



Queensland

Local Government Bill 2008



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Local Government Bill 2008

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2008

A Bill

for

**An Act to provide a system of local government in Queensland,
and related purposes**

[s 1]

The Parliament of Queensland enacts— 1

Chapter 1 Preliminary 2

1 Short title 3

This Act may be cited as the *Local Government Act 2008*. 4

2 Commencement 5

This Act commences on a day to be fixed by proclamation. 6

3 Purpose of this Act 7

The purpose of this Act is to provide for— 8

(a) the way in which a local government is constituted and 9
the nature and extent of its responsibilities and powers; 10
and 11

(b) a system of local government in Queensland that is 12
accountable, effective, efficient and sustainable. 13

Note— 14

The system of local government consists of a number of local 15
governments. See the *Constitution of Queensland 2001*, section 16
70 (System of local government). 17

4 Local government principles underpin this Act 18

(1) To ensure the system of local government is accountable, 19
effective, efficient and sustainable, Parliament requires 20
anyone who is performing a responsibility under this Act to 21
do so in accordance with the local government principles. 22

(2) The *local government principles* are— 23

(a)	transparent and effective processes, and decision-making in the public interest; and	1 2
(b)	sustainable development and management of assets and infrastructure, and delivery of effective services; and	3 4
(c)	democratic representation, social inclusion and meaningful community engagement; and	5 6
(d)	good governance of, and by, local government; and	7
(e)	ethical and legal behaviour of councillors and local government employees.	8 9
5	How this Act applies to the Brisbane City Council	10
(1)	The City of Brisbane is a local government under this Act.	11
(2)	However, this Act applies to the Brisbane City Council, with any necessary changes, only to the extent that this Act provides for a matter that the <i>City of Brisbane Act 1924</i> does not provide for.	12 13 14 15
(3)	For that purpose, a reference in this Act, that is set out in column 1 of schedule 2, is taken to be a reference to the corresponding words in the <i>City of Brisbane Act 1924</i> , that is set out in column 2 of schedule 2.	16 17 18 19
6	Definitions	20
	The dictionary in schedule 3 defines particular words used in this Act.	21 22

[s 7]

Chapter 2	Local governments	1
Part 1	Local governments and their constitution, responsibilities and powers	2
		3
		4
7	What this part is about	5
	This part explains—	6
	(a) what a local government is; and	7
	(b) what a local government area is; and	8
	(c) who constitutes a local government; and	9
	(d) the responsibilities and powers of a local government, its councillors and its employees.	10 11
8	Local government’s responsibility for local government areas	12 13
	(1) A <i>local government</i> is an elected body that is responsible for the good rule and local government of a part of Queensland.	14 15
	<i>Note—</i>	16
	This is provided for in the <i>Constitution of Queensland 2001</i> , section 71 (Requirements for a local government).	17 18
	(2) A part of Queensland that is governed by a local government is called a <i>local government area</i> .	19 20
	(3) A local government area may be divided into areas called <i>divisions</i> .	21 22
	(4) A regulation may—	23
	(a) describe the boundaries of a local government area; or	24
	(b) describe the boundaries of any divisions; or	25
	(c) fix the number of councillors for a local government; or	26

(d)	name a local government area; or	1
(e)	classify a local government area as a city, town, shire or region.	2 3
9	Powers of local governments generally	4
(1)	A local government has the power to do anything that is necessary or convenient for the good rule and local government of its local government area.	5 6 7
	<i>Note—</i>	8
	Also, see section 265 (Powers in support of responsibilities) for more information about powers.	9 10
(2)	However, a local government can only do something that the State can validly do.	11 12
(3)	When exercising a power, a local government may take account of Aboriginal tradition and Island custom.	13 14
(4)	A local government may exercise its powers—	15
(a)	inside the local government area; or	16
(b)	outside the local government area (including outside Queensland)—	17 18
(i)	with the written approval of the Minister; or	19
(ii)	as provided in section 10(5).	20
(5)	When a local government is exercising a power in a place that is outside its local government area, the local government has the same jurisdiction in the place as if the place were inside its local government area.	21 22 23 24
10	Power includes power to conduct joint government activities	25 26
(1)	A local government may exercise its powers by cooperating with 1 or more other local, State or Commonwealth governments to conduct a joint government activity.	27 28 29

[s 11]

- (2) A **joint government activity** includes providing a service, or operating a facility, that involves the other governments. 1
2
- (3) The cooperation with another government may take any form, including for example— 3
4
- (a) entering into an agreement; or 5
- (b) creating a joint local government entity, or joint government entity, to oversee the joint government activity. 6
7
8
- (4) A joint government activity may be set up for more than 1 purpose. 9
10
- Example—* 11
- 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 1 of the local governments. 12
13
14
15
- (5) A local government may exercise a power in another government’s area for the purposes of a joint government activity, in the way agreed by the governments. 16
17
18
- (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. 19
20
21
- Note—* 22
- See section 29 for more information about making local laws. 23
- 11 Who a local government is constituted by** 24
- (1) Usually, a local government is constituted by the councillors who are elected or appointed to the local government under this Act or the Local Government Electoral Act. 25
26
27
- (2) However— 28
- (a) if all of the councillors have been dismissed under section 123 and an interim administrator is appointed—the local government is constituted by the interim administrator; or 29
30
31
32

-
- (b) if there are no councillors for any other reason—the local government is constituted by its chief executive officer. 1
2
3
- 12 Responsibilities of councillors** 4
- (1) All councillors of a local government have the same responsibilities, but the mayor has some extra responsibilities. 5
6
- (2) All councillors have the following responsibilities— 7
- (a) ensuring the local government— 8
- (i) discharges its responsibilities under this Act, in accordance with the local government principles; 9
10
and 11
- (ii) achieves its corporate and community plans; and 12
- (iii) complies with all laws that apply to local governments; 13
14
- (b) providing high quality leadership to the local government and the community; 15
16
- (c) participating in council meetings, policy development, and decision making, for the benefit of the local government area; 17
18
19
- (d) being accountable to the community for the local government’s performance. 20
21
- (3) The mayor has the following extra responsibilities— 22
- (a) leading and managing meetings of the local government at which the mayor is present, including managing the conduct of the participants at the meetings; 23
24
25
- (b) presenting the local government with its budget; 26
- (c) directing, and liaising with, the chief executive officer on behalf of the other councillors; 27
28
- (d) leading, managing, and providing strategic direction to, the chief executive officer in order to achieve the high quality administration of the local government; 29
30
31

[s 13]

(e)	conducting a performance appraisal of the chief executive officer, at least annually;	1 2
(f)	being a member of each committee of the local government;	3 4
(g)	representing the local government at ceremonial or civic functions.	5 6
(4)	A councillor who is not the mayor may perform the mayor's extra responsibilities only if the mayor delegates the responsibility to the councillor.	7 8 9
(5)	When performing a responsibility, a councillor must serve the overall public interest of the whole local government area.	10 11
13	Responsibilities of local government employees	12
(1)	All employees of a local government have the same responsibilities, but the chief executive officer has some extra responsibilities.	13 14 15
(2)	All employees have the following responsibilities—	16
(a)	implementing the policies and priorities of the local government in a way that promotes—	17 18
(i)	the effective, efficient and economical management of public resources; and	19 20
(ii)	excellence in service delivery; and	21
(iii)	continual improvement;	22
(b)	ensuring the local government—	23
(i)	discharges its responsibilities under this Act in accordance with the local government principles; and	24 25 26
(ii)	complies with all laws that apply to local governments; and	27 28
(iii)	achieves its corporate and community plans;	29

-
- | | | |
|-------|---|----------------|
| (c) | providing sound and impartial advice to the local government; | 1
2 |
| (d) | carrying out their duties impartially and with integrity; | 3 |
| (e) | ensuring the employee's personal conduct does not reflect adversely on the reputation of the local government; | 4
5
6 |
| (f) | improving all aspects of the employee's work performance; | 7
8 |
| (g) | observing all laws relating to their employment; | 9 |
| (h) | observing the ethics principles under the <i>Public Sector Ethics Act 1994</i> , section 4; | 10
11 |
| (i) | complying with a code of conduct under the <i>Public Sector Ethics Act 1994</i> . | 12
13 |
| (3) | The chief executive officer has the following extra responsibilities— | 14
15 |
| (a) | managing the local government in a way that promotes— | 16
17 |
| (i) | the effective, efficient and economical management of public resources; and | 18
19 |
| (ii) | excellence in service delivery; and | 20 |
| (iii) | continual improvement; | 21 |
| (b) | managing the other local government employees through management practices that— | 22
23 |
| (i) | promote equal employment opportunities; and | 24 |
| (ii) | are responsive to the local government's policies and priorities; | 25
26 |
| (c) | establishing and implementing goals and practices in accordance with the policies and priorities of the local government; | 27
28
29 |

[s 14]

- (d) establishing and implementing practices about access and equity to ensure that members of the community have access to—
 - (i) local government programs; and
 - (ii) appropriate avenues for reviewing local government decisions.

Part 2 Divisions of local government areas

- 14 What this part is about**
- This part is about the number of electors that are to be in each division of a local government area, to ensure democratic representation.
- 15 Division of local government areas**
- (1) Each division of a local government area must have a reasonable proportion of electors.
 - (2) *A reasonable proportion of electors* is the number of electors that is worked out by dividing the total number of electors in the local government area (as nearly as can be found out) by the number of councillors (other than the mayor), plus or minus—
 - (a) for a local government area with more than 10000 electors—10%; or
 - (b) for any other local government area—20%.
- Examples—*
- 1 If the total number of electors in the local government area is 15000, and the number of councillors (other than the mayor) is 5, the reasonable proportion of electors is 3000 (i.e. 15000 divided by 5) plus or minus 10%, i.e. between 2700 and 3300 electors.

2	If the total number of electors in the local government area is 5000, and the number of councillors (other than the mayor) is 5, the reasonable proportion of electors is 1000 (i.e. 5000 divided by 5) plus or minus 20%, i.e. between 800 and 1200 electors.	1 2 3 4
(3)	When changing the divisions of a local government area, the reasonable proportion of electors must be worked out as near as practicable to the time when the change is to happen.	5 6 7
16	Review of divisions of local government areas	8
(1)	The local government must review whether each of its divisions has a reasonable proportion of electors, no later than 2 years before the year of the quadrennial elections for local governments.	9 10 11 12
(2)	The local government must give the electoral commissioner and the Minister written notice of the results of the review.	13 14
Part 3	Changing a local government area, name or representation	15 16
Division 1	Introduction	17
17	What this part is about	18
(1)	This part is about making a local government change.	19
(2)	A <i>local government change</i> is a change of—	20
(a)	the boundaries of a local government area; or	21
(b)	any divisions of a local government area, other than the city of Brisbane; or	22 23
(c)	the number of councillors for a local government; or	24
(d)	the name of a local government area.	25

[s 18]

- (3) In summary, the process for making a local government change is as follows—
- *assessment*—the change commission assesses whether a proposed local government change is in the public interest
 - *implementation*—the Governor in Council implements the local government change under a regulation.
- (4) The *change commission*, which conducts the assessment phase of the process, is an independent body that is created under this Act.
- Note*—
- See division 3 for the creation of the change commission.

