relation to a matter, means—

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(a) the Establishment and Coordination Committee or council has made a final decision about the matter; or

(b) the Establishment and Coordination Committee has decided, or is taken to have decided, the matter in a way prescribed by regulation.

former conduct review panel means the BCC councillor conduct review panel under this Act as in force before the commencement of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*, section 34.

general committee information means the following committee information—

(a) the version of a committee submission considered by the Establishment and Coordination Committee in making a final decision about the matter the subject of the submission;

(b) committee agendas;

(c) committee minutes;

(d) committee decisions.

171A Guidelines about provision of administrative support to councillors

(1) The chief executive officer may make guidelines about the provision of administrative support by council employees to a councillor.

(2) The guidelines must include—

(a) when a councillor may be provided with administrative support by a council employee; and

(b) how and when a councillor may give a direction to a council employee in relation to the provision of administrative support; and

(c) a requirement that a councillor may give a direction to a council employee only if the direction relates directly to

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administrative support to be provided by the council employee to the councillor under the guidelines.

(3) A direction purportedly given by a councillor to a council employee is of no effect if the direction does not comply with the guidelines.

172 Inspection of particular records by councillors

(1) A councillor may view and make a copy of, or take an extract from, council records.

Note—

The *Right to Information Act 2009* also provides for access to information.

(2) ***Council records*** include documents created by or kept by the council about its operations, whether or not the records must be available to be viewed by the public.

(3) Subsection (1) does not apply to any of the following—

(a) a record of the conduct tribunal;

(b) a record of the former conduct review panel;

(c) a record that would be privileged from production in a legal proceeding on the ground of legal professional privilege;

(ca) a record that relates to any ward other than the ward the councillor represents, unless—

(i) the councillor is the mayor; or

(ii) the councillor is the chairperson of the council and the record is relevant to the councillor performing the role of the chairperson; or

(iii) the councillor is a committee chairperson and the record is relevant to the councillor performing the role of the committee chairperson;

(d) another record if disclosure of the record would be contrary to an order of a court or tribunal.

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(4) Also, subsection (1) applies in relation to a record of the Establishment and Coordination Committee containing committee information within the meaning of section 171—

(a) only if the councillor is a member of the committee; or

(b) if the councillor is not a member—only to the extent—

(i) the record is or contains general committee information within the meaning of section 171(11); and

(ii) the general committee information relates to a matter that has been finally resolved.

(5) In this section—

finally resolved, in relation to a matter, see section 171(11).

former conduct review panel means the BCC councillor conduct review panel under this Act as in force before the commencement of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*, section 34.

173 Use of information by councillors

(1) A person who is, or has been, a councillor must not use information that was acquired as a councillor to—

(a) gain, directly or indirectly, a financial advantage for the person or someone else; or

(b) cause detriment to the council.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to information that is lawfully available to the public.

(3) A councillor must not release information that the councillor knows, or ought reasonably to know, is information that is confidential to the council.

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Note—

Contravention of subsection (3) is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor under that Act. See the Local Government Act, sections 150L(1)(c)(iv), 150AQ and 150AR.

174 Failure to give particular returns under Local Government Electoral Act 2011

(1) If a person who is elected as a councillor fails to give a summary return within the required period or a longer period allowed by the Minister, the person ceases to be a councillor on the day immediately after the required period or the longer period ends.

Note—

In particular circumstances, the required period may be taken to be extended—see section 175.

(2) However, subsections (3) to (5) apply if—

(a) under the *Local Government Electoral Act 2011*, an agent was required to give the summary return for—

(i) the person; or

(ii) a group of candidates of which the person was a member; or

(iii) a political party that endorsed the candidature of the person; and

(b) the agent fails to give the summary return within the required period.

(3) As soon as practicable after the date of the notice given to the person under the *Local Government Electoral Act 2011*, section 130C that the agent has failed to give the summary return, the person must give the Minister a notice stating that—

(a) the agent failed to give the summary return within the required period; and

(b) the person intends to give the return under subsection (4).

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(4) The person must give the summary return within—

(a) 30 days after the date of the notice of the agent's failure; or

(b) a longer period allowed by the Minister.

Note—

In particular circumstances, the period mentioned in paragraph (a) may be taken to be extended—see section 175.

(5) The person ceases to be a councillor if the person does not comply with subsection (4).

(6) In this section—

required period, for a summary return, means the period within which the summary return must be given under the *Local Government Electoral Act 2011*.

summary return means a return required to be given under the following provisions of the *Local Government Electoral Act 2011*—

(a) section 117(4);

(b) section 118(4);

(c) section 120(6);

(d) section 125(2).

175 Extension of time for giving summary return

(1) For section 174(1) or (4), a person who is elected as a councillor may make a written request to the Minister to allow a longer period for giving a summary return.

(2) The request must be made before the following period (the ***relevant period***) ends—

(a) for section 174(1), the required period;

(b) for section 174(4), the period mentioned in section 174(4)(a).

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(3) If, when the relevant period ends, the Minister has not decided the request, the relevant period is taken to be extended until the date of the notice of the Minister's decision on the request.

(4) In this section—

required period see section 174(6).

summary return see section 174(6).

177 Post-election meetings

(1) The council must hold a meeting within 14 days after—

(a) the conclusion of each quadrennial election; and

(b) the conclusion of a fresh election of its councillors.

(2) The council must, by resolution, appoint a deputy mayor from its councillors (other than the mayor)—

(a) at that meeting; and

(b) at the first meeting after the office of the councillor who is the deputy mayor becomes vacant.

Division 5A Dealing with personal interests of councillors

177A Matters in relation to which division does not apply

(1) This division does not apply in relation to a councillor's personal interest in a matter if the matter—

(a) is solely, or relates solely to, the making or levying of rates and charges, or the fixing of a cost-recovery fee, by the council; or

(b) is solely, or relates solely to—

(i) making a planning scheme that applies to the whole of Brisbane; or

(ii) amending a planning scheme, if the amendment applies to the whole of Brisbane; or

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(c) is solely, or relates solely to, the preparation, adoption or amendment of a budget for the council; or

(d) is solely, or relates solely to, preparing, adopting or amending a document prescribed by regulation that the council is required to prepare or adopt under a local government related law; or

(e) is solely, or relates solely to—

(i) the making of a donation to a religious, charitable or non-profit institution or organisation, unless a councillor, or an associate or related party of a councillor, receives a benefit because of the donation that is more than merely a benefit relating to reputation; or

(ii) a councillor representing the council in an official capacity at an event held by a government agency or an entity that is wholly owned by the council; or

(f) is solely, or relates solely to, employment-related or upgraded travel or accommodation undertaken or used by a councillor, or an associate or related party of a councillor; or

(g) is solely, or relates solely to—

(i) the remuneration or reimbursement of expenses of councillors or members of a committee of the council; or

(ii) the provision of superannuation entitlements or insurance for councillors; or

(iii) a matter of interest to the councillor solely as a candidate for election or appointment as mayor, deputy mayor, councillor or member of a committee of the council.

(2) Also, this division does not apply in relation to a councillor's interest in a matter if the interest of the councillor, or an associate or related party of the councillor, is no greater than the personal interests in the matter of a significant proportion of persons in Brisbane.

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(3) In addition, this division does not apply in relation to a councillor's interest in a matter relating to a corporation or association that arises solely because of a nomination or appointment of the councillor by the council to be a member of the board of the corporation or association.

(4) In this section—

employment-related or upgraded travel or accommodation, for a person, means—

(a) travel or accommodation undertaken or used by the person that is paid for by the State or a local government; or

(b) if the person is a councillor—travel or accommodation paid for by LGAQ Ltd for the purpose of the councillor attending a meeting of the policy executive established under the constitution of LGAQ Ltd; or

(c) travel or accommodation that is—

(i) undertaken or used by the person in the course of the person's employment; and

(ii) contributed to, whether financially or non-financially, by the person's employer; or

(d) if the person is a director of a corporation—travel or accommodation that is—

(i) undertaken or used by the person in the course of carrying out the person's duties as director; and

(ii) contributed to, whether financially or non-financially, by the corporation; or

(e) if the travel is airline travel undertaken by the person—an upgrade to the travel given by the provider of the travel for no charge; or

Example—

a free air travel upgrade to business class

(f) an upgrade to accommodation used by the person that is given by the provider of the accommodation for no charge.

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Example—

a free accommodation upgrade to a larger room

government agency means—

(a) the State, a government entity or another local government; or

(b) another Australian government or an entity of another Australian government; or

(c) a local government of another State.

177B What is a *material personal interest*

(1) A councillor has a ***material personal interest*** in a matter if the councillor or an associate of the councillor stands to gain a benefit or suffer a loss, either directly or indirectly, depending on the outcome of the consideration of the matter at a council meeting.

(2) However, a councillor has a ***material personal interest*** under subsection (1) in relation to an associate only if the councillor knows, or ought reasonably to know, about the associate's involvement in the matter.

177C What is a *conflict of interest*

(1) A ***conflict of interest*** is a conflict between a councillor's personal interests, or the personal interests of a related party of the councillor, and the public interest that might lead to a decision that is contrary to the public interest.

(2) However, a councillor does not have a ***conflict of interest*** in a matter if—

(a) the conflict of interest arises solely because—

(i) the councillor undertakes an engagement in the capacity of councillor for a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation; or

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(ii) the councillor, or a related party of the councillor, is a member or patron of a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation; or

(iii) the councillor, or a related party of the councillor, is a member of a political party; or

(iv) the councillor, or a related party of the councillor, has an interest in an educational facility or provider of a child care service as a student or former student, or a parent or grandparent of a student, of the facility or service; or

(b) the conflict of interest arises solely because of the religious beliefs of the councillor or a related party of the councillor; or

(c) the conflict of interest arises solely because the councillor, or a related party of the councillor, receives a gift, loan or sponsored travel or accommodation benefit from an entity during a financial year, if the total gifts, loans and benefits given by the entity to the councillor or related party total less than $500 in the financial year; or

(d) the conflict of interest relates to the appointment, discipline, termination, remuneration or other employment conditions of a councillor advisor for the councillor, if the conflict of interest arises solely because the councillor advisor is a related party, other than an associate, of the councillor; or

(e) the conflict of interest arises solely because—

(i) the councillor is, or has been, a member of a group of candidates for an election or a previous election with another councillor; or

(ii) the same political party endorsed the candidature of the councillor and another councillor for an election or a previous election; or

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(iii) the councillor has been elected or appointed at the same time, or has held office during the same period, as another councillor.

(3) Also, a councillor has a ***conflict of interest*** in a matter in relation to a related party only if the councillor knows, or ought reasonably to know, about the related party's involvement in the matter.

(4) In this section—

patron, of a community group, sporting club or similar organisation, means a person who, under a formal arrangement, provides public support to the group, club or organisation as its ambassador or representative.

sponsored travel or accommodation benefit, received by a person, means travel or accommodation undertaken or used by the person, other than employment-related or upgraded travel or accommodation under section 177A(4), if—

(a) another entity contributes, whether financially or non-financially, to the cost of the travel or accommodation; and

(b) the other entity is not the person's spouse, other family member or friend.

177D Who is an *associate* of a councillor

Each of the following persons is an ***associate*** of a councillor—

(a) a spouse of the councillor;

(b) a parent, child or sibling of the councillor;

(c) a person in a partnership with the councillor;

(d) an employer, other than a government entity, of the councillor;

(e) an entity, other than a government entity, of which the councillor is an executive officer or board member;

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(f) an entity in which the councillor or a person mentioned in paragraphs (a) to (e) for the councillor has an interest, other than an interest of less than 5% in an entity that is a listed corporation under the Corporations Act, section 9;

(g) another person prescribed by regulation.

177E Who is a *related party* of a councillor

A person is a ***related party*** of a councillor if the person is any of the following—

(a) an associate of the councillor, other than an entity mentioned in section 177D(f);

(b) a spouse of the councillor's parent, child or sibling;

(c) a grandparent, uncle, aunt, nephew, niece or grandchild of the councillor or the councillor's spouse;

(d) a parent, child or sibling of the councillor's spouse;

(e) a spouse of a person mentioned in paragraph (c) or (d);

(f) an entity in which the councillor, or a person mentioned in paragraph (a), (b), (c), (d) or (e), has an interest;

(g) another person prescribed by regulation.

177F Councillor's material personal interest at a meeting

(1) This section applies if—

(a) a matter is to be discussed at a council meeting; and

(b) a councillor has a material personal interest in the matter.

(2) The councillor must—

(a) inform the meeting of the councillor's material personal interest in the matter; and

(b) leave the place where the meeting is being held, including any area set aside for the public, and stay

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away from the place while the matter is discussed and voted on.

Note—

Contravention of this subsection is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor. See the Local Government Act, section 150L(1)(c)(iv).

(3) The councillor must not contravene subsection (2), including by voting on the matter, with an intention to gain a benefit or avoid a loss for the councillor or someone else.

Maximum penalty—200 penalty units or 2 years imprisonment.