Division 2 The process for change 13

18 Who may start the change process 14

- (1) Only the Minister may apply to the change commission to assess whether to alter a local government change that was made under the 2007 reform process.
- (2) The *2007 reform process* is the reform process that was implemented under—
- (a) the *Local Government Reform Implementation Act 2007*; or
 - (b) the *Local Government and other Legislation (Indigenous Regional Councils) Act 2007*.
- (3) For any other local government change—
- (a) a local government; or
 - (b) the Minister; or
 - (c) the electoral commission;
- may apply to the change commission to assess whether the change should be made.

19	Assessment	1
(1)	The change commission is responsible for assessing whether a proposed local government change is in the public interest.	2 3
(2)	In doing so, the change commission must consider—	4
(a)	whether the proposed local government change is consistent with the local government principles; and	5 6
(b)	the views of the Minister about the proposed local government change; and	7 8
(c)	any other matters prescribed under a regulation.	9
(3)	The change commission may conduct its assessment in any way that it considers appropriate.	10 11
(4)	However, as a minimum, the change commission must—	12
(a)	ask for submissions from any local government that would be affected by the proposed local government change; and	13 14 15
(b)	hold a public hearing (in the way set out in chapter 7, part 1) to ask the public for its views about the proposed local government change.	16 17 18
(5)	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—	19 20 21
(a)	in a newspaper that is circulating generally in the local government area; and	22 23
(b)	in the gazette; and	24
(c)	on the electoral commission’s website.	25
(6)	The change commission must also give the results of its assessment to the Minister.	26 27
(7)	The change commission may recommend that the Governor in Council implement the change commission’s assessment.	28 29

[s 20]

20	Implementation	1
(1)	The Governor in Council may implement the change commission's recommendation under a regulation.	2 3
(2)	The regulation may provide for anything that is necessary or convenient to facilitate the implementation of the local government change.	4 5 6
(3)	For example, the regulation may provide for—	7
(a)	holding, postponing or cancelling a local government election; or	8 9
(b)	the transfer of assets and liabilities from a local government to another local government.	10 11
(4)	A local government is not liable to pay a State tax in relation to a transfer or other arrangement made to implement a local government change.	12 13 14
(5)	A <i>State tax</i> is a tax, charge, fee or levy imposed under an Act, other than a duty under the <i>Duties Act 2001</i> .	15 16
21	Decisions under this division are not subject to appeal	17
	A decision of the change commission under this division is not subject to appeal.	18 19
	<i>Note—</i>	20
	See section 247 for more information.	21
Division 3	The change commission	22
22	Change commission is established	23
(1)	The Local Government Change Commission (the <i>change commission</i>) is established.	24 25
(2)	The change commission is made up of—	26
(a)	the electoral commissioner; or	27

(b)	any combination of the following persons that the electoral commissioner nominates—	1 2
(i)	the electoral commissioner;	3
(ii)	the deputy electoral commissioner;	4
(iii)	a casual commissioner.	5
23	Casual commissioners	6
(1)	The Governor in Council may appoint the number of casual commissioners that the Governor in Council considers appropriate.	7 8 9
(2)	The Governor in Council must appoint a qualified person to be a casual commissioner.	10 11
(3)	A person is qualified to be a casual commissioner if the person—	12 13
(a)	has—	14
(i)	extensive knowledge of and experience in local government, public administration, law, public finance or community affairs; or	15 16 17
(ii)	other qualifications and experience that the Governor in Council considers appropriate; but	18 19
(b)	is not—	20
(i)	a member of an Australian Parliament; or	21
(ii)	a nominee for election as a member of an Australian Parliament; or	22 23
(iii)	a councillor; or	24
(iv)	a nominee for election as a councillor; or	25
(v)	a person who has accepted an appointment as a councillor; or	26 27
(vi)	a member of a political party; or	28

[s 24]

	(vii) a person who has a conviction for an indictable offence that is not an expired conviction.	1 2
(4)	A casual commissioner may be appointed for a term of not longer than 3 years.	3 4
(5)	A casual commissioner holds office on the conditions (including about fees and allowances, for example) that the Governor in Council decides.	5 6 7
(6)	A casual commissioner may resign by a signed notice of resignation given to the department's chief executive.	8 9
24	Conflict of interests	10
(1)	This section applies if—	11
	(a) a person on the change commission has a direct or indirect financial interest in a matter being considered, or about to be considered, by the change commission; and	12 13 14 15
	(b) the interest could conflict with the proper performance of the person's responsibilities for the matter.	16 17
(2)	The person must not take part, or take any further part, in the consideration of the matter.	18 19
	Maximum penalty—35 penalty units.	20
(3)	As soon as practicable after the person becomes aware that this section applies to the matter, the person must—	21 22
	(a) if the person is the electoral commissioner—direct the deputy electoral commissioner to constitute the change commission in the electoral commissioner's place; or	23 24 25
	(b) otherwise—inform the electoral commissioner.	26
	Maximum penalty—35 penalty units.	27
(4)	If subsection (3)(b) applies, the electoral commissioner must take the person's place.	28 29

25	Annual report of change commission	1
(1)	The electoral commissioner must prepare a report about the change commission’s operations during each financial year.	2 3
(2)	The electoral commissioner must give a copy of the report to the Minister, before the end of the first October after the financial year.	4 5 6
(3)	The Minister must table a copy of the report in the Legislative Assembly, within 7 sitting days after receiving the report.	7 8
(4)	The electoral commissioner must include the report in the annual report of the electoral commission (that is prepared under the Electoral Act, section 19).	9 10 11
(5)	The electoral commissioner must ensure that the public can inspect copies of the report—	12 13
(a)	at the electoral commission’s office in Brisbane; and	14
(b)	on the electoral commission’s website.	15
Chapter 3	The business of local governments	16 17
Part 1	Local laws	18
Division 1	Introduction	19
26	What this part is about	20
(1)	This part is about local laws.	21
(2)	A <i>local law</i> is a law made by a local government.	22
(3)	Unless there is a contrary intention, a reference in this Act to a <i>local law</i> includes a reference to—	23 24

[s 27]

(a)	an interim local law; and	1
(b)	a subordinate local law; and	2
(c)	a local law that is based on a model local law.	3
(4)	An <i>interim local law</i> is a local law that has effect for 6 months or less.	4 5
(5)	A <i>subordinate local law</i> is a local law that—	6
(a)	is made under a power contained in a local law; and	7
(b)	provides for the detailed implementation of the broader principles contained in the local law.	8 9
(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.	10 11 12 13
(7)	The Minister may approve, by gazette notice, a local law as being suitable for adoption by all local governments.	14 15
(8)	This type of local law is a <i>model local law</i> .	16
27	Interaction with State laws and the State	17
(1)	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.	18 19 20
(2)	A local law does not bind the State.	21
Division 2	Making, recording and reviewing local laws	22 23
28	Power to make a local law	24
(1)	A local government may make and enforce any local law that is necessary or convenient for the good rule and local government of its local government area.	25 26 27

-
- (2) However, a local government must not make a local law— 1
- (a) that sets a penalty of more than 850 penalty units for 2
each conviction of failing to comply with a local law, 3
including each conviction when there is more than 1 4
conviction for a continuing offence or repeat offence; or 5
 - (b) that purports to stop a local law being amended or 6
repealed in the future; or 7
 - (c) about a subject that is prohibited under division 3. 8
- 29 Local law making process 9**
- (1) Each local government may decide its own process for 10
making a local law. 11
 - (2) However, the process must be consistent with— 12
 - (a) the local government principles; and 13
 - (b) this section. 14
 - (3) The local government must consult with relevant government 15
entities about the overall State interest in a proposed local law 16
before it makes the local law, unless the local law is— 17
 - (a) an interim local law; or 18
 - (b) a local law that is based on a model local law. 19
 - (4) The local government must let the public know that a local 20
law has been made, by publishing a notice of making the local 21
law— 22
 - (a) in a newspaper that is circulating generally in the local 23
government area; and 24
 - (b) in the gazette; and 25
 - (c) on the local government’s website. 26
 - (5) The notice must be published within 1 month after the day 27
when the local government made the resolution to make the 28
local law. 29
 - (6) The notice must state— 30
-

[s 29]

- | | | |
|------|--|----------------|
| (a) | the name of the local government; and | 1 |
| (b) | the date when the local government made the resolution to make the local law; and | 2
3 |
| (c) | the name of the local law; and | 4 |
| (d) | the name of any existing local law that was amended or repealed by the new local law; and | 5
6 |
| (e) | if the local law is based on a model local law—that fact, and the extent to which the model local law was changed; and | 7
8
9 |
| (f) | the purpose and general effect of the local law; and | 10 |
| (g) | if the local law contains an anti-competitive provision—that fact; and | 11
12 |
| (h) | that a copy of the local law may be— | 13 |
| (i) | inspected and purchased at the local government’s public office; and | 14
15 |
| (ii) | inspected at the department’s State office. | 16 |
| (7) | As soon as practicable after the notice is published in the gazette, the local government must ensure that a copy of the local law may be— | 17
18
19 |
| (a) | inspected and purchased at the local government’s public office; and | 20
21 |
| (b) | inspected at the department’s State office. | 22 |
| (8) | A copy of a local law must cost no more than the cost to the local government of making the copy available for purchase. | 23
24 |
| (9) | Within 7 days after the notice is published in the gazette, the local government must give the Minister— | 25
26 |
| (a) | a copy of the notice; and | 27 |
| (b) | a copy of the local law; and | 28 |
| (c) | a drafting certificate for the local law. | 29 |

Note—

See section 121 for the powers of the Minister in relation to a local law that is not made according to this section.

30 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
 - (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.

31 Local law register

- (1) A local government must keep a register of its local laws, in the way that is required under a regulation.
- (2) The public may inspect the register at the local government's public office.

[s 32]

32	Consolidated versions of local laws	1
(1)	A local government may prepare and adopt a consolidated version of a local law.	2 3
(2)	A <i>consolidated version</i> of a local law is a document that accurately combines a local government’s local law, as it was originally made, with all the amendments made to the local law since the local law was originally made.	4 5 6 7
(3)	When the local government 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.	8 9 10
(4)	Within 7 days after the local government adopts the consolidated version of the local law, the local government must give a copy of the consolidated version to the Minister.	11 12 13
33	Regular review of local laws	14
	A local government must regularly review the provisions of its local laws (including anti-competitive provisions, for example) with a view to ensuring the local laws are relevant to the public interest.	15 16 17 18
Division 3	Local laws that can not be made	19
34	What this division is about	20
	This division specifies the subjects that a local government must not make a local law about.	21 22
35	Network connections	23
(1)	A local government must not make a local law that regulates network connections.	24 25
(2)	A <i>network connection</i> is an installation that has the sole purpose of connecting a home or other structure to an existing telecommunications network.	26 27 28

-
- (3) A local law, to the extent that it is contrary to this section, has no effect. 1
2
- 36 Election advertising** 3
- (1) A local government must not make a local law that— 4
- (a) prohibits or regulates the distribution of how-to-vote cards; or 5
6
- (b) prohibits the placement of election signs or posters. 7
- (2) A *how-to-vote card* includes a how-to-vote card under the Electoral Act or Local Government Electoral Act. 8
9
- (3) An *election sign or poster* is a sign or poster that is able, or is intended, to— 10
11
- (a) influence a person about voting at any government election; or 12
13
- (b) affect the result of any government election. 14
- (4) A *government election* is an election for a local, State or Commonwealth government. 15
16
- (5) A local law, to the extent that it is contrary to this section, has no effect. 17
18
- 37 Development processes** 19
- (1) A local government must not make a local law that establishes an alternative development process. 20
21
- (2) An *alternative development process* is a process that is similar to or duplicates all or part of a process in the Planning Act, chapter 3. 22
23
24
- (3) However, if a local law already contains a provision that establishes an alternative development process, the local government— 25
26
27
- (a) may repeal the provision at any time; and 28

[s 38]

(b)	may amend the provision until a new planning scheme comes into effect in the local government area.	1 2
(4)	A <i>planning scheme</i> is a planning scheme, other than a transitional planning scheme, under the Planning Act.	3 4
(5)	This section does not apply to a local law about—	5
(a)	advertising devices; or	6
(b)	gates and grids; or	7
(c)	levees; or	8
(d)	roadside dining;	9
	until the local government decides (under the Planning Act, schedule 1, section 1) to prepare its next IPA planning scheme.	10 11 12
(6)	A local law, to the extent that it is contrary to this section, has no effect.	13 14
38	Anti-competitive provisions	15
(1)	A local government must not make a local law that contains an anti-competitive provision unless the local government has complied with the procedures prescribed under a regulation for the review of anti-competitive provisions.	16 17 18 19
(2)	A local law, to the extent that it is contrary to this section, has no effect.	20 21

Part 2	Business enterprises and activities	1 2
Division 1	Beneficial enterprises	3
39	What this division is about	4
(1)	This division is about a local government conducting an enterprise that is a beneficial enterprise.	5 6
(2)	An <i>enterprise</i> includes a business activity, business endeavour or business venture (including a joint venture, for example).	7 8
(3)	A <i>beneficial enterprise</i> is an enterprise that a local government considers is directed to benefiting, and can reasonably be expected to benefit, the whole or part of its local government area.	9 10 11 12
(4)	For example, a beneficial enterprise includes an enterprise that may—	13 14
(a)	contribute to the economic development of the local government area; or	15 16
(b)	attract commerce, industry or tourism to the local government area; or	17 18
(c)	provide opportunities for employment in the local government area; or	19 20
(d)	promote the supply of services to a part of the local government area; or	21 22
(e)	help the finances of the local government; or	23
(f)	help the local government to perform its responsibilities.	24
(5)	A local government is <i>conducting</i> a beneficial enterprise if the local government is engaging in, or helping, the beneficial enterprise.	25 26 27

[s 40]

40	Conducting beneficial enterprises	1
(1)	A local government may decide, by resolution, to conduct a beneficial enterprise.	2 3
(2)	However, the local government must consult with, and have proper regard to the advice of, professional advisors before the local government conducts the beneficial enterprise.	4 5 6
(3)	Professional advisors are persons who the local government considers have relevant competence about—	7 8
(a)	knowledge of financial implications and risk management; and	9 10
(b)	the end to which the enterprise is, or would be, directed; and	11 12
(c)	the ways of achieving that end; and	13
(d)	the lawfulness of conducting the enterprise.	14
(4)	In order to conduct the beneficial enterprise, the local government may—	15 16
(a)	commercially exploit the local government’s tangible or intangible property rights; or	17 18
(b)	participate with an association, other than by—	19
(i)	participating with an unlimited corporation; or	20
(ii)	being an unlimited partner of a partnership; or	21
(iii)	entering into an agreement that does not limit the liability of the local government, as between the parties, to the amount committed by the local government under the agreement; or	22 23 24 25
(iv)	borrowing, or guaranteeing a borrowing.	26
(5)	A local government participates with an association if the local government—	27 28
(a)	forms, or takes part in forming, an association; or	29
(b)	becomes a member of an association; or	30
(c)	takes part in the management of an association; or	31

-
- (d) acquires or disposes of shares, debentures and securities of an association. 1
2
- (6) An *association* is— 3
- (a) a partnership; or 4
- (b) an unlisted corporation; or 5
- (c) another association of persons that is not a corporation. 6
- (7) An *unlisted corporation* is a corporation that is limited by shares but is not listed on a stock exchange. 7
8
- 41 Register of beneficial enterprises** 9
- (1) A local government must establish a register that includes a record, for each beneficial enterprise that it conducts, of— 10
11
- (a) particulars of the purpose to be achieved by conducting the beneficial enterprise; and 12
13
- (b) the identity of any entity with which the local government has conducted a beneficial enterprise; and 14
15
- (c) the identity of the professional advisors with whom the local government consulted about conducting the beneficial enterprise; and 16
17
18
- (d) the amount of money, or the market value of property, that the local government has committed to a beneficial enterprise, as at the date that the property was committed. 19
20
21
22
- (2) The public may inspect the register at the local government's public office. 23
24
- (3) The local government must give the department's chief executive and the auditor-general written notice of— 25
26
- (a) the establishment of the register as soon as practicable after it is established; and 27
28
- (b) the making of each entry in the register as soon as practicable after it is made. 29
30

[s 42]

42	Planning for a beneficial enterprise with the private sector	1 2
(1)	This section applies if a local government plans to invest in a beneficial enterprise that is to be conducted with the private sector.	3 4 5
(2)	The local government must identify the amount that is to be invested, as a capital expenditure, in the local government's budget.	6 7 8
(3)	If the local government does not commit that amount to the beneficial enterprise in the financial year of that budget, the amount may be carried forward to the next financial year for the beneficial enterprise.	9 10 11 12
(4)	Any amount that is carried forward must be held in a reserve established by the local government in its operating fund, until the amount is lawfully applied.	13 14 15
(5)	A regulation may prescribe the maximum number of years that an amount can be carried forward.	16 17
(6)	A local government must get the approval of the department's chief executive before the local government may—	18 19
(a)	invest in a beneficial enterprise when the local government has not identified the amount of the investment as a capital expenditure in its budget; or	20 21 22
(b)	invest in a beneficial enterprise an amount prescribed under a regulation.	23 24
(7)	If the department's chief executive does not give the local government written notice of his or her decision about the approval, within 30 days after the approval is sought, the department's chief executive is taken to have refused the approval on the 31st day after the approval was sought.	25 26 27 28 29
(8)	If a local government fails to comply with this section, the department's chief executive may publish notice of the failure—	30 31 32

-
- (a) in a newspaper that is circulating generally in the local government area; or 1
2
 - (b) on the local government’s website. 3

Division 2 Business reform, including competitive neutrality 4
5

43 What this division is about 6

- (1) This division is about the application of the National Competition Policy Agreements in relation to the significant business activities of a local government. 7
8
9
- (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. 10
11
12
13
- (3) Under the *competitive neutrality principle*, an entity that is conducting a business activity in competition with the private sector should not enjoy a net advantage over competitors only because the entity is in the public sector. 14
15
16
17
- (4) A *significant business activity* is a business activity of a local government that— 18
19
 - (a) is conducted in competition, or potential competition, with the private sector (including off-street parking, quarries, sporting facilities, for example); and 20
21
22
 - (b) meets the threshold prescribed under a regulation. 23
- (5) However, a *significant business activity* does not include a business activity that is— 24
25
 - (a) a building certifying activity; or 26
 - (b) a roads activity; or 27
 - (c) is related to the provision of library services. 28

[s 44]

<i>Note—</i>	1
A building certifying activity or roads activity is dealt with under section 47.	2 3
44 Ways to apply the competitive neutrality principle	4
(1) The competitive neutrality principle may be applied by—	5
(a) commercialisation of a significant business activity; or	6
(b) corporatisation of a significant business activity; or	7
(c) full cost pricing of a significant business activity.	8
(2) Commercialisation involves creating a new business unit, that is part of the local government, to conduct the significant business activity on a commercial basis.	9 10 11
(3) Corporatisation involves creating a new corporate entity, that is not part of the local government but is directly or indirectly owned by the local government, to conduct the significant business activity on a commercial basis.	12 13 14 15
(4) Full cost pricing involves pricing the significant business activity on a commercial basis, but without creating a new business unit or new corporate entity.	16 17 18
(5) A regulation may provide for—	19
(a) matters relating to corporatisation, commercialisation or full cost pricing; or	20 21
(b) any other matter relating to the application of the competitive neutrality principle to the significant business activities of a local government.	22 23 24
45 Identifying significant business activities	25
A local government’s annual report for each financial year must—	26 27
(a) contain a list of all the business activities that the local government conducted during the financial year; and	28 29

-
- (b) identify the business activities that are significant business activities; and 1
2
- (c) state whether or not the code of competitive conduct was applied to the significant business activities, and if the code was not applied, the reason why it was not applied; and 3
4
5
6
- Note—* 7
- See section 47 for more information on the code of competitive conduct. 8
9
- (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. 10
11
12
13

46 Assessing public benefit 14

- (1) This section applies to a new significant business activity that is identified in the annual report of a local government. 15
16
- (2) The local government must conduct a public benefit assessment of the new significant business activity. 17
18
- (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. 19
20
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23
- (4) The local government 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. 24
25
26
27
- (5) The local government 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. 28
29
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31
- (6) At a meeting of the local government, the local government must— 32
33

[s 47]

- (a) consider the report; and 1
 - (b) decide, by resolution, whether or not to apply the competitive neutrality principle in relation to the significant business activity. 2
3
4
 - (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. 5
6
7
 - (8) The local government must give the Minister a copy of— 8
 - (a) the report; and 9
 - (b) all resolutions made in relation to the report. 10
 - (9) If the local government decides not to apply the competitive neutrality principle in relation to the significant business activity, the local government must, within 3 years after making the decision, repeat the process in this section. 11
12
13
14
 - (10) Subsection (9) also applies to a decision that was made before the commencement of this section. 15
16
- 47 Code of competitive conduct** 17
- (1) This section is about the code of competitive conduct. 18
 - (2) The *code of competitive conduct* is the code of competitive conduct prescribed under a regulation. 19
20
 - (3) A local government must apply the code of competitive conduct to the conduct of the following business activities of the local government— 21
22
23
 - (a) a building certifying activity; 24
 - (b) a roads activity, other than a road activity for which business is conducted only through a sole supplier arrangement. 25
26
27
 - (4) A *building certifying activity* is a business activity that— 28
 - (a) involves performing building certifying functions (within the meaning of the Building Act, section 8); and 29
30

(b)	is prescribed under a regulation.	1
(5)	A roads activity is a business activity (other than a business activity prescribed under a regulation) that involves—	2 3
(a)	constructing or maintaining a State-controlled road, that the State put out to competitive tender; or	4 5
(b)	submitting a competitive tender in relation to—	6
(i)	constructing or maintaining a road in the local government area, that the local government put out to competitive tender; or	7 8 9
(ii)	constructing or maintaining a road in another local government area, that the other local government put out to competitive tender.	10 11 12
(6)	The local government must start to apply the code of competitive conduct—	13 14
(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	15 16 17
(b)	for a roads activity—from when the roads activity is first conducted.	18 19
(7)	A local government must decide each financial year, by resolution, whether or not to apply the code of competitive conduct to any other business activities.	20 21 22
48	Competitive neutrality complaints	23
(1)	A local government must adopt a process for resolving competitive neutrality complaints.	24 25
(2)	A competitive neutrality complaint is a complaint that—	26
(a)	relates to the failure of a local government to conduct a business activity in accordance with the competitive neutrality principle; and	27 28 29
(b)	is made by an affected person.	30
(3)	An affected person is—	31