(4) However, the councillor does not contravene subsection (2) by taking part in the meeting, or being at the place where the meeting is being held, if—

(a) the councillor is a person to whom approval is given under subsection (5); and

(b) the councillor complies with all conditions on which the approval is given.

(5) The Minister may, by signed notice, approve the councillor taking part in the meeting, or being at the place where the meeting is being held, if—

(a) because of the number of councillors subject to the obligation under this section, the holding of the meeting would be obstructed if the approval were not given; or

(b) it appears to the Minister to be in the interests of Brisbane that the approval be given.

(6) The Minister may give the approval subject to conditions stated in the notice.

(7) The following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation—

(a) the name of the councillor who has the material personal interest, or possible material personal interest, in a matter;

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(b) the nature of the material personal interest, or possible material personal interest, as described by the councillor;

(c) whether the councillor took part in the meeting, or was at the place during the meeting, under an approval under subsection (5).

177G Councillor's conflict of interest at a meeting

(1) This section applies if—

(a) a matter is to be discussed at a council meeting; and

(b) a councillor at the meeting—

(i) has a conflict of interest in the matter (a ***real conflict***); or

(ii) could reasonably be taken to have a conflict of interest in the matter (a ***perceived conflict***).

(2) The councillor must deal with the real conflict or perceived conflict in a transparent and accountable way.

Note—

Contravention of this section is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor. See the Local Government Act, section 150L(1)(c)(iv).

(3) Without limiting subsection (2), the councillor must inform the meeting of—

(a) the councillor's personal interests in the matter; and

(b) if the councillor participates in the meeting in relation to the matter—how the councillor intends to deal with the real conflict or perceived conflict.

(4) Subsection (5) applies if a quorum at the meeting can not be formed because the councillor proposes to be excluded from the meeting to comply with subsection (2).

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(5) The councillor does not contravene subsection (2) merely by participating, including, for example, by voting, in the meeting in relation to the matter if—

(a) the attendance of the councillor, together with any other required number of councillors, forms a quorum for the meeting; and

(b) the councillor complies with subsection (3).

(6) The following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation—

(a) the name of the councillor who has the real conflict or perceived conflict;

(b) the nature of the personal interests, as described by the councillor;

(c) how the councillor dealt with the real conflict or perceived conflict;

(d) if the councillor voted on the matter—how the councillor voted on the matter;

(e) how the majority of persons who were entitled to vote at the meeting voted on the matter.

(7) To remove any doubt, it is declared that non-participation in the meeting is not the only way the councillor may appropriately deal with the real conflict or perceived conflict in a transparent and accountable way.

Division 6 Responsibilities during leave of absence

178 Responsibilities of councillors during leave of absence

(1) This section applies if the council grants a councillor a leave of absence for 1 or more ordinary meetings of the council.

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(2) To remove any doubt, it is declared that the councillor may perform any responsibility under section 14 during the councillor's leave of absence.

Division 8 Automatic suspension of councillors

186B Automatic suspension for certain offences

(1) A person is automatically suspended as a councillor when the person is charged with a disqualifying offence.

(2) Subsection (3) applies if, when a person is appointed or elected as a councillor, a proceeding for a disqualifying offence against the person has been started but has not ended.

(3) The person is automatically suspended as a councillor when the person's term as councillor starts.

186C When a person is charged with disqualifying offence and proceeding is started

For this division and division 9—

(a) a person is charged with a disqualifying offence when—

(i) a police officer arrests and charges the person for the offence; or

(ii) the person is served with a notice to appear for the offence; or

(iii) the person is served with a complaint for the offence under the *Justices Act 1886*; or

(iv) a charge for the offence is made against the person in a proceeding without a complaint under the *Justices Act 1886*; or

(v) an ex officio indictment against the person for the offence is presented to the Supreme Court or the District Court; and

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(b) a proceeding for a disqualifying offence is started against a person when the person is charged with the offence.

186D Obligation to give notice if charged with disqualifying offence

(1) This section applies if—

(a) a councillor is charged with a disqualifying offence; or

(b) a proceeding for a disqualifying offence has been started, but has not ended, against a councillor when the councillor is appointed or elected.

(2) The councillor must immediately give a written notice that complies with subsection (3) to each of the following, unless the councillor has a reasonable excuse—

(a) the Minister;

(b) if the councillor is not the mayor—the mayor;

(c) the chief executive officer.

Maximum penalty—100 penalty units.

(3) For subsection (2), the notice must state—

(a) the provision of the law against which the councillor is charged; and

(b) the day the councillor was charged.

186E Effect of councillor's suspension

(1) This section applies while a councillor is suspended as a councillor under this division.

(2) The councillor must not act as a councillor.

(3) If the councillor is the mayor or deputy mayor, the councillor is also suspended as mayor or deputy mayor.

(4) The councillor's obligations under division 5 are not affected.

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(5) The councillor is entitled to be paid remuneration as a councillor.

(6) In this section—

remuneration, as a councillor, does not include an amount payable to a councillor for performing a particular responsibility, including, for example, attending a meeting of the local government or any of its committees.

186F When suspension of councillor ends

If a councillor is suspended under section 186B, the suspension ends when the earliest of the following happens—

(a) for each disqualifying offence to which the suspension relates—

(i) if the councillor is convicted of the offence and appeals the conviction—the conviction is set aside or quashed on appeal; or

(ii) if the councillor is convicted of the offence and does not appeal the conviction—the time within which an appeal must by law be started ends; or

(iii) the proceeding for the offence otherwise ends;

Note—

If the councillor is convicted of a disqualifying offence, the councillor's office becomes vacant. See section 162.

(b) the councillor's term ends under section 160;

(c) the councillor's office becomes vacant under section 162.

Division 9 Criminal history information

186G Criminal history report

(1) This section applies if the Minister—

(a) receives a notice from a councillor—

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(i) under section 158A in relation to the conviction of the councillor for a disqualifying offence; or

(ii) under section 186D; or

(b) reasonably suspects a councillor has been charged with, or convicted of, a disqualifying offence.

(2) The Minister may ask the police commissioner for a written report about the criminal history of the councillor that includes a brief description of the circumstances of a conviction or charge mentioned in the criminal history.

(3) The police commissioner must comply with the request.

(4) However, the duty to comply applies only to information in the police commissioner's possession or to which the police commissioner has access.

(5) In this section—

criminal history, of a councillor, includes—

(a) spent convictions; and

(b) every charge made against the councillor for an offence, in Queensland or elsewhere.

186H Confidentiality of criminal history information

(1) This section applies to a person who possesses criminal history information because the person—

(a) is or was an officer, employee or agent of the department; or

(b) is or was a councillor, officer, employee or agent of the council.

(2) The person must not, directly or indirectly, disclose criminal history information to any other person unless the disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

(3) The person is permitted to disclose the criminal history information to another person—

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(a) to the extent necessary to perform the person's functions under this Act; or

(b) if the disclosure is authorised under an Act; or

(c) if the disclosure is otherwise required or permitted by law; or

(d) if the person to whom the information relates consents to the disclosure; or

(e) if the disclosure is in a form that does not identify the person to whom the information relates; or

(f) if the information is, or has been, lawfully accessible to the public.

(4) The person must ensure a document containing criminal history information is destroyed as soon as practicable after it is no longer needed for the purpose for which it is given.

(5) In this section—

criminal history information means the information contained in—

(a) a report given to the Minister under section 186G; or

(b) a notice given to the Minister, a councillor or the chief executive officer—

(i) under section 158A in relation to the conviction of a councillor for a disqualifying offence; or

(ii) under section 186D.

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Part 4 Council employees, councillor advisors etc.

Division 1 Chief executive officer

190 Appointing a chief executive officer

(1) The council must appoint a qualified person to be the council's chief executive officer.

(2) A person is qualified to be the chief executive officer if the person has the ability, experience, knowledge and skills that the council considers appropriate, having regard to the responsibilities of a chief executive officer.

(3) A person who is appointed as the chief executive officer must enter into a written contract of employment with the council.

(4) The contract of employment must provide for—

(a) the chief executive officer to meet performance standards set by the mayor; and

(b) the chief executive officer's conditions of employment (including remuneration).

191 Appointing an acting chief executive officer

The Establishment and Coordination Committee may appoint a qualified person to act as the chief executive officer during—

(a) any vacancy, or all vacancies, in the position; or

(b) any period, or all periods, when the chief executive officer is absent from duty or can not, for another reason, perform the chief executive officer's responsibilities.

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Division 2 Other council employees

192 Appointing senior executive employees and senior contract employees

(1) The council must appoint qualified persons to be the council's senior executive employees and senior contract employees.

(2) A person is qualified to be a senior executive employee or senior contract employee if the person has the ability, experience, knowledge and skills that the council considers appropriate, having regard to the responsibilities of the senior executive employee or senior contract employee.

193 Appointing other council employees

(1) The council must adopt, by resolution, an organisational structure that is appropriate to the performance of the council's responsibilities.

(2) The council may employ other council employees for the performance of the council's responsibilities.

(3) The chief executive officer must appoint the council employees, other than senior executive employees and senior contract employees.

193A Conditions of appointment of council employees

A council employee is employed on—

(a) the conditions contained in any relevant industrial instrument; and

(b) any other conditions that the council decides.

194 Disciplinary action against council employees

(1) The chief executive officer may take disciplinary action against a council employee.

(2) A regulation may prescribe—

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(a) when disciplinary action may be taken against a council employee; and

(b) the types of disciplinary action that may be taken against a council employee.

Division 2A Councillor advisors

194A Appointment and functions of councillor advisors

(1) A councillor may appoint 1 or more appropriately qualified persons (each a ***councillor advisor***) to assist the councillor in performing responsibilities under this Act.

Examples of assistance—

administrative support, coordinating media activities, event management functions, policy development, office management

(2) However, the councillor must not—

(a) appoint an associate of the councillor as a councillor advisor; or

(b) appoint more than the number of councillor advisors prescribed under section 194C(1).

(3) If the councillor appoints a councillor advisor, the councillor advisor must enter into a written contract of employment with the council.

(4) The contract of employment must provide for—

(a) the councillor advisor's conditions of employment, including remuneration, leave and superannuation entitlements; and

(b) the councillor advisor's functions and key responsibilities; and

(c) a requirement that the councillor advisor comply with the councillor advisor code of conduct made by the Minister under the Local Government Act, section 197C; and

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(d) when disciplinary action may be taken, and the types of disciplinary action that may be taken, against the councillor advisor.

(5) The councillor advisor's functions and responsibilities can not include—

(a) carrying out or assisting in an activity relating to a councillor's campaign for re-election; or

Note—

A person who is appointed as a councillor advisor may carry out or assist in an activity mentioned in paragraph (a) other than in the person's capacity as a councillor advisor.

(b) directing a council employee.

(6) The councillor who appointed the councillor advisor may give a direction to the councillor advisor.

194B When appointment ends

(1) A councillor advisor's appointment automatically ends on the day the councillor advisor is convicted of an offence against any of the following provisions—

(a) section 197(2) or (4);

(b) section 198D;

(c) section 198F(2) or (3);

(d) section 215(1).

(2) Also, a councillor advisor's appointment automatically ends 2 weeks after the day either of the following happens—

(a) the term of the councillor who appointed the councillor advisor ends;

(b) the councillor who appointed the councillor advisor is suspended.

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194C Regulation may prescribe number of councillor advisors

(1) A regulation may prescribe the maximum number of councillor advisors each councillor may appoint.

(2) Before recommending to the Governor in Council the making of a regulation under subsection (1), the Minister must ask the remuneration commission for its recommendation about the proposed regulation.

(3) The Minister must have regard to the recommendation of the remuneration commission in recommending the making of the regulation to the Governor in Council.

(4) The maximum number of councillor advisors prescribed under subsection (1)—

(a) is the number of full-time equivalent councillor advisors a councillor may appoint; and

(b) does not prevent a councillor appointing more than 1 part-time councillor advisor to perform the role of 1 full-time councillor advisor.

(5) In this section—

remuneration commission see the Local Government Act, section 176.

Division 3 Common provisions

195 Concurrent employment of council employees

(1) This section applies to all council employees, including the chief executive officer.

(2) A council employee may be employed by more than 1 local government at the same time, if each of the local governments agree.

196 Improper conduct by council employees

(1) This section applies to the following persons—

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(a) a council employee;

(b) a contractor of the council;

(c) another type of person prescribed by regulation.

(2) The person must not ask for, or accept, a fee or other benefit for doing something as a person mentioned in subsection (1)(a), (b) or (c).

Maximum penalty—100 penalty units or 2 years imprisonment.

(3) However, subsection (2) does not apply to—

(a) remuneration paid by the council; or

(b) a benefit that has only a nominal value.

(4) The person must not unlawfully destroy or damage property of the council.

Maximum penalty—100 penalty units or 2 years imprisonment.

197 Use of information by council employees and councillor advisors

(1) This section applies to a person who is, or has been, any of the following—

(a) a council employee;

(b) a councillor advisor;

(c) a contractor of the council;

(d) another type of person prescribed by regulation.