[s 49]

- | | | |
|------|--|----------------|
| (a) | a person who— | 1 |
| (i) | competes with the local government in relation to the business activity; and | 2
3 |
| (ii) | claims to be adversely affected by a competitive advantage that the person alleges is enjoyed by the local government; or | 4
5
6 |
| (b) | a person who— | 7 |
| (i) | wants to compete with the local government in relation to the business activity; and | 8
9 |
| (ii) | claims to be hindered from doing so by a competitive advantage that the person alleges is enjoyed by the local government. | 10
11
12 |
| (4) | A regulation may provide for the process for resolving competitive neutrality complaints. | 13
14 |

Division 3	Responsibilities and liabilities of employees of corporate entities	15 16
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| 49 | Director's duty to disclose interest in a matter | 17 |
| (1) | This section applies if a director on the board of directors of a corporate entity has a direct or indirect interest in a matter that is being considered, or about to be considered, by the board of directors. | 18
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21 |
| (2) | The director must immediately disclose the nature of the interest to a meeting of the board of directors.
Maximum penalty—200 penalty units. | 22
23
24 |
| (3) | The disclosure must be recorded in the minutes of the meeting of the board of directors. | 25
26 |
| (4) | If the director's interest is a material personal interest, the director must not— | 27
28 |
| (a) | vote on the matter; or | 29 |

-
- (b) vote on a proposed resolution under subsection (5) in relation to the matter (a *related resolution*), whether in relation to the director or another director; or
- (c) be present while the matter, or a related resolution, is being considered by the board of directors; or
- (d) otherwise take part in any decision of the board of directors in relation to the matter or a related resolution.
- Maximum penalty—100 penalty units.
- (5) Subsection (4) does not apply to a matter if the board of directors has, at any time, passed a resolution that—
- (a) states the director, the interest and the matter; and
- (b) states that the directors voting for the resolution are satisfied that the interest should not disqualify the director from considering or voting on the matter.
- (6) There is a quorum at the meeting only if there are at least 2 directors present who are entitled to vote on any motion that may be moved in relation to the matter.
- (7) If there is no quorum, the corporate entity's shareholder may deal with the matter by signing a consent to a proposed resolution.

50 Obligations of a corporate entity's employees

- (1) This section applies to an employee of a corporate entity in the exercise of the powers, or discharge of the responsibilities, of an employee of the corporate entity.
- (2) The employee must exercise the degree of care and diligence that a reasonable person in a like position in another corporate entity would exercise in the circumstances.
- Maximum penalty—100 penalty units.
- (3) When deciding the degree of care and diligence that a reasonable person in a like position in another corporate entity would exercise in the circumstances, regard must be had to—

[s 51]

(a)	all relevant matters, including for example—	1
(i)	the corporate entity’s obligations; and	2
(ii)	any directions or approvals given to the corporate entity by its shareholder; and	3 4
(b)	any matter prescribed under a regulation.	5
(4)	This section—	6
(a)	applies in addition to, and does not limit, any rule of law relating to the duty or liability of a person because of the person’s office in the corporate entity; and	7 8 9
(b)	does not prevent civil proceedings being started for a breach of the duty or liability.	10 11
51	Corporate entity is not to pay premiums for certain liabilities of employees	12 13
(1)	This section is about a contract to insure an employee of a corporate entity against any liability that arises out of a wilful breach of duty in relation to the corporate entity (including a contravention of section 50, for example).	14 15 16 17
(2)	However, <i>liability</i> does not include liability for costs and expenses incurred by the employee in defending the proceedings, irrespective of—	18 19 20
(a)	whether the proceedings are civil or criminal; or	21
(b)	the outcome of the proceedings.	22
(3)	<i>An employee of a corporate entity</i> includes a person who was an employee of a corporate entity.	23 24
(4)	The corporate entity must not pay, or agree to pay, a premium in relation to the contract.	25 26
(5)	<i>Pay a premium</i> includes pay a premium indirectly through 1 or more interposed entities.	27 28
(6)	A contract is void so far as it insures an employee of a corporate entity against a liability in contravention of this section.	29 30 31

52	When a corporate entity is not to indemnify employees	1
(1)	This section is about an employee of a corporate entity.	2
(2)	<i>An employee of a corporate entity</i> includes a person who was an employee of a corporate entity.	3 4
(3)	The corporate entity must not exempt the employee from, or indemnify the employee against, a liability incurred as an employee.	5 6 7
(4)	This includes, for example, civil liability—	8
	(a) to the corporate entity or its subsidiary; or	9
	(b) that arises out of conduct involving a lack of good faith.	10
(5)	However, with the prior approval of the corporate entity’s shareholder, the corporate entity may indemnify the employee against—	11 12 13
	(a) any other civil liability; or	14
	(b) a liability for costs and expenses incurred by the employee—	15 16
	(i) in defending proceedings, whether civil or criminal, in which judgement is given in favour of the employee, or in which the employee is acquitted; or	17 18 19 20
	(ii) in connection with an application in relation to a proceeding in which relief is granted to the employee by a court.	21 22 23
(6)	<i>Indemnify</i> includes indemnify indirectly through 1 or more interposed entities.	24 25
(7)	A contract is void so far as it exempts or indemnifies an employee of a corporate entity in contravention of this section.	26 27 28
53	Prohibition on loans to directors	29
(1)	A corporate entity must not, either directly or indirectly, make or guarantee a loan to—	30 31

[s 54]

(a)	a director; or	1
(b)	a director's spouse; or	2
(c)	a relative of a director or a director's spouse;	3
	unless the agreement for the loan or guarantee is entered into	4
	on the same terms as similar agreements are entered into by	5
	the corporate entity with members of the public.	6
(2)	<i>Guarantee a loan</i> includes provide a security in connection	7
	with the loan.	8
(3)	A director of the corporate entity who knowingly agrees to the	9
	loan or guarantee by the corporate entity in contravention of	10
	this section (whether or not in relation to the director)	11
	commits an offence.	12
	Maximum penalty for subsection (3)—100 penalty units.	13
54	Duty to prevent insolvent trading	14
(1)	This section applies if—	15
(a)	immediately before a corporate entity incurs a debt,	16
	there are reasonable grounds to suspect—	17
(i)	that the corporate entity will not be able to pay all	18
	its debts as and when they become payable; or	19
(ii)	that, if the corporate entity incurs the debt, it will	20
	not be able to pay all its debts as and when they	21
	become payable; and	22
(b)	the corporate entity is, or later becomes, unable to pay	23
	all its debts as and when they become payable.	24
(2)	The following persons commit an offence—	25
(a)	a person who is a director of the corporate entity's board	26
	of directors when the debt is incurred;	27
(b)	a person who takes part in the corporate entity's	28
	management when the debt is incurred.	29

-
- Maximum penalty—100 penalty units or 1 year’s imprisonment. 1
2
- (3) However, it is a defence for the person to prove— 3
- (a) that the debt was incurred without the person’s express 4
or implied consent; or 5
- (b) that, when the debt was incurred, the person did not 6
have reasonable cause to suspect— 7
- (i) that the corporate entity would not be able to pay 8
all its debts as and when they became payable; or 9
- (ii) that, if the corporate entity incurred the debt, it 10
would not be able to pay all its debts as and when 11
they became payable; or 12
- (c) that the person took all reasonable steps to prevent the 13
corporate entity from incurring the debt; or 14
- (d) for a director—that the person did not take part in the 15
corporate entity’s management at the time because of 16
illness or another good reason. 17
- (4) If the person is found guilty of the offence, the Supreme Court 18
or District Court may declare that the person is personally 19
liable to pay a part of the corporate entity’s debts that the court 20
considers appropriate in the circumstances. 21
- (5) Subsection (4)— 22
- (a) applies in addition to, and does not limit, any rule of law 23
about the duty or liability of a person because of the 24
person’s office in the corporate entity; and 25
- (b) does not prevent proceedings being instituted for a 26
breach of the duty or liability. 27
- (6) However, subsection (4) does not affect any rights of a person 28
to indemnity, subrogation or contribution. 29

[s 55]

55	Order for examination of persons concerned with corporate entities	1 2
(1)	This section applies if a local government or the Attorney-General believes, on reasonable grounds, that—	3 4
(a)	a person may be able to give information about a corporate entity’s management, administration or affairs; or	5 6 7
(b)	a person who has been concerned, or taken part, in a corporate entity’s management, administration or affairs has been, or may have been, guilty of fraud or malpractice in relation to the corporate entity.	8 9 10 11
(2)	<i>Malpractice</i> includes negligence, default, breach of trust or breach of duty.	12 13
(3)	The local government or Attorney-General may apply to the Supreme Court or District Court for an order for the person to be examined by the court about the corporate entity’s management, administration or affairs.	14 15 16 17
(4)	However, a local government may only make an application in relation to its own corporate entity.	18 19
(5)	If a local government makes an application, the local government must advise the Attorney-General.	20 21
(6)	If the Attorney-General makes an application, the Attorney-General must advise the corporate entity’s local government.	22 23 24
(7)	If the court is satisfied that it is reasonable and appropriate for the person to be examined, the court may order the person to attend before the court at a time and place fixed by the court for examination.	25 26 27 28
(8)	The person must—	29
(a)	attend as required by the order, unless the person has a reasonable excuse; and	30 31
(b)	continue to attend until excused by the court, unless the person has a reasonable excuse.	32 33

	Maximum penalty—200 penalty units or 2 years imprisonment.	1 2
(9)	The examination must be held in public, unless the court considers it is desirable to hold the examination in private because of special circumstances.	3 4 5
(10)	The court may give directions about—	6
	(a) the matters to be inquired into at the examination; and	7
	(b) the procedures to be followed at the examination (including the persons who may be at the examination if the examination is to be held in private).	8 9 10
56	Examination of persons concerned with corporate entities	11 12
(1)	This section applies to a person who has been ordered, under section 55, to attend an examination.	13 14
(2)	The person must not fail to take an oath or make an affirmation at the examination.	15 16
	Maximum penalty—200 penalty units or 2 years imprisonment.	17 18
(3)	The person must answer any question that the person is directed by the court to answer.	19 20
	Maximum penalty—200 penalty units or 2 years imprisonment.	21 22
(4)	The person is not excused from answering a question because the answer might tend to incriminate the person or make the person liable to a penalty.	23 24 25
(5)	However, if the answer might in fact tend to incriminate the person or make the person liable to a penalty, the person's answer is not admissible in evidence against the person in proceedings for an offence or the imposition of a penalty, other than proceedings for an offence—	26 27 28 29 30
	(a) against this section; or	31

[s 56]