(2) The person must not use information acquired as a person mentioned in subsection (1)(a), (b), (c) or (d) to—

(a) gain (directly or indirectly) an advantage for the person or someone else; or

(b) cause detriment to the council.

Maximum penalty—100 penalty units or 2 years imprisonment.

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(3) Subsection (2) does not apply to information that is lawfully available to the public.

(4) The person must not release information that the person knows, or should reasonably know, is information that—

(a) is confidential to the council; and

(b) the council wishes to keep confidential.

Maximum penalty—100 penalty units or 2 years imprisonment.

198 Annual report must detail particular information about council employees and councillor advisors

(1) The annual report of the council must state—

(a) the total of all remuneration packages that are payable for the year to the senior management; and

(b) the number of employees in senior management who are being paid each band of remuneration; and

(c) for each councillor—

(i) the number of councillor advisors appointed by the councillor for the year; and

(ii) the total remuneration payable to all councillor advisors appointed by the councillor for the year.

(2) The ***senior management*** consists of the chief executive officer and all senior executive employees.

(3) Each ***band of remuneration*** is an increment of $100,000.

(4) To remove any doubt, it is declared that nothing in this section requires the exact salary of any employee in senior management to be separately stated in the annual report.

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Part 4A Obligations of councillors and councillor advisors

198A Obligation of councillor or councillor advisor to inform chief executive officer of particulars of interests at start of term or on appointment

(1) This section applies if—

(a) a councillor, at the start of the councillor's term, has an interest that must, under a regulation, be recorded in a register of interests for the councillor or a person who is related to the councillor; or

(b) a councillor advisor, when the advisor is appointed, has an interest that must, under a regulation, be recorded in a register of interests for the advisor or a person who is related to the advisor.

(2) The councillor or councillor advisor must, in the approved form, inform the chief executive officer of the particulars required to be included in a register of interests under a regulation within 30 days after the day the councillor's term starts or the advisor is appointed.

Note—

Contravention of this section by a councillor is misconduct under the Local Government Act that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(iv) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

(3) A person is ***related*** to a councillor if—

(a) the person is the councillor's spouse; or

(b) the person is totally or substantially dependent on the councillor and—

(i) the person is the councillor's child; or

(ii) the person's affairs are so closely connected with the affairs of the councillor that a benefit derived

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by the person, or a substantial part of it, could pass to the councillor.

(4) A person is ***related*** to a councillor advisor if—

(a) the person is the advisor's spouse; or

(b) the person is totally or substantially dependent on the advisor and—

(i) the person is the advisor's child; or

(ii) the person's affairs are so closely connected with the affairs of the advisor that a benefit derived by the person, or a substantial part of it, could pass to the advisor.

198B Obligation of councillor or councillor advisor to correct register of interests

(1) This section applies if—

(a) a councillor or councillor advisor, or a person who is related to the councillor or councillor advisor, acquires an interest that must be, but is not, recorded in a register of interests under a regulation; or

(b) there is a change to the particulars required to be included in a register of interests under a regulation for—

(i) a councillor or councillor advisor; or

(ii) a person who is related to the councillor or advisor.

(2) The councillor or councillor advisor must, in the approved form, inform the chief executive officer of the particulars required to be included in a register of interests under a regulation for the new interest or the change to the particulars within 30 days after the interest is acquired or the change happens.

Note—

Contravention of this section by a councillor is misconduct under the Local Government Act that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(iv) of that Act.

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Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

198C Obligation of councillor or councillor advisor to inform chief executive officer annually about register of interests

Each councillor and councillor advisor must, within 30 days after the end of each financial year, inform the chief executive officer, in the approved form, of the following—

(a) if the councillor or councillor advisor, or a person related to the councillor or councillor advisor, has acquired an interest that must be, but is not, recorded in a register of interests under a regulation—the particulars of the interest that must be recorded in the register of interests under a regulation;

(b) if there has been a change to the particulars required to be included in a register of interests under a regulation for the councillor or councillor advisor, or a person who is related to the councillor or advisor—the change to the particulars;

(c) if paragraphs (a) and (b) do not apply—that there has been no interest acquired or change to the particulars for an interest.

Note—

Contravention of this section by a councillor is misconduct under the Local Government Act that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(iv) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

198D Dishonest conduct of councillor or councillor advisor

(1) A person who is a councillor or councillor advisor must not contravene a relevant integrity provision with intent to—

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(a) dishonestly obtain a benefit for the person or someone else; or

(b) dishonestly cause a detriment to someone else.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) In this section—

benefit includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute.

detriment, caused to a person, includes detriment caused to the person's property.

relevant integrity provision—

(a) for a councillor, means each of the following provisions—

(i) section 198A;

(ii) section 198B;

(iii) section 198C;

(iv) section 215, if the information mentioned in that section is given under section 198A, 198B or 198C; or

(b) for a councillor advisor, means each of the following provisions—

(i) section 198A;

(ii) section 198B;

(iii) section 198C;

(iv) section 215, if the information mentioned in that section is given under section 198A, 198B or 198C.

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198E Proceeding for offence against s 198D

(1) An offence against section 198D is a misdemeanour.

(2) A proceeding for an offence against section 198D may be started only with the written consent of the director of public prosecutions.

(3) A proceeding for an offence against section 198D may be taken, at the election of the prosecution—

(a) by way of summary proceeding under the *Justices Act 1886*; or

(b) on indictment.

(4) However, a magistrate must not hear an indictable offence against section 198D summarily if the magistrate is satisfied, on an application made by the defence, that because of exceptional circumstances the offence should not be heard and decided summarily.

Note—

For examples of exceptional circumstances, see the examples stated in the Criminal Code, section 552D(2).

(5) If subsection (4) applies—

(a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and

(b) the proceeding for the charge must be conducted as a committal proceeding; and

(c) a plea of the defendant at the start of the hearing must be disregarded; and

(d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and

(e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.

(6) A Magistrates Court that summarily deals with a charge of an offence against section 198D—

(a) must be constituted by a magistrate; and

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(b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.

(7) In this section—

director of public prosecutions means the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1984*.

198F Prohibited conduct by councillor or councillor advisor in possession of inside information

(1) This section applies to a person (the ***insider***) who is, or has been, a councillor or councillor advisor if the insider—

(a) acquired inside information as a councillor or councillor advisor; and

(b) knows, or ought reasonably to know, the inside information is not generally available to the public.

(2) The insider must not cause the purchase or sale of an asset if knowledge of the inside information would be likely to influence a reasonable person in deciding whether or not to buy or sell the asset.

Maximum penalty—1,000 penalty units or 2 years imprisonment.

(3) The insider must not cause the inside information to be provided to another person the insider knows, or ought reasonably to know, may use the information in deciding whether or not to buy or sell an asset.

Maximum penalty—1,000 penalty units or 2 years imprisonment.

(4) In this section—

cause, in relation to an action, includes the following—

(a) carry out the action;

(b) instigate the action;

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(c) direct, or otherwise influence, another person to carry out or instigate the action.

corporate entity means a corporation owned by the council.

inside information means information about any of the following—

(a) the operations or finances of the council (including any business activity of the council) or any of its corporate entities;

(b) a proposed policy of the council, including proposed changes to an existing policy;

(c) a contract entered into, or proposed to be entered into, by the council or any of its corporate entities;

(d) a tender process being conducted by or for the council or any of its corporate entities;

(e) a decision, or proposed decision, of the council or any of its committees;

(f) the exercise of a power, under a local government related law, by the council, a councillor or a council employee;

(g) the exercise of a power, under an Act, by the State, a Minister, a statutory body or an employee of the State or statutory body, that affects the council, any of its corporate entities or land or infrastructure within Brisbane;

(h) any legal or financial advice created for the council, any of its committees or any of its corporate entities.

Part 5 Authorised persons

199 Appointing authorised persons

(1) The chief executive officer may appoint a qualified person to be an authorised person.

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(2) A person is qualified to be an authorised person if the person—

(a) has the competencies—

(i) that the chief executive officer considers are necessary to perform the responsibilities that are required to be performed by the authorised person; or

(ii) prescribed under a regulation; and

(b) is either—

(i) an employee of the council; or

(ii) another type of person prescribed under a regulation.

(3) The appointment of an authorised person must state the provisions of this Act for which the authorised person is appointed.

(4) An authorised person's appointment is subject to the conditions stated in—

(a) the document that appoints the authorised person; or

(b) a written notice given to the authorised person by the chief executive officer; or

(c) a regulation.

200 End of appointment of authorised persons

(1) A person stops being an authorised person—

(a) at the end of the term of appointment stated in the document that appointed the authorised person; or

(b) if the authorised person gives the council a signed notice of resignation; or

(c) if it is a condition of the authorised person's appointment that the authorised person hold another position at the same time—if the authorised person stops holding the other position.

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(2) If it is a condition of the authorised person's appointment that the authorised person hold another position at the same time, a notice of resignation acts as a notice of resignation for both positions.

(3) This section does not limit the ways in which an authorised person's appointment ends.

201 Identity card for authorised persons

(1) The chief executive officer must give each authorised person an identity card.

(2) This section does not stop a single identity card being issued to a person for this Act and for another purpose.

(3) A person who stops being an authorised person must return the person's identity card to the chief executive officer, within 21 days after stopping being an authorised person, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

202 Authorised persons must disclose change in criminal history

(1) This section applies if there is a change in the criminal history of an authorised person (including acquiring a criminal history, for example).

(2) The authorised person must, as soon as practicable after the change, disclose to the chief executive officer the details of the change, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

203 Chief executive officer may obtain report from police commissioner

(1) The chief executive officer may ask the police commissioner to give the chief executive officer the following information about an authorised person—

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(a) a written report about the person's criminal history;

(b) a brief description of the circumstances of a conviction mentioned in the person's criminal history.

(2) The police commissioner must comply with the request.

(3) However, the duty imposed on the police commissioner applies only to information in the commissioner's possession or to which the commissioner has access.

204 Use of criminal history information

(1) This section is about the use of criminal history information.

(2) ***Criminal history information*** is information about the criminal history of an authorised person obtained under section 202 or 203.

(3) The department's chief executive may make guidelines for dealing with criminal history information to ensure—

(a) natural justice is afforded to the authorised persons to whom the criminal history information relates; and

(b) only relevant criminal history information is considered in assessing the suitability of an authorised person to exercise a power under a local government related law; and

(c) decisions based on criminal history information are made consistently.

(4) The chief executive officer must comply with the guidelines.

(5) A person who has, or will have, a duty to disclose under section 202 may request a copy of the guidelines from the department.

(6) The chief executive officer must not use criminal history information for any purpose other than for assessing the suitability of an authorised person to exercise a power under a local government related law.

Maximum penalty for subsection (6)—100 penalty units.

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Chapter 7 Other provisions

Part 1 Way to hold a hearing

205 What this part is about

(1) This part sets out the way to hold a hearing under this Act.

(2) The person or other entity that is conducting the hearing is called the ***investigator*** in this part.

206 Procedures at hearing

(1) When conducting a hearing, the investigator must—

(a) observe natural justice; but

(b) act as quickly and informally as is consistent with a fair and proper consideration of the issues raised in the hearing.

(2) For example, the investigator may—

(a) act in the absence of a person who has been given reasonable notice of the hearing; or

(b) receive evidence by statutory declaration; or

(c) refuse to allow a person to be represented by a legal practitioner; or

(d) disregard the rules of evidence; or

(e) disregard any defect, error, omission or insufficiency in a document; or

(f) allow a document to be amended; or

(g) adjourn a hearing.

(3) However, the investigator must comply with any procedural rules prescribed under a regulation.

(4) A hearing is not affected by a change of the members of an entity that is the investigator.

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207 Witnesses at hearings

(1) The investigator may require a person, by giving them a written notice, to attend a hearing as a witness in order to—

(a) give evidence; or

(b) produce specified documents.

(2) The person must—

(a) attend at the time and place specified in the notice; and

(b) continue to attend until excused by the investigator; and

(c) take an oath or make an affirmation if required by the investigator; and

(d) answer a question that the person is required to answer by the investigator, unless the person has a reasonable excuse; and

(e) produce a document that the person is required to produce by the investigator, unless the person has a reasonable excuse.

Maximum penalty—35 penalty units.

(3) A person has a reasonable excuse for failing to answer a question or produce a document if answering the question or producing the document might tend to incriminate the person.

(4) A person who attends as a witness is entitled to—

(a) the witness fees that are prescribed under a regulation; or

(b) if no witness fees are prescribed, the reasonable witness fees decided by the investigator.

208 Contempt at hearing

A person must not—

(a) insult the investigator in a hearing; or

(b) deliberately interrupt a hearing; or

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(c) take part in a disturbance in or near a place where the investigator is conducting a hearing; or

(d) do anything that would be a contempt of court if the investigator were a court.

Maximum penalty—50 penalty units.

Part 2 Superannuation

209 What this part is about

This part is about superannuation for certain persons who are connected to the council.

210 Super scheme for councillors

(1) The council may, for its councillors—

(a) establish and amend a superannuation scheme; or

(b) take part in a superannuation scheme.

(2) If it does so, the council may pay an amount from its operating fund to the superannuation scheme as a contribution for the councillors.

(3) However, the council must not make contributions to the superannuation scheme for a person who is no longer a councillor.

(4) A councillor may enter into an arrangement with the council under which—

(a) the councillor agrees to forgo a percentage or amount of the remuneration that the councillor is entitled to as a councillor; and

(b) the council agrees to contribute the percentage or amount to the superannuation scheme for the councillor.

(5) A ***superannuation scheme*** is a superannuation scheme that complies with the Commonwealth Super Act.

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211 Superannuation scheme for council employees and associated persons

(1) The council may, for council employees and associated persons—

(a) establish and amend a superannuation scheme; or

(b) take part in a superannuation scheme.

(2) If it does so, the council may pay an amount from the operating fund to the superannuation scheme as a contribution for the council employees and associated persons.

(3) An ***associated person*** is the spouse of a council employee, or another person prescribed under a regulation.

(4) A ***superannuation scheme*** is a superannuation scheme that complies with the Commonwealth Super Act.

(5) Despite section 5(2), the Local Government Act applies to the following to the extent that that Act applies to the superannuation of an employee of a local government—

(a) the Brisbane City Council;

(b) an employee of Brisbane City Council;

(c) an associated person.

212 Super schemes to be audited by auditor-general

(1) This section applies to a superannuation scheme established or amended by the council under section 210(1)(a) or 211(1)(a).

(2) The audit of the superannuation scheme that is required under the Commonwealth Super Act must be carried out by the auditor-general.

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Part 3 Allocating Commonwealth funding to council

213 Allocating Commonwealth funding

(1) The ***grants commission*** is a body that is created under the Local Government Act to perform the responsibilities of a Local Government Grants Commission under the Local Government (Financial Assistance) Act.

Note—

Under section 228(2) of the Local Government Act, the grants commission and the Minister must comply with the Local Government (Financial Assistance) Act.

(2) The Minister must not distribute to the council an amount equal to notional GST if the council has not paid the notional GST.

(3) ***Notional GST*** is an amount that a local government may pay under the *GST and Related Matters Act 2000*, section 5.

(4) The Minister must table in the Legislative Assembly the grants commission's recommendations about the allocation of funding to the council.

214 Decisions under this part are not subject to appeal

A decision of the grants commission or the Minister is not subject to appeal.

Note—

See section 226 for more information.

Part 4 Legal provisions

215 False or misleading information

(1) A person commits an offence if the person gives information for this Act (either orally or in a document), that the person

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knows is false or misleading in a material particular, to any of the following persons—

(a) the Minister;

(b) the department's chief executive;

(c) the chief executive officer;

(d) an authorised person;

(e) the change commission;

(f) the grants commission.

Maximum penalty—100 penalty units.

Note—

In certain circumstances this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

(2) However, the person does not commit an offence in relation to information in a document if, when the person gives the document to the other person—

(a) the person tells the other person that the document is false or misleading, and in what respect the document is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—the person gives the other person the correct information.

216 Administrators who act honestly and without negligence are protected from liability

(1) A State administrator or council administrator is not civilly liable for an act done under this Act or the *Local Government Electoral Act 2011*, or omission made under this Act, honestly and without negligence.

(2) A ***State administrator*** is—

(a) the Minister; or

(b) the department's chief executive; or

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(c) an authorised officer; or

(d) a member of the change commission; or

(e) a member of the grants commission; or

(f) a person acting under the direction of a person mentioned in paragraph (a), (b) or (c).

(3) A ***council administrator*** is—

(a) a councillor; or

(b) the chief executive officer; or

(c) an authorised person; or

(d) another council employee.

(4) If subsection (1) prevents civil liability attaching to a State administrator, liability attaches instead to the State.

(5) If subsection (1) prevents civil liability attaching to a council administrator, liability attaches instead to the council.

(6) The protection given under this section is in addition to any other protection given under another law or Act, including, for example, the *Public Interest Disclosure Act 2010* and the *Public Sector Act 2022*.

Note—

For protection from civil liability in relation to prescribed persons under the *Public Sector Act 2022*, section 267, see the *Public Sector Act 2022*, section 269.

217 Who is authorised to sign council documents

(1) The following persons may sign a document on behalf of the council—

(a) the head of the council;

(b) a delegate of the council;

(c) a councillor or council employee who is authorised by the head of the council, in writing, to sign documents.

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Note—

See section 238 for the council's power to delegate.

(2) The ***head of the council*** is—

(a) the mayor; or

(b) if all of the councillors have been suspended or the council has been dissolved under the Local Government Act, section 123 and an interim administrator is appointed—the interim administrator; or

(c) if there are no councillors for any other reason and an interim administrator has not been appointed—the chief executive officer.

218 Name in proceedings by or against council

(1) Any proceedings by the council must be started in the name of the council.

(2) However, the council may start a proceeding under the *Justices Act 1886* in the name of a council employee who is a public officer within the meaning of that Act.

(3) Any proceedings against the council must be started against the council in its name.

219 Service of documents on council

A document is properly served on the council if it is given to the chief executive officer in a way that is authorised by law.

220 Substituted service

(1) If an owner of rateable land is known to be absent from the State, the council may serve a document on the owner by serving the document on the owner's agent in the State.

(2) Subsection (3) applies if—

(a) the council must serve a document on a person who owns or occupies a property; but

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(b) the council does not know, or is uncertain about, the person's current address.

(3) The council may serve the document by—

(a) publishing a notice that contains a copy of the document on the council's website; or

(b) publishing a notice that contains a summary of the document in—

(i) a newspaper that is circulating generally throughout the State; and

(ii) the gazette.

(4) The notice must be addressed to—

(a) if the council knows the person's name—the person by name; or

(b) if the council does not know the person's name—the 'owner' or 'occupier' at the property's address.

221 Local government related laws requiring a statement of a law

A provision of a local government related law, that requires a document to contain a statement of a relevant provision of law, is taken to be complied with if the document states that particulars of the relevant provision may be—

(a) obtained, free of charge, on application to the council; or

(b) viewed at an identified website.

222 Acting for council in legal proceedings

(1) In any proceedings, the chief executive officer, or another employee authorised in writing by the council—

(a) may give instructions and act as the authorised agent for the council; and

(b) may sign all documents for the council.

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(2) The council must pay the costs incurred by the chief executive officer or other employee in any proceedings.

(3) If the Attorney-General could take proceedings on behalf of the council to ensure compliance with a local government related law, the council may take the proceeding in its own name.

223 Attempt to commit offence

A person who attempts to commit an offence against this Act commits an offence and, on conviction, is liable to the same penalties as if the person had committed the offence.

225 Time to start proceedings in a summary way

Proceedings for an offence against this Act that are to be heard in a summary way under the *Justices Act 1886* must be started—

(a) within 1 year after the offence was committed; or

(b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was committed.

226 Decisions not subject to appeal

(1) This section applies if a provision of this Act declares a decision to be not subject to appeal.

(2) Unless the Supreme Court decides the decision is affected by jurisdictional error, the decision—

(a) is final and conclusive; and

(b) can not be challenged, appealed against, reviewed, quashed, set aside or called into question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

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(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

(3) The *Judicial Review Act 1991*, part 5 applies to the decision to the extent it is affected by jurisdictional error.

(4) A person who, but for subsection (2), could have made an application under the *Judicial Review Act 1991* in relation to the decision may apply under part 4 of that Act for a statement of reasons in relation to the decision.

(5) In this section—

decision includes—

(a) conduct related to making the decision; and

(b) a failure to make a decision.

227 Judges and other office holders not disqualified from adjudicating

A judge, magistrate, justice or presiding member of a tribunal is not disqualified from adjudicating in any proceedings to which the council is a party only because the person is, or is liable to be, a ratepayer of the council.

228 Where fines are to be paid to

(1) This section applies if, in proceedings brought by the council for an offence against a local government related law, the court imposes a fine.

(2) The fine must be paid to the council's operating fund, unless the court ordered the fine to be paid to a person.

229 Evidence of local laws

(1) In any proceedings, a certified copy of a local law or consolidated version of a local law is evidence of the content of the local law or consolidated version of the local law.

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(2) A ***certified copy*** of a local law or consolidated version of a local law is a copy that has been certified by the chief executive officer to be the local law or consolidated version as made by the council.

(3) In any proceedings, a copy of the gazette that contains a notice of making a local law is—

(a) evidence of the content of the notice; and

(b) evidence that the local law has been properly made.

(4) In any proceedings, the competence of the council to make a particular local law is presumed unless the matter is raised.

230 Evidence of proceedings of council

(1) This section applies to a document that—

(a) purports to be a copy of an entry in a record of the proceedings of—

(i) the council; or

(ii) a committee of the council; and

(b) purports to have been signed at the time when the entry was made by—

(i) the mayor; or

(ii) the chairperson of the council; or

(iii) for a committee of the council—the committee chairperson; and

(c) is certified by the chief executive officer to be a true copy of the document.

(2) The document is evidence—

(a) of the proceedings; and

(b) that the proceedings were properly held.

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231 Evidentiary value of copies

(1) This section applies to a copy of a document that—

(a) purports to be made under the authority of the council or mayor; and

(b) purports to be verified by the mayor or an employee who is authorised by the council.

(2) The copy of the document is evidence in any proceedings as if the copy were the original of the document.

232 Evidentiary value of certificates

(1) This section applies to a certificate that—

(a) purports to be about the state of, or a fact in, a record of the council; and

(b) purports to be signed by the chief executive officer.

(2) The certificate is evidence of the matters contained in the certificate.

233 Evidence of directions given to council

(1) This section applies to a document that—

(a) purports to be a direction that the Minister, or the department's chief executive, gave to the council under this Act or the Local Government Act; and

(b) purports to be certified by or for the Minister, or the department's chief executive, to be a true copy of the direction.

(2) The document is evidence of—

(a) the giving of the direction; and

(b) the matters contained in the direction.

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234 Evidence of complainant's knowledge of matter

In a complaint starting proceedings, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.

235 Constitution and limits of council need not be proved

It is not necessary for the plaintiff in any proceedings started by, for or against the council to prove—

(a) the council's constitution; or

(b) the boundaries of Brisbane; or

(c) the boundaries of a ward of Brisbane.

Part 5 Delegation of powers

236 Delegation of Minister's powers

(1) The Minister may delegate the Minister's powers under this Act to an appropriately qualified person.

(2) However, the Minister must not delegate a power under section 42.

237 Delegation of department's chief executive's powers

The department's chief executive may delegate the chief executive's powers under this Act, or a local law, to an appropriately qualified person.

238 Delegation of council powers

(1) The council may, by resolution, delegate a power under this Act or another Act to—

(a) the mayor; or

(b) the chief executive officer; or

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(c) a standing committee or joint standing committee; or

(d) another local government, for the purposes of a joint government activity; or

(e) the Establishment and Coordination Committee.

(2) However, the council must not delegate a power that an Act states must be exercised by resolution.

(3) A ***joint standing committee*** is a committee consisting of councillors of the council and other local governments.

239 Delegation of chief executive officer's powers

(1) A chief executive officer may delegate the chief executive officer's powers to an appropriately qualified employee or contractor of the council.

(2) However, the chief executive officer must not delegate the following powers—

(a) a power delegated by the council, if the council has directed the chief executive officer not to further delegate the power;

(b) a power to keep a register of interests.

240 Council delegations register

(1) The chief executive officer must establish a register of delegations that contains the particulars prescribed under a regulation.

(2) The chief executive officer must record all delegations by the council, mayor or the chief executive officer in the register of delegations.

(3) The chief executive officer must ensure the public may view the register at the council's public office or on the council's website.

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Part 5A Provisions for 2020 quadrennial election

240A Minister may give directions about filling vacancies in office of councillors

(1) This section applies—

(a) if the 2020 quadrennial election is not held in March 2020 under the *Local Government Electoral Act 2001*, part 9A; and

(b) until the day before the 2020 quadrennial election is held.

(2) Section 163(2), (3) and (6) does not apply to the council.

(3) The Minister may give a direction to the council about whether or not a vacant office of a councillor (including the mayor) must be filled.

(4) If the vacant office must be filled, the Minister may, by notice to the council, extend the period within which the council must fill the vacancy under section 163(4).

(5) If the Minister extends the period under subsection (4), the Governor in Council may appoint a qualified person under section 163(5) to fill the vacant office only if the council has not filled the vacancy within the extended period.

Part 6 Other provisions

241 Public office of the council

(1) The council must keep premises for use as a public office.

(2) The public office must be in Brisbane.

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242 Powers in support of responsibilities

(1) This section applies if the council is required or empowered to perform a responsibility under a local government related law.

(2) The council has the power to do anything that is necessary or convenient for performing the responsibilities.

(3) The powers include all the powers that an individual may exercise, including for example—

(a) power to enter into contracts; and

(b) power to acquire, hold, deal with and dispose of property; and

(c) power to charge for a service or facility, other than a service or facility for which a cost-recovery fee may be fixed.