- (b) in relation to the falsity of the person's answer. 1
- (6) The person must not knowingly make a statement at the 2
examination that is false or misleading in a material 3
particular. 4
Maximum penalty—500 penalty units or 5 years 5
imprisonment. 6
- (7) The court may— 7
- (a) require the questions put to the person, and the answers 8
given by the person, at the examination to be recorded in 9
writing; and 10
- (b) require the person to sign the record. 11
- (8) Subject to subsection (5), a written record of the examination 12
that is signed by the person, or a transcript of the examination 13
that is authenticated by the examiner's signature, may be used 14
in evidence in proceedings against the person. 15
- (9) The person may be directed by the court (whether in the order 16
or by a subsequent direction) to produce a document in the 17
person's possession, or under the person's control, that is 18
relevant to the matters about which the person is to be, or is 19
being, examined. 20
- (10) The person must not contravene the direction, unless the 21
person has a reasonable excuse. 22
Maximum penalty—200 penalty units or 2 years 23
imprisonment. 24
- (11) If the court directs the person to produce a document and the 25
person has a lien on the document, the production of the 26
document does not prejudice the lien. 27
- (12) The person may, at the person's own expense, employ a 28
lawyer, and the lawyer may put to the person questions that 29
the court considers are just to enable the person to explain or 30
qualify any answers given by the person. 31
- (13) The court may adjourn the examination from time to time. 32

-
- (14) The court may order the whole or any part of the costs that are incurred by the person to be paid by—
- (a) if the application was made by the Attorney-General—the State; or
 - (b) if the application was made by a local government—the local government.
- 57 Relief from liability for malpractice**
- (1) An employee of a corporate entity may apply to the Supreme Court or District Court for relief against any claim made against the employee for malpractice in relation to the corporate entity.
- (2) *Malpractice* includes negligence, default, breach of trust or breach of duty, but does not include fraud.
- (3) If the court considers—
- (a) that the employee has, or may have, been guilty of the malpractice; but
 - (b) that the employee—
 - (i) acted honestly; and
 - (ii) should be excused for the malpractice, having regard to all the circumstances (including circumstances connected with the employee’s appointment);
- the court may relieve the employee (in whole or part) from liability for the malpractice, on the terms that the court considers appropriate.
- (4) If the court makes this decision in proceedings that are being tried with a jury, the court may—
- (a) withdraw the case (in whole or part) from the jury; and
 - (b) direct that judgement be entered for the employee on the terms (as to costs or otherwise) that the court considers appropriate.

[s 58]

- (5) The court may make an order under this section even if proceedings have not yet been brought against the employee for malpractice. 1
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58 False or misleading information 4

- (1) This section applies to an employee of a corporate entity in the exercise of the powers, and the discharge of the responsibilities, of an employee of the corporate entity. 5
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- (2) An employee of a corporate entity commits an offence if the employee gives information (either orally or in a document) about the corporate entity's affairs, that the employee knows is false or misleading in a material particular, to any of the following persons— 8
9
10
11
12
- (a) another employee of the corporate entity; 13
 - (b) the corporate entity's shareholder; 14
 - (c) the corporate entity's local government; 15
 - (d) a councillor of the corporate entity's local government. 16
- Maximum penalty— 17
- (a) if the offence was committed with an intent to defraud—500 penalty units or 5 years imprisonment; or 18
19
 - (b) otherwise—100 penalty units. 20
- (3) However, the employee does not commit an offence in relation to information in a document if, when the employee gives the document to the other person— 21
22
23
- (a) the employee tells the other person that the document is false or misleading, and in what respect the document is false or misleading; and 24
25
26
 - (b) if the employee has, or can reasonably obtain, the correct information—the employee gives the other person the correct information. 27
28
29

Part 3	Roads and other infrastructure	1
Division 1	Roads	2
59	What this division is about	3
	(1) This division is about roads.	4
	(2) A <i>road</i> is—	5
	(a) an area of land that is dedicated to public use as a road; or	6 7
	(b) an area of land that—	8
	(i) is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; and	9 10
	(ii) is open to, or used by, the public; or	11
	(c) a footpath or bicycle path; or	12
	(d) a bridge, culvert, ferry, ford, punt, tunnel or viaduct.	13
	(3) However, a <i>road</i> does not include—	14
	(a) a State-controlled road; or	15
	(b) a public thoroughfare easement.	16
60	Control of roads	17
	(1) A local government has control of all roads in its local government area.	18 19
	(2) This control includes being able to—	20
	(a) survey and resurvey roads; and	21
	(b) construct, maintain and improve roads; and	22
	(c) approve the naming and numbering of private roads; and	23
	(d) name and number other roads; and	24

[s 61]

- (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.
- 61 Notice of intention to acquire land to widen a road**
- (1) If a local government wants to acquire land in order to widen a road, the local government 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 62.
 - (3) However, a local government can not, without the consent of the Planning and Environment Court, serve notice of intention to acquire land on an owner of land after the owner has applied to the court—
 - (a) for approval to subdivide the land; or

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- (b) for approval, consent or permission— 1
- (i) to erect or use a structure on the land; or 2
- (ii) to use the land for any other purpose. 3
- (4) The court may consent to the notice of intention to acquire 4
land being served only if the court is satisfied that the purpose 5
of the notice is to enable the local government to make, in 6
good faith, a reasonable widening of the road. 7
- (5) After a local government gives an owner a notice of intention 8
to acquire land, the owner must not erect, place, re-erect, 9
replace or repair any structure, or part of a structure, on the 10
land without the local government’s permission. 11
- (6) The local government must lodge a copy of a notice of 12
intention to acquire land with the registrar of titles for 13
registration on the instrument of title to the land. 14
- (7) The registrar of titles may register the notice of intention to 15
acquire land even if the instrument of title is not produced. 16
- 62 Compensation for a notice of intention to acquire land 17**
- (1) This section applies to a person who is served with a notice of 18
intention to acquire land, if the person would be entitled to 19
claim compensation for the acquisition of land. 20
- (2) The person is entitled to compensation from the local 21
government for injurious affection to the person’s interest in 22
the land because of the notice of intention to acquire land. 23
- (3) However, the compensation is not payable until— 24
- (a) the land is sold for the first time after the notice of 25
intention to acquire land was served; or 26
- (b) after being served with the notice of intention to acquire 27
land, the owner of the land offers the land for sale in 28
good faith, but can not sell the land for a fair and 29
reasonable price. 30
- (4) The compensation must be assessed in accordance with the 31
following principles— 32
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[s 63]

- (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 local government all the information that the local government reasonably requires to decide the claim.
- (7) If, within 30 days after the claim is made, the local government has not given the claimant written notice of its decision on the claim, the local government is taken to have refused compensation on the 31st day after the claim is made.

63 Appeal on a claim for compensation 30

- (1) A person who is aggrieved by the decision of a local government on a claim for compensation may appeal against the decision to the Planning and Environment Court. 31
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- (2) The appeal must be started within 30 days after— 1
- (a) notice of the decision is given to the claimant; or 2
 - (b) the decision is taken to have been made. 3
- (3) In order to award compensation, the Planning and Environment Court must be satisfied— 4
- (a) if the land has been sold— 5
 - (i) the seller took reasonable steps to obtain a reasonable price for the land; and 6
 - (ii) the seller sold the land in good faith; and 7
 - (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 8 - (b) if a local government 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. 9
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- 64 Acquisition of land instead of compensation 17**
- (1) After a notice of intention to acquire land is served, but before the land is sold, the local government may acquire the land instead of paying compensation for injurious affection. 18
19
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- (2) If, after a notice of intention to acquire land is served, the land is cleared of all structures— 21
- (a) the local government may acquire the land; and 22
 - (b) if required by the owner of the land, the local government must acquire the land. 23
- (3) The acquired land must be dedicated for public use as a road within 3 months after its acquisition. 24
25
- (4) Compensation for the acquisition of the land, if not agreed between the parties, must be assessed as at the date of the acquisition. 26
27
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[s 65]

65	What is to happen if a realignment is not carried out	1
(1)	This section applies if a local government decides not to proceed with the realignment of a road or part of a road.	2 3
(2)	This section does not apply to a realignment of road that is necessary to comply with the requirements of a local government under a planning scheme in its application to particular developments in the local government area.	4 5 6 7
(3)	The local government 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.	8 9 10 11
(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 local government must—	12 13 14
(a)	for any notice of intention to acquire land that has not been registered—withdraw the notice of intention to acquire land; and	15 16 17
(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.	18 19 20 21
(5)	The notice of the local government’s decision must inform the owners in general terms of this section and section 66.	22 23
66	Compensation if realignment not carried out	24
(1)	This section applies if—	25
(a)	a local government decides not to proceed with the realignment of a road or part of a road; and	26 27
(b)	the local government has made structural improvements on land that adjoins the road on the basis of the proposed realignment being effected.	28 29 30

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- (2) The local government must pay the owner of the land reasonable compensation for the decrease in value of the land because of the decision. 1
2
3
- (3) The amount of compensation is the difference between the value of the land before and after the decision. 4
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- (4) If the local government and the owner fail to agree on the amount of compensation, the amount is to be decided by the Land Court. 6
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8
- (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. 9
10
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12
13
- (6) The local government'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, or a cause of action, in any owner or occupier of land or other person other than under this section. 14
15
16
17
18
- 67 Acquiring land for use as a footpath** 19
- (1) A local government may acquire land that adjoins a road for use as a footpath. 20
21
- (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 local government decides (at or before the acquisition) is appropriate— 22
23
24
25
- (a) a right to the ownership, possession, occupation and use of any existing structure, room or cellar— 26
27
- (i) at a specified height above the level of the new footpath; or 28
29
- (ii) at a specified depth below the level of the new footpath; 30
31
- (b) a right— 32
-

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(i)	to erect a structure (in accordance with law) at a specified height above the new footpath; and	1 2
(ii)	to the ownership, possession, occupation and use of the structure;	3 4
(c)	a right of support for a structure mentioned in paragraph (a) or (b).	5 6
(3)	The right mentioned in subsection (2)(a) is subject to the local government's right to enter, and make structural alterations to, the structure, room or cellar that the local government considers necessary.	7 8 9 10
68	Notice to local government of opening or closing of roads	11
(1)	This section applies if an application is made under the Land Act for the opening or closing of a road in a local government area by someone other than the local government.	12 13 14
(2)	The Land Act Minister, or the applicant for the application, must give written notice of the application to the local government.	15 16 17
(3)	The <i>Land Act Minister</i> is the Minister administering the Land Act.	18 19
(4)	The notice must specify a date (no earlier than 1 month or later than 2 months after the local government is given the notice) on or before which the local government may object to the opening or closing of the road.	20 21 22 23
(5)	An objection must fully state the reasons for the objection.	24
(6)	The Land Act Minister must have regard to any objections properly made by the local government.	25 26
(7)	If the Land Act Minister decides the road should be opened or closed, the Land Act Minister must give written notice to the local government—	27 28 29
(a)	of the decision; and	30
(b)	if the decision is contrary to the local government's objection, the reasons for the decision.	31 32

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- 69 Closing roads** 1
- (1) A local government may close a road (permanently or temporarily) to traffic or particular traffic, if there is another road, or route, reasonably available for use by the traffic. 2
3
4
- (2) For example, the local government may close a road to traffic— 5
6
- (a) during a temporary obstruction to traffic; or 7
- (b) if it is in the interests of public safety; or 8
- (c) if it is necessary or desirable to close the road for a temporary purpose (including a fair, for example). 9
10
- (3) The local government must publish notice of the closing of the road, in the way that the local government considers appropriate (including on its website, for example). 11
12
13
- (4) The local government may do everything necessary to stop traffic using the road after it is closed. 14
15
- (5) If a road is closed to traffic for a temporary purpose, the local government may permit the use of any part of the road (including the erection of any structure, for example) on the conditions the local government considers appropriate. 16
17
18
19
- 70 Temporary roads** 20
- (1) This section applies if— 21
- (a) a local government wants to remake or repair a road; 22
and 23
- (b) it is not reasonably practicable to temporarily close the road to traffic while the road works are conducted. 24
25
- (2) The local government may make a temporary road, through land that adjoins the road, to be used while the road is being remade or repaired. 26
27
28
- (3) However, a local government employee or contractor may enter the land only if— 29
30