243 Validity of council proceedings

The proceedings of the council or any of its committees, or the actions of a person acting as a councillor or member of a committee, are not invalid merely because of—

(a) vacancies in the membership of the council or committee; or

(b) a defect or irregularity in the election or appointment of any councillor or committee member; or

(c) the disqualification of a councillor or committee member from acting as a councillor or committee member.

244 Acceptable requests guidelines

(1) The ***acceptable requests guidelines*** are guidelines about—

(a) the way in which a councillor may ask a council employee for advice to help the councillor carry out his or her responsibilities under this Act; and

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(b) the reasonable limits on requests that a councillor may make.

(2) The acceptable requests guidelines are made by the Establishment and Coordination Committee.

244A Civil liability of member of Establishment and Coordination Committee for disclosing information under Right to Information Act 2009

(1) A member of the Establishment and Coordination Committee does not incur civil liability as a result of, or in connection with, disclosing committee information in good faith under a publication scheme under the *Right to Information Act 2009*, section 21.

Examples of disclosing committee information—

- publishing committee information on the council's website
- official publication of committee information by decision of the Establishment and Coordination Committee

(2) If subsection (1) prevents liability attaching to a member, the liability attaches instead to the council.

(3) The protection given under this section is in addition to any other protection given under this Act or another Act or law, including, for example, the Local Government Act, section 235.

(4) In this section—

committee information see section 171(11).

245 Insurance to cover councillors

(1) The council may enter into a contract of insurance with WorkCover Queensland, or another insurer, to cover its councillors.

(2) For that purpose, a councillor's role includes attending—

(a) meetings of the council or its committees that the councillor is entitled or asked to attend; and

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(b) meetings for a resident of Brisbane; and

(c) conferences, deputations, inspections and meetings at which the councillor's attendance is permitted by the council; and

(d) official functions organised for the council.

246 Special entertainment precincts

(1) This section is about establishing a special entertainment precinct in Brisbane.

(2) A ***special entertainment precinct*** is an area in which noise from amplified music that is played at licensed premises in the area is regulated by a local law.

(3) A ***licensed premises*** is a licensed premises under the *Liquor Act 1992*.

(4) The effect of establishing a special entertainment precinct is that—

(a) noise from amplified music played at licensed premises in the precinct is regulated by a local law instead of the *Liquor Act 1992*; and

(b) requirements imposed under a planning scheme or development approval made or given under the Planning Act about noise abatement apply in relation to particular kinds of development in the precinct.

(5) To establish a special entertainment precinct, the council must—

(a) amend the council's planning scheme to identify the special entertainment precinct; and

(b) make a local law to regulate noise from amplified music from premises in the special entertainment precinct, in accordance with a permit that is issued for the premises.

(6) However, a local law under this section does not apply to—

(a) a major sports facility under the *Major Sports Facilities Act 2001*; or

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(b) an activity that—

(i) is for a major event under the *Major Events Act 2014*; and

(ii) is being carried on by, or with the approval of, the major event organiser for the major event.

247 Land registry searches free of charge

(1) This section applies to any of the following persons—

(a) the chief executive officer;

(b) an employee of the council who is authorised by the chief executive officer;

(c) a lawyer or other agent acting for the council;

(d) an employee of a lawyer or agent mentioned in paragraph (c) who is authorised by the lawyer or agent.

(2) The person may conduct searches of registers or documents about land in the land registry in accordance with the practice of the registry without payment of a fee.

248 Approved forms

The department's chief executive may approve forms for use under this Act.

250 Process for administrative action complaints

(1) The council must adopt a process for resolving administrative action complaints.

(2) An ***administrative action complaint*** is a complaint that—

(a) is about an administrative action of the council, including the following, for example—

(i) a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision;

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(ii) an act, or a failure to do an act;

(iii) the formulation of a proposal or intention;

(iv) the making of a recommendation; and

(b) is made by an affected person.

(3) An ***affected person*** is a person who is apparently directly affected by an administrative action of the council.

(4) A regulation may provide for the process for resolving complaints about administrative actions of the council by affected persons.

250A Advisory polls

The council may, in the way decided by the council, conduct a voluntary poll of the electors in Brisbane or a part of Brisbane on any issue of concern to Brisbane or the part.

251 Information for the Minister

(1) The Minister may, by written notice, require the council to give the Minister information about—

(a) Brisbane; or

(b) the council.

(2) The council must comply with the notice.

252 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) For example, a regulation may be made about—

(a) the processes of the council in deciding the remuneration that is payable to councillors (including the remuneration schedule, for example); or

(b) appeals against decisions made under this Act; or

(c) a register of interests of the following—

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(i) councillors;

(ii) other persons who are given responsibilities to perform under this Act;

(iii) persons who are related to a councillor or a person mentioned in subparagraph (ii); or

(d) the recording of conflicts of interest arising from the performance of a responsibility under this Act; or

(e) the regulation and management of council assets and infrastructure; or

(f) matters relating to a statutory committee of the council; or

(g) a process for the scrutiny of the council's budget; or

(h) meetings of the council, its committees or other meetings of councillors (including informal meetings at which councillors discuss council matters); or

(i) empowering the council to make and adopt a policy about meetings mentioned in paragraph (h), other than meetings of the council or its committees; or

(j) the financial planning and accountability of the council, including the systems of financial management; or

(k) matters relating to discretionary funds.

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Chapter 8 Repeal, transitional, savings and validation provisions

Part 1 Repeals

253 Repeal

The following Acts are repealed—

- Australian Estates Company Limited, Hastings Street, New Farm, Viaduct Authorization Act 1962
- Brisbane City Council Business and Procedure Act 1939, 3 Geo 6 No. 30
- City of Brisbane Act 1924, 15 Geo 5 No. 32
- Local Government (Chinatown and The Valley Malls) Act 1984, No. 104
- Local Government (Queen Street Mall) Act 1981, No. 104.

Part 2 Transitional and savings provisions for Act No. 23 of 2010

254 What this part is about

This part is about the transition from the following to this Act (including the transition of rights, liabilities and interests, for example)—

(a) the repealed City of Brisbane Act;

(b) the repealed Business and Procedure Act;

(c) the repealed *Local Government Act 1993*;

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(d) a repealed mall Act.

255 Brisbane City Council continued

The Brisbane City Council under the repealed City of Brisbane Act continues in existence as the council under this Act.

256 Local laws

(1) A local law that was—

(a) made by the council under the repealed City of Brisbane Act, the repealed *Local Government Act 1993* or a repealed mall Act; and

(b) was in force immediately before the commencement of this section;

continues in force as a local law made under this Act.

(2) A ***local law*** includes—

(a) an interim local law, model local law, and subordinate local law; and

(b) a by-law or ordinance.

(3) Subsection (4) applies if, before the commencement, the council started, but did not complete, the relevant process for adopting a model local law or making another local law.

Note—

Under the repealed *Local Government Act 1993* the council started the process for adopting a model local law by passing a resolution to propose to adopt the model local law and the council started a process for making a local law (other than a model local law) by passing a resolution to propose to make the local law.

(4) The council may proceed further in adopting or making the local law in accordance with the relevant process as if the repealed *Local Government Act 1993* had not been repealed.

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(5) The ***relevant process*** is the process under the repealed *Local Government Act 1993*, chapter 12, part 2 that applied to adopting a model local law or making another local law.

(6) A local law adopted or made under subsection (4) is taken to be a local law validly made under this Act.

257 Decisions under repealed Acts

(1) A decision under the following repealed Acts, that was in force immediately before the commencement of this section, continues in force as if the decision were made under this Act, made at the same time as it was made under the repealed Act—

(a) the repealed City of Brisbane Act;

(b) the repealed Business and Procedure Act;

(c) the repealed *Local Government Act 1993*;

(d) a repealed mall Act.

(2) A ***decision*** includes an agreement, appointment, approval, authorisation, certificate, charge, consent, declaration, delegation, determination, direction, dismissal, exemption, immunity, instruction, licence, memorandum of understanding, order, permit, plan, policy, protocol, rates, release, resolution, restriction, settlement, suspension and warrant.

258 Established malls

(1) A mall established under a repealed mall Act continues as a mall under this Act.

(2) The council may do anything in relation to a mall mentioned in subsection (1) that the council may do under this Act (including closing the mall, for example).

(3) On 1 July 2010, an advisory committee, established under a repealed mall Act, is dissolved and the members of the advisory committee go out of office.

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(4) No compensation is payable to a member because of subsection (3).

259 Proceedings and evidence

(1) If, immediately before the commencement of this section, proceedings for an appeal, a complaint or an offence could legally have been started under the repealed City of Brisbane Act or a repealed mall Act the proceedings may be started under this Act.

(2) Proceedings for an appeal, a complaint or an offence under any of the Acts may be continued under that Act, as if this Act had not commenced.

(3) Any document that was given evidentiary effect under any of the Acts continues to have the evidentiary effect as if that Act had not been repealed.

260 Super trust deed

A trust deed for a superannuation scheme established by the Brisbane City Council under the repealed City of Brisbane Act, that was in force immediately before the commencement of this section, continues in force as a trust deed under this Act.

261 Registers

A register maintained under the repealed City of Brisbane Act continues as if it were made under this Act.

262 References to repealed Acts

A reference in an Act or document to any of the following may, if the context permits, be taken to be a reference to this Act—

(a) the repealed City of Brisbane Act;

(b) the repealed Business and Procedure Act;

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(c) a repealed mall Act.

Part 4 Transitional provision for Revenue and Other Legislation Amendment Act 2011

266 Continued superannuation scheme for council employees

(1) This section applies to the superannuation scheme for council employees continued in existence under section 211 of this Act as in force before the commencement of this section.

(2) On the commencement of this section—

(a) the superannuation scheme ceases to continue in existence under this Act; and

(b) the trust deed for the superannuation scheme ceases to continue in force as a trust deed under this Act.

(3) If an audit of the superannuation scheme is required under the Commonwealth Super Act because of subsection (2), the audit must be carried out by the auditor-general.

Part 5 Transitional provisions for Local Government and Other Legislation Amendment Act 2012

267 Change in dealing with complaints

(1) This section applies if—

(a) the council, or the department's chief executive, makes or receives a complaint about the conduct or performance of a councillor before the commencement; and

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(b) an entity had started dealing with, but had not finally dealt with, the complaint under chapter 6, part 2, division 6.

(2) The former process continues to apply in relation to the complaint despite any amendment of this Act under the *Local Government and Other Legislation Amendment Act 2012*.

(3) The ***former process*** is chapter 6, part 2, division 6 as in force immediately before the commencement.

(4) To remove any doubt, it is declared that—

(a) an entity dealing with the complaint must deal with the complaint under the former process; and

(b) any disciplinary action taken against a councillor because of the complaint is limited to the action that may be taken under the former process.

268 Change in process for making local laws

(1) This section applies if the council has begun, but not completed, its process for making a local law before the commencement.

(2) The council may continue the process for making the local law despite any amendment of this Act under the *Local Government and Other Legislation Amendment Act 2012*.

(3) Chapter 3, part 1, as in force immediately before the commencement, continues to apply for the purpose of subsection (2).

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Part 6 Validation provision for Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014

269 Validation of rates charged

It is declared that the council always has had, whether under this Act or a repealed Act, the power to categorise rateable land, and decide differential rates for the rateable land, in the way stated in section 96(1A).

Part 7 Transitional provisions for Planning (Consequential) and Other Legislation Amendment Act 2016

270 Definitions for part

In this part—

amending Act means the *Planning (Consequential) and Other Legislation Amendment Act 2016*.

former, in relation to a provision, means the provision as in force immediately before the provision was amended or repealed under the amending Act.

repealed Planning Act means the repealed *Sustainable Planning Act 2009*.

271 Existing development application—resumption of particular land

(1) This section applies to an existing development application mentioned in former section 90(1)(a).

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(2) Former section 90 continues to apply in relation to the application as if the amending Act had not been enacted.

(3) In this section—

existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 288 applies.

272 Entry under existing application, permit or notice

(1) This section applies to an application, permit or notice—

(a) mentioned in former section 121; and

(b) made or given under the repealed Planning Act.

(2) Former section 121 continues to apply in relation to the application, permit or notice as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

273 Existing remedial notice

(1) This section applies to a remedial notice—

(a) given under former section 127A; and

(b) requiring the owner or occupier of a property to take action under the repealed Planning Act.

(2) The remedial notice continues to have effect as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

274 Existing inside information

(1) This section applies to information about any of the following (***existing inside information***) that, immediately before the commencement, was inside information, in relation to the council, for former section 173A—

(a) the exercise of a power under the repealed Planning Act by the council, a councillor or a council employee;

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(b) a decision, or proposed decision, under the repealed Planning Act of the council or any of its committees;

(c) the exercise of a power under the repealed Planning Act by the State, a Minister, a statutory body or an employee of the State or statutory body, that affects the council, any of its corporate entities or land or infrastructure within Brisbane;

(d) any legal or financial advice about the repealed Planning Act created for the council, any of its committees or any of its corporate entities.

(2) Former section 173A continues to apply in relation to the existing inside information as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

275 Existing unpaid fine—where fine to be paid to

(1) This section applies to a fine mentioned in former section 228 that—

(a) is unpaid; and

(b) was imposed in proceedings brought by the council for an offence against the repealed Planning Act.

(2) Former section 228 continues to apply in relation to the fine as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

Part 8 Validation provision for particular rates and charges

276 Validation of rates and charges

(1) This section applies to a rate or charge—

(a) levied or to be levied by the council under this Act, or levied by the council under the repealed *City of*

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Brisbane Act 1924, for a financial year up to and including the financial year ending 30 June 2018; and

(b) that was not decided to be levied by resolution of the council at the council's budget meeting for the financial year under this Act or the repealed *City of Brisbane Act 1924*.

(2) It is declared that the rate or charge is taken to be, and to always have been, as validly levied by the council as it would have been if the council had decided to levy the rate or charge by resolution at the council's budget meeting for the financial year under this Act or the repealed *City of Brisbane Act 1924*.

(3) It is also declared that anything done, or to be done, in relation to the rate or charge is as valid as it would have been or would be if the council had decided to levy the rate or charge by resolution at the council's budget meeting for the financial year under this Act or the repealed *City of Brisbane Act 1924*.

Examples of things done or to be done in relation to the rate or charge—

- the bringing by the council of proceedings against a person
- the sale of land, or the taking of steps preparatory to the sale of land, by the council
- the acquisition of land, or the taking of steps preparatory to the acquisition of land, by the council
- the charging of interest on the rate or charge

Part 9 Transitional provisions for Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018

277 Disqualifying offence committed before commencement

Chapter 6, part 2, as in force after the commencement, applies in relation to a disqualifying offence, whether the act or

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omission constituting the offence was committed before or after the commencement.

278 Existing charge for disqualifying offence

(1) This section applies if a proceeding for a disqualifying offence against a councillor had started before the commencement but has not ended.

(2) The councillor is automatically suspended as a councillor on the commencement.

(3) Chapter 6, part 2, division 8 applies in relation to the councillor as if the councillor was suspended under section 186B.

(4) Immediately after the commencement, the councillor must give a written notice that complies with subsection (5) to each of the following, unless the councillor has a reasonable excuse—

(a) the Minister;

(b) if the councillor is not the mayor—the mayor;

(c) the chief executive officer.

Maximum penalty—100 penalty units.

(5) For subsection (4), the notice must state—

(a) the provision of the law against which the councillor was charged; and

(b) the day the councillor was charged.

(6) The information contained in the notice is taken to be criminal history information for section 186H.

279 Existing conviction for new disqualifying offence

(1) This section applies if—

(a) before the commencement, a councillor was convicted of an offence that is a new disqualifying offence; and

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(b) on the commencement, the disqualifying period for the offence would not have ended.

(2) The councillor automatically stops being a councillor on the commencement.

(3) Immediately after the commencement, the councillor must give a written notice that complies with subsection (4) to each of the following, unless the councillor has a reasonable excuse—

(a) the Minister;

(b) if the councillor is not the mayor—the mayor;

(c) the chief executive officer.

Maximum penalty—100 penalty units.

(4) For subsection (3), the notice must state—

(a) the provision of the law against which the councillor was convicted; and

(b) the day the councillor was convicted.

(5) Section 153(7) applies in relation to the offence.

(6) The information contained in the notice is taken to be criminal history information for section 186H.

(7) In this section—

conviction includes a spent conviction.

disqualifying period, for a new disqualifying offence, means the period stated in section 153(1) during which a person convicted of the offence can not be a councillor.

new disqualifying offence means an offence that, under section 153—

(a) is a disqualifying offence after the commencement; but

(b) was not a disqualifying offence before the commencement.

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Part 10 Transitional provisions for Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019

Division 1 Transitional provisions for new disqualifying offences

280 Definitions for division

In this division—

amending provision means a provision of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*, other than section 42, that amends section 153 or schedule 1.

new disqualifying offence means an offence that—

(a) is a disqualifying offence after the commencement of an amending provision; but

(b) was not a disqualifying offence before the amending provision commenced.

281 New disqualifying offence committed before commencement

Chapter 6, part 2 applies in relation to a new disqualifying offence, even if the act or omission constituting the offence was committed before the commencement.

282 Existing charge for new disqualifying offence

(1) This section applies if a proceeding for a new disqualifying offence against a councillor had started before the commencement but has not ended.

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(2) The councillor is automatically suspended as a councillor on the commencement.

(3) Chapter 6, part 2, division 8 applies in relation to the councillor as if the councillor was suspended under section 186B.

(4) Immediately after the commencement, the councillor must give a written notice about the proceeding for the new disqualifying offence that complies with subsection (5) to each of the following, unless the councillor has a reasonable excuse—

(a) the Minister;

(b) if the councillor is not the mayor—the mayor;

(c) the chief executive officer;

Maximum penalty—100 penalty units.

(5) For subsection (4), the notice must state—

(a) the provision of the law to which the proceeding for the new disqualifying offence relates; and

(b) the day the councillor was charged with the offence.

(6) The notice is taken to be a notice mentioned in section 186G(1)(a).

(7) The information contained in the notice is taken to be criminal history information for section 186H.

283 Existing conviction for new disqualifying offence

(1) This section applies if—

(a) before the commencement, a councillor was convicted of an offence that is a new disqualifying offence; and

(b) on the commencement, the disqualifying period for the offence would not have ended.

(2) The councillor automatically stops being a councillor on the commencement.

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(3) Immediately after the commencement, the councillor must give a written notice that complies with subsection (4) to each of the following, unless the councillor has a reasonable excuse—

(a) the Minister;

(b) if the councillor is not the mayor—the mayor;

(c) the chief executive officer.

Maximum penalty—100 penalty units.

(4) For subsection (3), the notice must state—

(a) the provision of the law against which the councillor was convicted; and

(b) the day the councillor was convicted.

(5) Section 153(7) applies in relation to the offence.

(6) The notice is taken to be a notice mentioned in section 186G(1)(a).

(7) The information contained in the notice is taken to be criminal history information for section 186H.

(8) In this section—

conviction includes a spent conviction.

disqualifying period, for a new disqualifying offence, means the period stated in section 153(1) during which a person convicted of the offence can not be a councillor.

Division 2 Transitional provisions for councillor conduct

286 Definitions for division

In this division—

assessed, in relation to a complaint about the conduct or performance of a councillor, means a preliminary assessment of the complaint was conducted under former section 179.

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assessor see the Local Government Act, section 150C.

existing complaint means a complaint about the conduct or performance of a councillor made to any of the following entities before the commencement—

(a) the council;

(b) the department's chief executive;

(c) the chief executive officer.

former, for a provision of this Act, means as in force immediately before the commencement of the section in which the provision is mentioned.

local government official see the Local Government Act, section 150R(4).

287 Existing complaints not assessed

(1) This section applies if, immediately before the commencement, an existing complaint about a councillor's conduct had not been assessed.

(2) The assessor must deal with the existing complaint under the Local Government Act, chapter 5A as if the existing complaint was made or referred to the assessor under chapter 5A of that Act.

(3) An entity holding information relating to the existing complaint must, as soon as practicable after the commencement, give the information to the assessor.

(4) This section is subject to section 290.

288 Existing inappropriate conduct and misconduct complaints

(1) This section applies if, immediately before the commencement—

(a) an existing complaint about a councillor was assessed to be about inappropriate conduct or misconduct; and

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(b) a final decision dealing with the complaint had not been made.

(2) The assessor must deal with the existing complaint under the Local Government Act, chapter 5A as if the existing complaint was made or referred to the assessor under chapter 5A of that Act.

(3) An entity holding relevant information relating to the existing complaint must, as soon as practicable after the commencement, give the information to the assessor.

(4) This section is subject to section 290.

289 Existing orders taken into account

(1) This section applies if, before the commencement—

(a) an order was made against a councillor under section 183 as in force from time to time before the commencement; and

(b) the order is substantially the same as an order that may be made under the Local Government Act, chapter 5A.

(2) The order may be taken into account for the following purposes—

(a) the council or a local government official deciding whether—

(i) to notify the assessor about a councillor's conduct under the Local Government Act, chapter 5A, part 3, division 3; or

(ii) to give information about a councillor's conduct to the assessor under the Local Government Act, section 150AF;

(b) the assessor deciding how to deal with the conduct of a councillor, or a complaint about the conduct of a councillor, under the Local Government Act, section 150W;

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(c) the council or conduct tribunal deciding what action to take in relation to any inappropriate conduct or misconduct of the councillor under the Local Government Act.

290 Dealing with particular pre-commencement complaints or conduct

(1) This section applies in relation to conduct engaged in by a councillor before the commencement, including conduct that is the subject of an existing complaint mentioned in section 287(1) or 288(1).

(2) In deciding how to deal with the conduct, the assessor, a local government official, the council and the conduct tribunal must—

(a) apply the former conduct definitions to the conduct; and

(b) only make an order that is substantially the same as an order that could have been made under former section 183.

(3) To remove any doubt, it is declared that the Local Government Act, chapter 5A otherwise applies in relation to an order mentioned in subsection (2).

(4) In this section—

former conduct definitions means—

(a) the definition of *misconduct* under former section 178(3); and

(b) the definition of *inappropriate conduct* under former section 178(4); and

(c) the qualification of those definitions under former section 180A(5) and (6); and

(d) the extension of the definition of *misconduct* under former section 183(5) and (6).

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291 Model procedures apply until procedures adopted

(1) If, immediately before the commencement, the council has not adopted the model procedures or other procedures under the Local Government Act, section 150G, on the commencement the council is taken to have adopted the model procedures.

(2) Subsection (1) applies until the council adopts the model procedures or other procedures under the Local Government Act, section 150G.

(3) In this section—

model procedures see the Local Government Act, section 150F.

292 Process if no investigation policy

(1) This section applies if, on or after the commencement—

(a) the council is required to deal with the inappropriate conduct of a councillor under the Local Government Act, chapter 5A, part 3, division 5; and

(b) the council has not adopted an investigation policy under section 150AE of that Act.

(2) The council must decide, by resolution, the procedure for investigating the conduct.

(3) However, subsections (4) and (5) apply if the assessor has recommended, under the Local Government Act, section 150AC(3), how the conduct may be dealt with.

(4) The council must follow the process recommended by the assessor or decide, by resolution, to deal with the complaint in another way.

(5) The council must state the reasons for its decision in the resolution.

293 Offences against s 215 charged before commencement

(1) This section applies if—

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(a) a person was charged with an offence against section 215(1)(f) as in force before the commencement; and

(b) on the commencement, the proceeding for the offence had not been finally decided.

(2) The proceeding for the offence may be continued, and the person may be punished for the offence, as if the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*, section 36 had not commenced.

(3) Subsection (2) applies despite the Criminal Code, section 11.

Part 11 Transitional provisions for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020

294 Existing senior contract employees

(1) Subsection (2) applies to a person who, immediately before the commencement, was a senior contract employee of the council if the person—

(a) reported directly to the chief executive officer; and

(b) held a position that would ordinarily be considered to be a senior position in the council's corporate structure.

(2) On the commencement—

(a) the person's contract and conditions of employment continue; and

(b) the person is taken to have been appointed by the council as a senior executive employee under section 192.

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(3) Subsection (4) applies to a person who, immediately before the commencement, was a senior contract employee of the council other than a person mentioned in subsection (1).

(4) On the commencement—

(a) the person's contract and conditions of employment continue; and

(b) the person is taken to have been appointed by the chief executive officer as a council employee under section 193; and

(c) section 193(4) does not apply in relation to the person's employment.

295 Proceedings for repealed integrity offences

(1) This section applies in relation to an offence against a repealed integrity offence provision committed by a person before the commencement.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020*, sections 80 and 81 had not commenced.

(3) From the commencement, an offence against a repealed integrity offence provision continues, despite the repeal of the provision, to be—

(a) an integrity offence for section 153(5); and

(b) a disqualifying offence for section 153(6).

(4) In this section—

repealed integrity offence provision means the following provisions as in force from time to time before the commencement—

(a) section 173A(2) and (3);

(b) section 173B(2);

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(c) section 177C(2);

(d) section 177E(2) and (5);

(e) section 177H;

(f) section 177I(2) and (3).

296 Continuation of Minister's approval for councillor to participate or be present to decide matter

(1) This section applies to a notice given before the commencement by the Minister to a councillor under section 177F, if the notice is in force immediately before the commencement.

(2) The notice is taken to be a notice given to the councillor under section 177S.

297 Remuneration commission's recommendation not required for initial regulation

Section 194C(2) and (3) does not apply to the regulation first made after the commencement under section 194C(1)(a).

298 Application of s 198A for councillors

(1) This section applies if, on the commencement, a councillor has an interest mentioned in section 198A(1).