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- (a) the owner or occupier of the land has agreed, in writing that the local government employee or contractor may enter the land; or
- (b) the local government 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 local government 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 local government 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 local government; or
 - (b) if the person and local government 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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- 71 Road levels** 1
- (1) The owner or occupier of land that adjoins a road may give written notice to the local government requiring it to advise the owner or occupier of the permanent level that is fixed or to be fixed for the road. 2
3
4
5
- (2) If the local government has not, within 6 months after receiving the notice, given the owner or occupier written advice about the permanent level of the road, the local government is taken to have fixed the apparent level of the road when the notice was given as the permanent level of the road. 6
7
8
9
10
11
- (3) If— 12
- (a) after a local government has fixed the permanent level of a road, the local government changes the level of the road; and 13
14
15
- (b) the owner or occupier of land that adjoins the road is injuriously affected by the change; 16
17
- the local government must pay the owner or occupier, or their successor in title, compensation. 18
19
- (4) The compensation equals— 20
- (a) the amount that is agreed between the owner or occupier, or their successor in title, and the local government; or 21
22
23
- (b) if the owner or occupier, or their successor in title, and the local government can not agree—the amount that is decided by the Planning and Environment Court. 24
25
26
- 72 Assessment of impacts on roads from certain activities** 27
- (1) This section applies if— 28
- (a) a regulation prescribes an activity for this section; and 29
- (b) a local government considers that the conduct of the activity is having, or will have, a significant adverse impact on a road in the local government area; and 30
31
32

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- (c) the activity is not for—
 - (i) a significant project under the *State Development and Public Works Organisation Act 1971*; or
 - (ii) a development declared under the local government’s planning scheme to be assessable development; or
 - (iii) a road being built under the Land Act, section 110.
- (2) The local government may require the entity that is conducting the activity to provide information, within a reasonable time, that will enable the local government to assess the impact of the activity on the road.
- (3) After assessing the impact of the activity on the road, the local government 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
 - (ii) to pay an amount as compensation for the impact.
- (4) The local government 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 local government and may be recovered in a court.
- (6) A regulation for this section—
 - (a) must contain a process under which the local government’s decision may be reviewed; and
 - (b) may contain a process for enforcing the decision.

73 Categorisation of roads 28

A local government must categorise the roads in its local government area according to the surface of the road. 29
30

74	Roads map and register	1
(1)	A local government must prepare and keep up-to-date—	2
(a)	a map of every road, including private roads, in its local government area; and	3 4
(b)	a register of the roads that shows—	5
(i)	the category of every road; and	6
(ii)	the level of every road of which the level is fixed; and	7 8
(iii)	other particulars prescribed under a regulation.	9
(2)	The register of roads may also show other particulars that the local government considers appropriate.	10 11
(3)	The public may inspect the map and register at the local government’s public office.	12 13
(4)	On application and payment of a reasonable fee fixed under a resolution or local law, a person may obtain—	14 15
(a)	a copy of a map or register of roads; or	16
(b)	a certificate signed by an employee of the local government who is authorised for the purpose—	17 18
(i)	about the category, alignment and levels of roads in its area; or	19 20
(ii)	about the fact that the alignment or level of a road in its area has not been fixed.	21 22
75	Unauthorised works on roads	23
(1)	This section applies to a road in a local government area.	24
(2)	A person must not, without lawful excuse (including under another Act, for example), or the written approval of the local government—	25 26 27
(a)	carry out works on a road; or	28
(b)	interfere with a road or its operation.	29

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Maximum penalty—200 penalty units.	1
(3) Works do not include the maintenance of ancillary works and encroachments, or landscaping, that does not interfere with the road or its operation.	2 3 4
(4) An approval may be subject to the conditions decided by the local government.	5 6
(5) A person must not contravene a condition that applies to a person under subsection (4).	7 8
Maximum penalty—40 penalty units.	9
(6) If a person carries out works in contravention of this section, the local government may—	10 11
(a) dismantle or alter the works; or	12
(b) fix any damage caused by the works.	13
(7) If the local government dismantles or alters the works, or fixes any damage caused by the works, the person must pay the local government the reasonable costs incurred by the local government in doing so.	14 15 16 17
Division 2	
Stormwater drains	18
76 What this division is about	19
(1) This division is about stormwater drains and stormwater installations.	20 21
(2) A stormwater drain is a drain, channel, pipe, chamber, structure, outfall or other works used to receive, store, transport or treat stormwater.	22 23 24
(3) A stormwater installation for a property—	25
(a) is any roof gutters, downpipes, subsoil drains or stormwater drain for the property; but	26 27
(b) does not include any part of a local government’s stormwater drain.	28 29

-
- 77 Connecting stormwater installation to stormwater drain** 1
- (1) A local government may, by written notice, require the owner 2
of a property to connect a stormwater installation for the 3
property to the local government’s stormwater drain in the 4
way, under the conditions and within the time stated in the 5
notice. 6
- (2) The way, condition and time stated in the notice must be 7
reasonable in the circumstances. 8
- (3) A person must not connect a stormwater installation for a 9
property to a local government’s stormwater drain unless— 10
- (a) the local government has required the owner of the 11
property to do so by a written notice under subsection 12
(1); or 13
- (b) the local government has given its approval for the 14
connection. 15
- Maximum penalty—165 penalty units. 16
- (4) The local government may impose conditions on its approval 17
for the connection, including conditions about the way the 18
connection must be made. 19
- (5) If a person connects a stormwater installation under a 20
requirement or approval of the local government, the person 21
must comply with the requirement or approval, unless the 22
owner has a reasonable excuse. 23
- Maximum penalty for subsection (5)—165 penalty units. 24
- 78 No connecting sewerage to stormwater drain** 25
- (1) The owner of a property must not connect the sewerage 26
installation for property, or allow the sewerage installation for 27
the property to be connected, to any part of— 28
- (a) the stormwater installation for the property; or 29
- (b) the stormwater drain of the local government. 30
- Maximum penalty—165 penalty units. 31

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- (2) A *sewerage installation* is any of the following— 1
- (a) an on-site sewerage facility within the meaning given in 2
the Plumbing and Drainage Act; 3
 - (b) a sewer for a property or building unit; 4
 - (c) sanitary plumbing i.e. any apparatus, fittings, fixtures or 5
pipes that carry sewage to a sanitary drain; 6
 - (d) sanitary drainage i.e. any apparatus, fittings or pipes for 7
collecting and carrying discharges— 8
 - (i) from fixtures (that are directly connected to a 9
sanitary drain) to an on-site sewerage facility or a 10
sewerage treatment system; or 11
 - (ii) from sanitary plumbing to an on-site sewerage 12
facility or a sewerage treatment system. 13
- Examples of apparatus, fittings or pipes for sanitary drainage—* 14
- disconnector gullies 15
 - bends at the foot of stacks or below ground level 16
 - pipes above ground level that are installed using drainage 17
principles 18
 - for an on-site sewerage facility—a pipe (other than a soil or 19
waste pipe) used to carry sewage to or from the facility 20
- (3) The owner of a property who becomes aware that the 21
sewerage installation for the property is connected to any part 22
of— 23
- (a) the stormwater installation for the property; or 24
 - (b) the stormwater drain of the local government; 25
- must, as soon as reasonably practicable, take all necessary 26
steps to disconnect the facility, drainage or sewer from the 27
stormwater installation or drainage. 28
- Maximum penalty—165 penalty units. 29
- (4) If the sewerage installation for property is connected to any 30
part of— 31
- (a) the stormwater installation on the property; or 32

(b)	the stormwater drain of the local government;	1
	the local government may, by written notice, require the	2
	owner of the property to perform the work stated in the notice,	3
	within the time stated in the notice.	4
(5)	The time stated in the notice must—	5
(a)	be a time that is reasonable in the circumstances; and	6
(b)	be at least 1 month after the notice is given to the owner.	7
(6)	However, the time stated in the notice may be less than 1	8
	month but must not be less than 48 hours if the work stated in	9
	the notice—	10
(a)	is required to stop a serious health risk continuing; or	11
(b)	relates to a connection that is causing damage to the	12
	local government’s stormwater drain.	13
(7)	The work stated in the notice must be work that is reasonably	14
	necessary for fixing or otherwise dealing with the sewerage	15
	installation, including for example—	16
(a)	work to remedy a contravention of this Act; or	17
(b)	work to disconnect something that was connected to a	18
	stormwater drain without the local government’s	19
	approval.	20
(8)	The owner must comply with the notice, unless the owner has	21
	a reasonable excuse.	22
	Maximum penalty for subsection (8)—165 penalty units.	23
79	No trade waste or prohibited substances in stormwater	24
	drain	25
(1)	A person must not put trade waste into a stormwater drain.	26
	Maximum penalty—1000 penalty units.	27
(2)	<i>Trade waste</i> is waterborne waste from business, trade or	28
	manufacturing property, other than—	29
(a)	stormwater; and	30

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- (b) a prohibited substance. 1
- (3) A person must not put a prohibited substance into a stormwater drain. 2
3
- Maximum penalty—1000 penalty units. 4
- (4) A **prohibited substance** is— 5
- (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 6
7
8
- Examples for paragraph (a)—* 9
- ash, cinders, sand, mud, straw and shavings 10
 - metal, glass and plastics 11
 - paper and plastic dishes, cups and milk containers 12
 - rags, feathers, tar and wood 13
 - whole blood, paunch manure, hair and entrails 14
 - oil and grease 15
 - cement laden waste water, including, wash down from exposed aggregate concrete surfaces 16
17
- (b) a flammable or explosive solid, liquid or gaseous substance; or 18
19
- (c) sewage, including human waste; or 20
- (d) a substance that, given its quantity, is capable alone, or by interaction with another substance put into a stormwater drain, of— 21
22
23
- (i) inhibiting or interfering with the stormwater drain; or 24
25
 - (ii) causing damage or a hazard to the stormwater drain; or 26
27
 - (iii) causing a hazard for humans or animals; or 28
 - (iv) creating a public nuisance; or 29
 - (v) creating a hazard in waters; or 30

(vi) contaminating the environment in places where stormwater is discharged or reused; or	1 2
<i>Example for paragraph (d)—</i>	3
a substance with a pH lower than 6.0 or greater than 10.0, or having another corrosive property	4 5
(e) a substance that has a temperature of more than—	6
(i) if the local government has approved a maximum temperature for the substance—the approved maximum temperature; or	7 8 9
(ii) otherwise—38°C.	10
(5) If—	11
(a) a person puts a prohibited substance in a local government’s stormwater drain; and	12 13
(b) the prohibited substance causes damage to the stormwater drain;	14 15
the local government 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.	16 17 18 19
(6) The costs for the work are in addition to any penalty imposed for the offence.	20 21
80 Interference with path of stormwater	22
(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.	23 24 25
Maximum penalty—165 penalty units.	26
(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.	27 28 29