(2) Despite section 198A(2), the councillor must comply with section 198A in relation to the interest within 30 days after the commencement.

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Part 12 Transitional provision for Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023

299 Application of s 174—elections held on or after introduction day and before 2024 quadrennial election

(1) This section applies in relation to an election under the *Local Government Electoral Act 2011* held on or after the introduction day and before the 2024 quadrennial election.

(2) Section 174 as in force immediately before the commencement applies in relation to the election as if the amending Act had not been enacted.

(3) In this section—

2024 quadrennial election means the quadrennial election to be held in 2024.

amending Act means the *Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023*.

introduction day means the day the Bill for the amending Act was introduced into the Legislative Assembly.

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Part 13 Transitional provisions for Local Government (Empowering Councils) and Other Legislation Amendment Act 2026

Division 1 Preliminary

300 Definitions for part

In this part—

amendment Act means the *Local Government (Empowering Councils) and Other Legislation Amendment Act 2026*.

former, in relation to a provision of this Act, means the provision as in force from time to time before the commencement of the transitional provision in which the term is used.

new, in relation to a provision of this Act, means the provision as in force from the commencement of the transitional provision in which the term is used.

transitional provision means a provision of this part.

Division 2 Provisions for amendments commencing on assent

301 Budget for 2025–2026 financial year

(1) This section applies in relation to the council's budget for the 2025–2026 financial year.

(2) Section 104 as in force immediately before the commencement continues to apply in relation to the budget despite the amendment of that section by the amendment Act.

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302 Councillors who were candidates immediately before commencement

(1) This section applies if—

(a) before the commencement, a councillor had become a candidate, under the Electoral Act, section 93(3), for an election of a member of the Legislative Assembly; and

(b) immediately before the commencement, the election period for the election had not ended under that Act.

(2) Sections 155 and 160A as in force immediately before the commencement continue to apply to the councillor, despite the enactment of the amendment Act, until the election period ends.

303 Councillor training

Training that was, immediately before the commencement, approved councillor training for a matter under section 169A as in force immediately before the commencement is, from the commencement, taken to be an approved training course for the same matter under new section 169A.

304 Existing senior contract employees

(1) This section applies to a person if, immediately before the commencement, the person—

(a) held an appointment under section 193 as in force immediately before the commencement; and

(b) was employed on a contractual basis and classified by the council as ‘senior executive service’.

(2) From the commencement—

(a) the person’s contract and conditions of employment continue; and

(b) the person is taken to have been appointed by the council as a senior contract employee under new section 192.

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Division 3 Provisions for amendments commencing by proclamation

305 Proceedings for particular offences

(1) This section applies in relation to an offence against any of the following provisions committed by a person before the commencement—

(a) former section 198D in relation to a provision mentioned in former section 198D(2), definition *relevant integrity provision*, paragraph (a)(i) to (v);

(b) former section 177J(2);

(c) former section 177P(5);

(d) former section 177V.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if the amendment Act, sections 24 and 25 had not commenced.

(3) Subsection (2) applies despite the Criminal Code, section 11.

306 Continued application of s 153 for former integrity offences

(1) This section applies if a person is convicted of an offence against former section 177J(2) or 177V before or after the commencement.

(2) The conviction is taken to be a conviction of an integrity offence for section 153(1)(d).

307 Application of Local Government Act for contravention of former COI provisions

(1) This section applies if—

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(a) before the commencement, a person had made a complaint to the assessor about the conduct of a councillor; and

(b) the conduct related to a contravention of former section 177H, 177I, 177MA, 177N, 177T or 177W (the ***former COI provisions***); and

(c) immediately before the commencement, the complaint had not been resolved.

(2) The Local Government Act, chapter 5A, as it applies under chapter 9, part 20, division 3, subdivision 1 of that Act, applies in relation to the councillor's conduct as if—

(a) the former COI provisions had not been repealed; and

(b) contravention of a former COI provision continued to be misconduct within the meaning of the Local Government Act, section 150L.

(3) In this section—

resolved, in relation to a complaint about a councillor's conduct, means all proceedings or actions that are required or permitted to be taken under the Local Government Act, chapter 5A in relation to the conduct are complete.

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Schedule 1 Serious integrity offences and integrity offences

section 153

Part 1 Serious integrity offences

This Act

198D	Dishonest conduct of councillor or councillor advisor

Criminal Code

54A(1)	Demands with menaces upon agencies of government
57(1)	False evidence before Parliament
60(1)	Bribery of member of Parliament
87(1) or (1A)	Official corruption
92A(1) or (2)	Misconduct in relation to public office
98B(1)	False or misleading information
98C(1) or (2)	Bribery
98D(1) or (2)	Forging or uttering electoral or referendum paper
110	Stuffing ballot boxes
112(1)	False or misleading information
119B(1)	Retaliation against or intimidation of judicial officer, juror, witness etc.
122(1)	Corruption of jurors
123(1)	Perjury
126(1)	Fabricating evidence

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127(1)	Corruption of witnesses
129	Damaging evidence with intent
131(1)	Conspiracy to bring false accusation
132(1)	Conspiring to defeat justice
133(1)	Compounding an indictable offence
	circumstance—the penalty in subsection (2) applies to the offence
140(1)	Attempting to pervert justice
193(1)	False verified statements
398(1)	Punishment of stealing
	circumstance—a circumstance of aggravation with a maximum penalty of 7 years or more imprisonment applies to the offence
399	Fraudulent concealment of particular documents
	circumstance—paragraph (b) of the penalty applies to the offence
408C(1)	Fraud
	circumstance—a circumstance of aggravation mentioned in subsection (2), (2A) or (2B) applies to the offence
408E(1)	Misuse of restricted computer
	circumstance—a circumstance of aggravation mentioned in subsection (3) applies to the offence
415(1)	Extortion
430	Fraudulent falsification of records
433(1)	Receiving tainted property
442B	Receipt or solicitation of secret commission by an agent
442BA	Gift or offer of secret commission to an agent
442D	False or misleading receipt or account

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442E	Secret commission for advice given
442EA	Offer or solicitation of secret commission in return for advice given or to be given
442F	Secret commission to trustee in return for substituted appointment
442G	Liability of director etc. acting without authority
488(1)	Forgery and uttering circumstance—paragraph (a) or (b) of the penalty applies to the offence
541(1)	Conspiracy to commit crime circumstance—a maximum penalty of 7 years imprisonment or more applies to the offence

Crime and Corruption Act

198(1)	Contempt of person conducting commission hearing

Criminal Proceeds Confiscation Act 2002

250(1)	Money laundering

Electoral Act

307B(1)	Schemes to circumvent prohibition on political donations or electoral expenditure

Local Government Electoral Act 2011

112B(5)	Application to unincorporated bodies circumstance—the provision contravened is section 123N(2)
123N(2)	Compliance with expenditure cap generally

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169(1)	False or misleading information
170(1) or (2)	Bribery
175(1) or (2)	Forged electoral papers
194B(1)	Schemes to circumvent prohibition on particular political donations or electoral expenditure

Part 2 Integrity offences

This Act

173(1)	Use of information by councillors
177F(3)	Councillor's material personal interest at a meeting
198F(2) or (3)	Prohibited conduct by councillor or councillor advisor in possession of inside information
215(1)	False or misleading information

Criminal Code

54(1)	Interference with Governor or Ministers
55(1)	Interference with the Legislature
58(1)	Witness refusing to attend, answer question or produce a thing before Legislative Assembly or authorised committee
78(1) or (2)	Interfering with political liberty
85	Disclosure of official secrets
98E(1)	Influencing voting
98F	Providing money for illegal payments
98G	Voting if not entitled

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99(1), (2), (3), (4) or (5)	Voting if not entitled
100(1) or (2)	Hindering or interfering with voting conduct
101(1) or (2)	Bribery
102	Publishing false information about a candidate
113(2), (3), (4) or (5)	Interfering with secrecy at elections
128	Deceiving witnesses
130	Preventing witnesses from attending
133(1)	Compounding an indictable offence
	circumstance—the penalty in subsection (3) applies to the offence
194(1)	False declarations
204(1)	Disobedience to statute law
398(1)	Punishment of stealing
	circumstance—no circumstance of aggravation applies to the offence
399	Fraudulent concealment of particular documents
	circumstance—paragraph (a) of the penalty applies to the offence
408C	Fraud
	circumstance—the circumstance of aggravation mentioned in subsection (2), (2A) or (2B) does not apply to the offence
408D(1) or (1A)	Obtaining or dealing with identification information

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408E	Misuse of restricted computer circumstance—no circumstance of aggravation, or the circumstance of aggravation mentioned in subsection (2), applies to the offence
414	Demanding property with menaces with intent to steal
488(1)	Forgery and uttering circumstance—paragraph (c) of the penalty applies to the offence
541(1)	Conspiracy to commit crime circumstance—the maximum penalty for the crime in question is less than 7 years imprisonment

Electoral Act

427(2)	Obligation to repay particular political donations

Local Government Act

150AW(1)	Protection from reprisal
234(1)	False or misleading information

Local Government Electoral Act 2011

112B(5)	Application to unincorporated bodies circumstance—the provision contravened is section 123O(2)
116G(1) or (2)	Agent's obligation to ensure compliance
123O(2)	Compliance with expenditure cap—unregistered third party
126(8)	Requirement for candidate to operate dedicated account

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127(8)	Requirement for group of candidates to operate dedicated account
127AA(7)	Requirement for registered political party to operate dedicated account
127AB(7)	Requirement for relevant third party to operate dedicated account
127V(2)	Participant in election must assist appointed auditor
135E(2)	Auditor preparing audit certificate to give notice of contravention
171	Assisting illegal payments
183	Engaging in group campaign activities
186	Influencing voting by violence or intimidation
189	Voting if not entitled
194A(1)	Offence about prohibited donations
194C(1)	False or misleading information relating to determinations
195(2)	Offences about returns
195(3)	Offences about returns
212(2)	Obligation to repay particular political donations

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Schedule 2 Dictionary

section 6

2020 quadrennial election means the quadrennial election for 2020.

acceptable requests guidelines see section 244(1).

adopt, by the council, means adopt by resolution of the council.

ancillary works and encroachments means—

(a) cellars; or

(b) gates; or

(c) temporary rock anchors for building support; or

(d) ancillary works and encroachments under the Transport Infrastructure Act.

anti-competitive provision means a provision that a regulation identifies as creating barriers to—

(a) entry to a market; or

(b) competition within a market.

appropriately qualified, for a delegated power, includes having the qualifications, experience or standing to exercise the power.

Example of standing—

a person's classification level in the public service

approved form means a form approved 248.

approved inspection program see section 122(2).

associate, of a councillor, see section 177D.

auditor-general means the Queensland Auditor-General under the *Auditor-General Act 2009*.

authorised officer means a person who holds office under the Local Government Act, section 204D.

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authorised person means a person who holds office under section 199.

beginning, of the council's term, see section 161(3).

beneficial enterprise see section 43(3).

boundary change see section 19(2).

Brisbane means the City of Brisbane.

Building Act means the *Building Act 1975*.

building certifying activity see section 51(4).

building unit means a lot under—

(a) the *Body Corporate and Community Management Act 1997*; or

(b) the *Building Units and Group Titles Act 1980*; or

(c) the *Integrated Resort Development Act 1987*; or

(d) the *Mixed Use Development Act 1993*; or

(e) another Act prescribed under a regulation.

business activity, of the council, means trading in goods and services by the council.

business unit, of the council, means a part of the council that conducts a business activity of the council.

caretaker period, for the council, see section 92A(1).

cause detriment to the council—

1 To *cause detriment to the council* includes—

(a) to sabotage a lawful process of the council (including adopting a budget or conducting a tender process, for example); or

(b) to cause the council to suffer a loss in its lawful performance of a function or commercial activity (including the loss of a future contractual arrangement, for example).

2 To *cause detriment to the council* does not include—

(a) merely embarrassing the council; or

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(b) merely causing disagreement between councillors.

CCC means the Crime and Corruption Commission.

chairperson of the council means the councillor appointed by the council under section 25(1).

change commission means the change commission established under the Local Government Act.

charges includes any interest accrued, or premium owing, on the charges.

chief executive officer means the person who holds an appointment under section 190.

code of competitive conduct see section 51(2).

commercialisation, of a significant business activity, see section 48(2).

committee chairperson, for a committee of the council, means the councillor appointed by members of the committee as chairperson of the committee.

Commonwealth Super Act means the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

competitive neutrality principle see section 47(3).

component local government see the Local Government Act, section 25A(4).

conclusion, of the election of a councillor, see the *Local Government Electoral Act 2011*, section 7.

conduct tribunal see the Local Government Act, section 150DK.

conflict of interest see section 177C.

consolidated version, of a local law, see section 35(2).

contractor, of the council, means—

(a) a person who provides services under a contract with the council; or

(b) a person prescribed under a regulation.

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conviction includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

corporate entity means an entity that has been corporatised under this Act and to which the Corporations Act does not apply.

cost-recovery fee see section 99(2).

council see section 9.

council employee means any of the following of or relating to the council—

(a) the chief executive officer;

(b) a senior executive employee;

(c) a senior contract employee;

(d) a person holding an appointment under section 193.

councillor, for the council, includes the mayor.

councillor advisor see section 194A(1).

council meeting means a meeting of—

(a) the council; or

(b) a committee of the council.

council worker see section 127(4).

court means a court of competent jurisdiction.

Crime and Corruption Act means the *Crime and Corruption Act 2001*.

criminal history, of a person, means all convictions, other than spent convictions, recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this Act.

department's chief executive means the chief executive of the department.

discretionary funds see section 106(2).

disqualifying offence see section 153(6).

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distribution, of a how-to-vote card—

(a) includes make the card available to other persons; but

(b) does not include merely display the card.

Examples—

1 A person distributes how-to-vote cards if the person hands the cards to other persons or leaves them at a place for other persons to take away.

2 A person does not distribute how-to-vote cards if the person attaches the cards to walls and other structures, merely for display.

elected includes re-elected.

elector means a person entitled to vote in an election of councillors.

Electoral Act means the *Electoral Act 1992*.

electoral commission means the Electoral Commission of Queensland under the Electoral Act.

electoral commissioner means the electoral commissioner under the Electoral Act.

encumbrance includes any of the following that affects land—

(a) a mortgage, lien or charge;

(b) a caveat;

(c) an agreement;

(d) a judgment, writ or process;

(e) an interest adverse to the interest of the land's owner;

but does not include an easement.

establish, a superannuation scheme, includes join in establishing a superannuation scheme.

Establishment and Coordination Committee means the council's Establishment and Coordination Committee continued under section 24.

executive officer, of an entity, means—

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(a) if the entity has a board or management committee—each member of the board or committee; or

(b) each person, by whatever name called, who is concerned, or takes part, in the management of the entity.

final part, of the council's term, see section 161(5).

Forestry Act means the *Forestry Act 1959*.

fresh election means an election of all the councillors of the council that is not a quadrennial election.

full cost pricing, of a significant business activity, see section 48(3).

general rates see section 94(2).

gift includes—

(a) a gift under the *Local Government Electoral Act 2011*, section 107; and

(b) a gift that is required, under a regulation, to be recorded in a register of interests.

government entity has the same meaning as in the *Government Owned Corporations Act 1993*.

grants commission means the grants commission established under the Local Government Act.

group of candidates, for an election, see the *Local Government Electoral Act 2011*, section 42(3).

home includes—

(a) a room in a boarding house; and

(b) a caravan; and

(c) a manufactured home within the meaning of the *Manufactured Homes (Residential Parks) Act 2003*, section 10.

Housing Act contract means a contract of sale—

(a) that was entered into under—

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(i) the *State Housing Act 1945*, section 24, before the repeal of that Act; or

(ii) the *Housing Act 2003*, section 113; or

(b) under which—

(i) the purchase price, other than the deposit, is payable in 2 or more instalments; or

(ii) the sale is of a share in a house and land.

how-to-vote card see the *Local Government Electoral Act 2011*, schedule 2.

identity card, of a person, means a card that—

(a) identifies the person as an authorised person, council worker or authorised officer; and

(b) contains a recent photo of the person; and

(c) contains a copy of the person's signature; and

(d) states the expiry date for the identity card.

industrial instrument means an industrial instrument under the *Industrial Relations Act 2016*.

interest means a financial or other interest.

interim administrator see the Local Government Act, schedule 4.

interim local law see section 27(4).

investigator see section 205(2).

joint government activity see section 12(2).

joint local government see the Local Government Act, section 25A(2).

joint local government area see the Local Government Act, section 25A(3).

judicial review means a review under the Judicial Review Act.

Judicial Review Act means the *Judicial Review Act 1991*.

land includes—

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(a) freehold land; and

(b) land held from the State for a leasehold interest; and

(c) a mining claim.

Land Act means the *Land Act 1994*.

Land Title Act means the *Land Title Act 1994*.

LGAQ Ltd means the Local Government Association of Queensland Ltd ABN 11 010 883 293.

loan includes—

(a) a loan under the *Local Government Electoral Act 2011*, section 106; and

(b) a loan that is required, under a regulation, to be recorded in a register of interests.

Local Government Act means the *Local Government Act 2009*.

local government area see the Local Government Act, section 8(2).

Local Government (Financial Assistance) Act means the *Local Government (Financial Assistance) Act 1995* (Cwlth).

local government principles see section 4(2).

local government related law means a law under which the council performs the council's responsibilities, including, for example—

(a) this Act; and

(b) the Local Government Act; and

(c) a local law; and

(d) the Building Act; and

(e) the Planning Act; and

(f) a planning scheme, under the Planning Act; and

(g) the Plumbing and Drainage Act; and

(h) the *Water Act 2000*; and

(i) the *Water Supply (Safety and Reliability) Act 2008*.

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local law see section 27(2).

major policy decision, of the council, means a decision—

(a) about the appointment of a chief executive officer; or

(b) about the remuneration of the chief executive officer; or

(c) to terminate the employment of the chief executive officer; or

(d) to enter into a contract the total value of which is more than the greater of the following—

(i) $200,000;

(ii) 1% of the council's net rate and utility charges as stated in the council's audited financial statements included in the council's most recently adopted annual report; or

(e) relating to making or preparing an arrangement, list, plan or register in the way provided under a regulation made under this Act that can be used to establish an exception to obtaining quotes or tenders when entering into a contract; or

(f) to make, amend or repeal a local law; or

(g) to make, amend or repeal a local planning instrument under the Planning Act; or

(h) under the Planning Act, chapter 3, part 3, division 2 on a development application that includes a variation request under that Act if the application proposes to—

(i) vary the category of development or category of assessment of development; or

(ii) vary the assessment benchmarks or criteria for accepted development that would apply to development; or

(iii) facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the council's local government infrastructure plan; or

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(i) under the Planning Act, chapter 3, part 5, division 2, subdivision 2 on a change application under that Act that includes a change to a variation approval if the application is being assessed under section 82 of that Act and the application proposes to—

(i) further vary the category of development or category of assessment of development; or

(ii) further vary the assessment benchmarks or criteria for accepted development that would apply to development; or

(iii) facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the council's local government infrastructure plan.

Note—

Change application assessments for minor changes under the Planning Act, section 81 are not subject to paragraph (i).

material personal interest see section 177B.

middle, of the council's term, see section 161(4).

mining claim means a mining claim under the *Mineral Resources Act 1989*.

model local law see section 27(7).

notice of intention to acquire land see section 67(2).

occupier, of property, see section 114(6).

overall State interest is—

(a) an interest that the Minister considers affects the economic, environmental or social interest of all or part of the State; or

(b) an interest that the Minister considers affects the interest of ensuring there is an accountable, effective and efficient system of local government; or

(c) an interest prescribed under a regulation.

owner of land—

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1 An *owner* of land is—

(a) a registered proprietor of freehold land; or

(b) a purchaser of freehold land from the State under an Act; or

(c) a purchaser of land under a Housing Act contract; or

(d) a person who has a share in land that the person bought under a Housing Act contract; or

(e) a lessee of land held from the State, and a manager, overseer or superintendent of the lessee who lives on the land; or

(f) the holder of a mining claim or lease; or

(g) the holder of land mentioned in the *Mineral Resources Act 1989*, schedule 2, definition *owner*; or

(h) a lessee under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or

(i) a lessee of land held from a government entity or the council; or

(j) the holder of an occupation permit or stock grazing permit under the Forestry Act or of a permit prescribed under a regulation; or

(k) the holder of a permission to occupy from the chief executive of the department responsible for the administration of the Forestry Act; or

(l) the holder of a permit to occupy under the Land Act; or

(m) a licensee under the Land Act; or

(n) for land on which there is a structure subject to a timeshare scheme—the person notified to the council as the person responsible for the administration of the scheme as between the participants in the scheme; or

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(o) another person who is entitled to receive rent for the land; or

(p) another person who would be entitled to receive rent for the land if it were leased at a full commercial rent.

2 However, an *owner* of land does not include the State, or a government entity, except as far as the State or government entity is liable under an Act to pay rates.

Planning Act means the *Planning Act 2016*.

planning scheme means a planning scheme under the Planning Act.

Plumbing and Drainage Act means the *Plumbing and Drainage Act 2018*.

political party means an organisation registered as a political party under the Electoral Act.

private property see section 114(4).

private sector means an entity that is not—

(a) the Commonwealth or a State; or

(b) a State authority; or

(c) a local government.

property means land, any structure on the land, and a vehicle.

public office, of the council, see section 241.

public place, for chapter 5, part 2, division 1, see section 114(5).

public place see section 114(5).

public thoroughfare easement is an easement created under—

(a) the Land Act, chapter 6, part 4, division 8; or

(b) the Land Title Act, part 6, division 4.

public utilities means—

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(a) works for the supply of drainage, electricity, gas, sewerage, telecommunications or water; or

(b) works for an infrastructure corridor under the *State Development and Public Works Organisation Act 1971*, section 82; or

(c) works for a purpose mentioned in the *State Development and Public Works Organisation Act 1971*, section 125; or

(d) other works declared under a regulation to be a public utility.

quadrennial elections means the elections for local governments that are held in 2012, and every fourth year after 2012.

rateable land see section 95(2).

rates includes any interest accrued, or premium owing, on the rates.

rates and charges see section 93(2).

reasonable entry notice see section 127A(3).

reasonable proportion of electors see section 17(4).

registered officer, of a political party, means the registered officer of the political party under the Electoral Act.

registrar of titles means the public authority responsible for registering title to land and dealings affecting land.

regulated pool see the Building Act, section 231B.

related, for chapter 6, part 4A—

(a) to a councillor—see section 198A(3); or

(b) to a councillor advisor—see section 198A(4).

related party, of a councillor, see section 177E.

relevant term, for a councillor, means the councillor's current term of office and the period—

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(a) starting on the day after the conclusion of the quadrennial election held before the most recent quadrennial election; and

(b) ending on the day immediately before the councillor's current term of office started.

remedial notice see section 127A(1).

repealed Business and Procedure Act means the repealed *Brisbane City Council Business and Procedure Act 1939*.

repealed City of Brisbane Act means the repealed *City of Brisbane Act 1924*.

repealed mall Act means—

(a) the repealed *Local Government (Chinatown and The Valley Malls) Act 1984*; or

(b) the repealed *Local Government (Queen Street Mall) Act 1981*.

resolution, of the council, means the formal decision of the council at a council meeting.

responsibility includes a function.

reward does not include—

(a) a councillor's remuneration as a councillor; or

(b) an amount decided under the deed under the *Superannuation (State Public Sector) Act 1990* in relation to a transferring member within the meaning of repealed section 32A of that Act; or

(c) reasonable expenses actually incurred for any 1 or more of the following—

(i) accommodation;

(ii) meals;

(iii) domestic air travel;

(iv) taxi fares or public transport charges;

(v) motor vehicle hire; or

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(d) an amount paid as a pension or otherwise for past service in a full-time government job.

road see section 65(2).

roads activity see section 51(5).

sanitary drain—

(a) means a drain that is immediately connected to, and used to carry discharges from, a soil or waste pipe; but

(b) does not include a pipe that is a part of a drain for carrying off effluent from a property after treatment in an on-site sewerage facility.

senior contract employee means an employee of the council who—

(a) is employed on a contractual basis; and

(b) is classified by the council as senior executive service.

senior executive employee means an employee of the council—

(a) who reports directly to the chief executive officer; and

(b) whose position ordinarily would be considered to be a senior position in the council's corporate structure.

separate rates and charges see section 94(5).

sewerage treatment system means the infrastructure used to receive, transport and treat sewage or effluent (including sewers, access chambers, machinery, outfalls, pumps, structures and vents, for example).

sign, a thing, includes the making of a mark on the thing in front of someone else who signs the thing as witness.

significant business activity see section 47(4).

special rates and charges see section 94(3).

standing committee, of the council, means a committee of its councillors that meets to discuss the topics decided by the council when establishing the committee.

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State-controlled road see the Transport Infrastructure Act, schedule 6.

State office, of the department, means the office of the department at the address prescribed under a regulation.

Statutory Bodies Financial Arrangements Act means the *Statutory Bodies Financial Arrangements Act 1982*.

statutory committee, of the council, means a committee of the council that is required under this Act and may not be dissolved by the council.

stormwater drain see section 83(2).

stormwater installation see section 83(3).

structure means anything that is built or constructed, whether or not it is attached to land.

subordinate local law see section 27(5).

sustainable development is development that is designed to meet present needs while also taking into account future costs (including costs to the environment and the depletion of natural resources, for example).

timeshare scheme, for a structure, means a scheme that is to operate for at least 3 years during which time the participants in the scheme are, or may become, entitled to use, occupy or possess the structure, or part of the structure, for 2 or more periods.

Transport Infrastructure Act means the *Transport Infrastructure Act 1994*.

utility charges see section 94(4).

ward, of Brisbane, see section 17(1).

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