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Part 4	The business of indigenous regional councils	1 2
Division 1	Introduction	3
81	What this part is about	4
(1)	This part contains provisions that relate only to a local government that is an indigenous regional council.	5 6
(2)	An <i>indigenous regional council</i> is—	7
(a)	the Northern Peninsula Area Regional Council; or	8
(b)	the Torres Strait Island Regional Council; or	9
(c)	an indigenous regional council prescribed under a regulation.	10 11
Division 2	Managing trust land	12
82	What this division is about	13
(1)	This division contains provisions that apply to a trustee council.	14 15
(2)	A <i>trustee council</i> is an indigenous regional council that is a trustee of trust land.	16 17
(3)	<i>Trust land</i> is the land described in a deed of grant in trust that is issued under the Land Act.	18 19
(4)	The provisions of this division—	20
(a)	do not affect the status that any land has under the <i>Aboriginal Land Act 1991</i> or the <i>Torres Strait Islander Land Act 1991</i> ; and	21 22 23
(b)	are additional to the provisions that apply to the land under the Land Act and any other law.	24 25

-
- 83 Trustee business must be conducted separately** 1
- (1) A trustee council must conduct its trustee business separately 2
from its other local government business. 3
- (2) *Trustee business* is any business that relates to trust land. 4
- (3) So, the trustee council must— 5
- (a) maintain separate accounts and records for trustee 6
business; and 7
- (b) in its capacity as trustee council, formally advise itself, 8
in its capacity as indigenous regional council, of matters 9
relating to trustee business; and 10
- (c) hold separate meetings for trustee business from 11
meetings for other local government business. 12
- 84 Meetings about trust land generally open to the public** 13
- (1) All meetings relating to trust land must be open to the public, 14
unless the trustee council decides, by resolution, that the 15
meeting be closed to the public. 16
- (2) The trustee council may do so only to allow the trustee 17
council to discuss business for which public discussion would 18
be likely to— 19
- (a) prejudice the interests of the trustee council or someone 20
else; or 21
- (b) enable a person to gain a financial advantage. 22
- (3) For example, a meeting may be closed to the public to allow 23
the trustee council to discuss— 24
- (a) the appointment, discipline or dismissal of local 25
government employees; or 26
- (b) industrial matters affecting local government 27
employees; or 28
- (c) starting or defending legal proceedings; or 29
- (d) that part of the budget that relates to the trust land; or 30
-

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- (e) contracts proposed to be made by the trustee council. 1
 - (4) A resolution to close a meeting to the public must specify the 2
general nature of the matters to be discussed while the 3
meeting is closed to the public. 4
 - (5) The trustee council must not make a resolution (other than a 5
procedural resolution) in a meeting that is closed to the public. 6
- 85 Community forum input on trust change proposals 7**
- (1) This section applies if a trustee council wants to consider a 8
trust change proposal. 9
 - (2) A *trust change proposal* is a proposal to make a decision— 10
 - (a) to put an improvement (including a structure, for 11
example) on trust land; or 12
 - (b) to create an interest in trust land (including a lease or 13
mortgage, for example); or 14
 - (c) that the trustee council has decided, by resolution, must 15
be dealt with as a trust change proposal. 16
 - (3) The trustee council must give the community forum for the 17
division of the local government area where the trust land is 18
located an opportunity to give input about the trust change 19
proposal. 20
- Note—* 21
- See division 3 for more information about community forums. 22
- (4) The trustee council must give the community forum a written 23
notice that gives the community forum— 24
 - (a) reasonably sufficient information about the trust change 25
proposal; and 26
 - (b) reasonably sufficient time; 27
- to allow the community forum to give input about the trust 28
change proposal. 29

-
- (5) The trustee council must have regard to any input that is received from the community forum within the time specified in the written notice. 1
2
3
- (6) If the trustee council proposes to make a decision that is contrary to the community forum's input, the trustee council must give written notice of the reasons for the proposed decision to the community forum. 4
5
6
7
- (7) If the community forum advises the trustee council that it does not support the trustee council's proposed decision, the trustee council must take reasonable steps to let the community know. 8
9
10
- (8) If the trustee council proposes to make a decision that is contrary to the community forum's input, the decision has effect only if— 11
12
13
- (a) the decision is approved by a majority of the councillors (other than the mayor), regardless of how many councillors take part in any meeting about the decision; and 14
15
16
17
- (b) the councillor for the division of the local government area in which the trust land is situated does not vote against approving the decision. 18
19
20
- 86 Grouping of trust land not available** 21
- The chief executive under the Land Act must not approve the grouping of trust land under the Land Act, section 62, if any of the trust land is the subject of a deed of grant in trust. 22
23
24

Division 3 Community forums 25

- 87 Community forums** 26
- (1) The Minister must establish a community forum for— 27
- (a) each indigenous regional council; or 28

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- (b) if an indigenous regional council is divided into divisions, for each of those divisions. 1
2
- (2) A **community forum** is a body that is created under this Act to be responsible for meeting with the local community to discuss issues relating to— 3
4
5
- (a) trust land; and 6
- (b) planning; and 7
- (c) the delivery of services; and 8
- (d) culture. 9
- (3) The **local community** is the community living in the local government area or division for which the community forum is established. 10
11
12
- (4) A community forum is made up of— 13
- (a) a chairperson, who is the councillor for the division; and 14
- (b) at least 3, but not more than 7, elected members. 15
- (5) The Minister must consult with the indigenous regional council before deciding— 16
17
- (a) how many elected members the community forum is to have; or 18
19
- (b) what to call a community forum. 20
- (6) The Minister must publish the name of the community forum, and the names of its members, in— 21
22
- (a) a newspaper that is circulating generally in the local government area; and 23
24
- (b) the gazette. 25
- (7) An indigenous regional council must decide all matters necessary for the operation of its community forums. 26
27
- (8) An indigenous regional council must not create any other body to carry out the responsibilities of a community forum. 28
29

88	Members of a community forum	1
(1)	This section is about the members of a community forum.	2
(2)	An election for the elected members must be held at the same time as, or is as close as practicable to, the quadrennial elections for the indigenous regional council.	3 4 5
(3)	A person is not qualified to be elected as a member if the person is—	6 7
(a)	if the members are being elected at the same time as the mayor of the indigenous regional council—a candidate for election as the mayor; or	8 9 10
(b)	the mayor of the indigenous regional council.	11
(4)	A person stops being a member of a community forum if the person—	12 13
(a)	for a member who is the chairperson—stops being a councillor; or	14 15
(b)	for any other member—	16
(i)	resigns by signed notice of resignation given to the Minister; or	17 18
(ii)	completes a term of office but is not reappointed.	19
(5)	A regulation must set out—	20
(a)	the process for the election of the members; and	21
(b)	the qualifications that a person must have to be a member; and	22 23
(c)	the process for filling a vacancy in the office of a member.	24 25
89	Payments to elected members of a community forum	26
(1)	An elected member of a community forum is not entitled to be paid any remuneration.	27 28
(2)	However, an indigenous regional council may authorise—	29

[s 90]

- (a) the payment of the expenses incurred, or to be incurred, by the elected members of a community forum; or 1
2
- (b) the provision of facilities to the elected members of a community forum. 3
4

90 Convenors for a community forum 5

- (1) Each community forum must have a convenor. 6
- (2) A *convenor* is a person who is responsible for— 7
 - (a) giving the local community notice of the time and date of the community forum’s meetings; and 8
9
 - (b) ensuring, to the greatest extent practicable, that the community forum operates in an effective and efficient way; and 10
11
12
 - (c) providing advice to the indigenous regional council; and 13
 - (d) providing necessary administrative support to the community forum; and 14
15
 - (e) liaising between the community forum and the indigenous regional council; and 16
17
 - (f) any other responsibilities that the indigenous regional council decides, by resolution, to give to the convenor. 18
19
- (3) An indigenous regional council must appoint a qualified person to be the convenor for a community forum. 20
21
- (4) A person is qualified to be the convenor if the person— 22
 - (a) has experience in the administration of land; but 23
 - (b) is not— 24
 - (i) a councillor of the indigenous regional council; or 25
 - (ii) a member of the community forum. 26
- (5) A person may be appointed to be the convenor for 2 or more community forums if the indigenous regional council is satisfied that the person can effectively exercise the responsibilities for the 2 or more community forums. 27
28
29
30

(6)	A convenor may be appointed on a full-time or part-time basis.	1 2
(7)	A convenor holds the position on the conditions that the indigenous regional council decides.	3 4
(8)	A convenor may not vote at meetings of the community forum.	5 6
(9)	A convenor may perform responsibilities for the indigenous regional council in addition to the convenor's responsibilities as a convenor.	7 8 9
(10)	A person stops being a convenor if the person—	10
(a)	resigns by signed notice of resignation given to the Minister; or	11 12
(b)	completes a term of office but is not reappointed.	13
 Chapter 4 Financial matters		 14
 Part 1 Rates		 15
91	What this part is about	16
(1)	This part is about rates.	17
(2)	Rates are a charge that a local government imposes on land for a service, facility or activity that is supplied or undertaken by—	18 19 20
(a)	the local government; or	21
(b)	someone on behalf of the local government (including a garbage collection contractor, for example).	22 23

[s 92]

92	Types of rates	1
(1)	There are 4 types of rates—	2
	(a) general rates; and	3
	(b) special rates; and	4
	(c) utility rates; and	5
	(d) separate rates.	6
(2)	General rates are for services, facilities and activities that are supplied or undertaken for the benefit of the community in general.	7
	<i>Example—</i>	10
	General rates contribute to the cost of public transport and library services that benefit the community in general.	11
		12
(3)	Special rates are for services, facilities and activities that have a special association with the land because—	13
	(a) the land or its occupier—	14
	(i) specially benefits from the service, facility or activity; or	15
	(ii) has or will have special access to the service, facility or activity; or	16
	(b) the land has or will be used in a way that specially contributes to the need for the service, facility or activity; or	17
	(c) the occupier of the land specially contributes to the need for the service, facility or activity.	18
		19
	<i>Examples—</i>	20
	Special rates could be levied—	21
	• for the cost of replacing the drainage system in only part of the local government area; or	22
		23
	• on land that is used only by businesses that would benefit from the promotion of tourism in the local government area.	24
		25
(4)	Utility rates are for a service, facility or activity for any of the following utilities—	26
		27
		28
		29
		30
		31
		32

(a)	garbage collection;	1
(b)	gas;	2
(c)	sewerage;	3
(d)	water.	4
(5)	<i>Separate rates</i> are for any other service, facility or activity.	5
93	Land on which rates are levied	6
(1)	Rates may be levied on—	7
(a)	for utility rates and separate rates—any land; and	8
(b)	for general rates and special rates—rateable land.	9
(2)	<i>Rateable land</i> is any land or building unit, in the local government area, that is not exempted from rates.	10 11
(3)	The following land is exempted from rates—	12
(a)	unallocated State land within the meaning of the Land Act;	13 14
(b)	land that is occupied by the State or a government entity, except land that is occupied by a GOC or its subsidiary (within the meaning of the <i>Government Owned Corporations Act 1993</i>) that is not exempt from rating;	15 16 17 18
(c)	land in a state forest or timber reserve, other than land occupied under—	19 20
(i)	an occupation permit or stock grazing permit under the Forestry Act; or	21 22
(ii)	a lease under the Land Act;	23
(d)	Aboriginal land under the <i>Aboriginal Land Act 1991</i> , or Torres Strait Islander land under the <i>Torres Strait Islander Land Act 1991</i> , other than a part of the land that is used for commercial or residential purposes;	24 25 26 27
(e)	the following land under the Transport Infrastructure Act—	28 29

[s 94]

(i)	strategic port land that is occupied by a port authority, the State, or a government entity;	1 2
(ii)	strategic port land that is occupied by a wholly owned subsidiary of a port authority, and is used in connection with the Cairns International Airport or Mackay Airport;	3 4 5 6
(iii)	existing or new rail corridor land;	7
(iv)	commercial corridor land that is not subject to a lease;	8 9
(f)	airport land, within the meaning of the <i>Airport Assets (Restructuring and Disposal) Act 2008</i> , that is used for a runway, taxiway, apron, road, vacant land, buffer zone or grass verge;	10 11 12 13
(g)	land that is exempted from rating under—	14
(i)	another Act; or	15
(ii)	a regulation, for religious, charitable, educational or other public purposes.	16 17
(4)	The land mentioned in subsection (3)(f) stops being exempted land when either of the following events first happens—	18 19
(a)	a development permit under the Planning Act comes into force for the land for a use that is not mentioned in subsection (3)(f);	20 21 22
(b)	development within the meaning of the Planning Act (other than reconfiguring a lot) starts for a use that is not mentioned in subsection (3)(f).	23 24 25
94	Power to levy rates	26
(1)	Each local government—	27
(a)	must levy general rates; and	28
(b)	may levy—	29
(i)	special rates; and	30

(ii) utility rates; and	1
(iii) separate rates.	2
(2) A local government must decide, by resolution at the local government's budget meeting for a financial year, what rates are to be levied for that financial year.	3 4 5
95 Overdue rates are a charge over land	6
(1) This section applies if the owner of land owes a local government for overdue rates.	7 8
(2) The overdue rates are a charge on the land.	9
(3) The local government may register the charge over the land by lodging the following documents with the registrar of titles—	10 11 12
(a) a request to register the charge over the land, in the appropriate form;	13 14
(b) a certificate signed by the chief executive officer that states there is a charge over the land for overdue rates.	15 16
(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—	17 18 19
(a) the State; or	20
(b) a government entity.	21
(5) If the overdue rates are paid, the local government must lodge the following documents with the registrar of titles—	22 23
(a) a request to release the charge over the land, in the appropriate form;	24 25
(b) a certificate signed by the chief executive officer that states the overdue rates have been paid.	26 27
(6) This section does not limit any other remedy that the local government has to recover the overdue rates (including selling the land, for example).	28 29 30

[s 96]

96	Regulations for rates	1
	A regulation may provide for any matter connected with rates, including for example—	2 3
	(a) concessions; and	4
	(b) the categorisation of land for rates; and	5
	(c) the process for recovering overdue rates, including by the sale of the land to which the rates relate.	6 7
Part 2	Fees	8
97	Fees for services	9
	(1) A local government may, under a local law or a resolution, fix a service fee.	10 11
	(2) A <i>service fee</i> is a fee for—	12
	(a) an application for the issue or renewal of a licence, permit, registration or other approval under a Local Government Act (an <i>application fee</i>); or	13 14 15
	(b) recording a change of ownership of land; or	16
	(c) giving information kept under a Local Government Act; or	17 18
	(d) seizing property or animals under a Local Government Act; or	19 20
	(e) the performance of another responsibility imposed on the local government under the Building Act or the Plumbing and Drainage Act.	21 22 23
	(3) A local law or resolution for subsection (2)(e) must state—	24
	(a) the person liable to pay the service fee; and	25
	(b) the time within which the fee must be paid.	26

-
- (4) A service fee, other than an application fee, must not be more than the cost to the local government 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 local government decides, by resolution, that the purpose of the tax benefits its local government area.
- (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) A local government may fix a service fee by resolution even if a corresponding fee had previously been fixed by a local law.

98 Register of service fees

- (1) A local government must keep a register of its service fees.
- (2) The register must state the paragraph of section 97(2) under which the service fee is fixed.
- (3) Also, the register must state—
- (a) for a service fee under section 97(2)(a)—the provision of the Local Government Act under which the licence, permit, registration or other approval is issued or renewed; or
 - (b) for a service fee under section 97(2)(c)—the provision of the Local Government Act under which the information is kept; or
 - (c) for a service fee under section 97(2)(d)—the provision of the Local Government Act under which the property or animals are seized; or

[s 99]

	(d) for a service fee under section 97(2)(e)—the provision of the Building Act or the Plumbing and Drainage Act under which the responsibility is imposed.	1 2 3
	(4) The public may inspect the register at the local government’s public office.	4 5
99	Fees on occupiers of land below the high-water mark	6
	(1) This section applies to the occupier (other than the State or a government entity) of a structure that is on land that—	7 8
	(a) is not rateable land, and therefore not subject to rates; and	9 10
	(b) is below the high-water mark.	11
	(2) The <i>high-water mark</i> is the ordinary high-water mark at spring tides.	12 13
	(3) A local government may, by resolution, levy a fee on the occupier of the structure for the use of the local government’s roads and other infrastructure.	14 15 16
100	Fees on residents of indigenous local government areas	17
	(1) An indigenous local government may, by resolution, levy a fee on residents of its local government area.	18 19
	(2) The indigenous local government may exempt a resident from paying the fee, if another amount is payable to the indigenous local government in relation to the property.	20 21 22

Part 3	Financial sustainability and accountability	1
		2
101	Statutory Bodies Financial Arrangements Act applies to local governments	3
		4
(1)	A local government is a statutory body for the Statutory Bodies Financial Arrangements Act.	5
		6
(2)	Part 2B of that Act sets out the way in which that Act affects a local government's powers.	7
		8
102	Financial sustainability criteria	9
	To ensure the financial stability of local governments, each local government must implement the following financial sustainability criteria—	10
		11
		12
(a)	financial risks are to be managed prudently;	13
(b)	financial policies are to be formulated—	14
(i)	to ensure a reasonable degree of equity, stability and predictability; and	15
		16
(ii)	so that current services, facilities and activities are financed by the current users of the services, facilities and activities; and	17
		18
		19
(iii)	having regard to the effect of the policies on the future users of services, facilities and activities;	20
		21
(c)	full, accurate and timely information about the local government's finances and infrastructure (including a report mentioned in section 104(7), for example) is to be made available to the public on the local government's website.	22
		23
		24
		25
		26

[s 103]

103	Financial management systems	1
(1)	Each local government must establish a system of financial management that complies with the requirements prescribed under a regulation.	2 3 4
(2)	The local government must regularly review the performance of its system of financial management.	5 6
104	Financial management, planning and accountability documents	7 8
(1)	The following documents of a local government must comply with the requirements prescribed under a regulation—	9 10
(a)	the financial management documents;	11
(b)	the planning and accountability documents.	12
(2)	The <i>financial management documents</i> include the following documents—	13 14
(a)	an annual budget;	15
(b)	a general purpose financial report;	16
(c)	a financial forecast;	17
(d)	an asset register that records—	18
(i)	capital expenditure; and	19
(ii)	depreciation charges; and	20
(iii)	revaluation increments and decrements;	21
(e)	a revenue statement.	22
(3)	The <i>planning and accountability documents</i> include the following documents—	23 24
(a)	an annual report;	25
(b)	a 5 year corporate plan;	26
(c)	an annual operational plan;	27
(d)	a long-term community plan;	28

-
- (e) a long-term financial plan; 1
- (f) a long-term asset management plan; 2
- (g) a report on the results of an annual review of the 3
implementation of the long term plans mentioned in this 4
section. 5
- (4) A ***long-term community plan*** is a document that— 6
- (a) outlines the local government’s goals, strategies and 7
policies for implementing the local government’s vision 8
for the future of the local government area, during the 9
period covered by the plan; and 10
- (b) covers a period of at least 10 years after the 11
commencement of the plan. 12
- (5) A ***long-term financial plan*** is a document that— 13
- (a) outlines the local government’s goals, strategies and 14
policies for managing the local government’s finances, 15
during the period covered by the plan, including the 16
following policies— 17
- (i) an investment policy; 18
- (ii) a debt policy; 19
- (iii) a procurement policy; 20
- (iv) a revenue policy; and 21
- (b) covers a period of at least 10 years after the 22
commencement of the plan. 23
- (6) A ***long-term asset management plan*** is a document that— 24
- (a) outlines the local government’s goals, strategies and 25
policies for managing the local government’s assets and 26
infrastructure, during the period covered by the plan; 27
and 28
- (b) covers a period of at least 10 years after the 29
commencement of the plan. 30

[s 105]

- (7) A local government must annually conduct, and report on the results of, a review of the implementation of the local government's long-term plans mentioned in this section. 1
2
3
- 105 Auditing, including internal auditing** 4
- (1) Each local government must establish an efficient and effective system of internal controls. 5
6
- (2) Each large local government must also establish an audit committee. 7
8
- (3) A **large local government** is a local government that belongs to a class prescribed under a regulation. 9
10
- (4) An **audit committee** is a committee that— 11
- (a) monitors and reviews— 12
- (i) the integrity of financial documents; and 13
- (ii) the internal audit controls; and 14
- (iii) the effectiveness and objectivity of the local government's internal auditors; and 15
16
- (iv) the effectiveness, independence and objectivity of the local government's external auditors; and 17
18
- (b) makes recommendations to the local government about the appointment of the local government's external auditors; and 19
20
21
- (c) makes recommendations to the local government about any matters that the audit committee considers need action or improvement. 22
23
24
- 106 Sound contracting principles** 25
- (1) This section is about contracts for— 26
- (a) the supply of goods or services; or 27
- (b) the carrying out of work; or 28
- (c) the disposal of assets. 29

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- | | | |
|------------|---|----------------|
| (2) | When entering into a contract, a local government must have regard to the sound contracting principles. | 1
2 |
| (3) | The <i>sound contracting principles</i> are— | 3 |
| | (a) value for money; and | 4 |
| | (b) open and effective competition; and | 5 |
| | (c) the development of competitive local business and industry; and | 6
7 |
| | (d) environmental protection; and | 8 |
| | (e) ethical behaviour and fair dealing. | 9 |
| 107 | Insurance | 10 |
| (1) | A local government must maintain the following insurance— | 11 |
| | (a) public liability insurance; | 12 |
| | (b) professional indemnity insurance. | 13 |
| (2) | The insurance must be for at least the amount required under a regulation. | 14
15 |
| (3) | A local government may enter into a contract of insurance with WorkCover Queensland, or another insurer, to cover its councillors. | 16
17
18 |
| (4) | For that purpose, a councillor's role includes attending— | 19 |
| | (a) meetings of the local government or its committees that the councillor is entitled or asked to attend; and | 20
21 |
| | (b) meetings for a resident of the local government area; and | 22
23 |
| | (c) conferences, deputations, inspections and meetings at which the councillor's attendance is permitted by the local government; and | 24
25
26 |
| | (d) official functions organised for the local government. | 27 |

[s 108]

Part 4	Councillor's financial accountability	1 2
108	Misappropriation offence applies	3
	Nothing in this part stops proceedings being brought in relation to an offence against the Criminal Code, section 440.	4 5
109	Councillor's discretionary funds	6
(1)	A councillor must ensure that the councillor's discretionary funds are used in accordance with the requirements prescribed under a regulation.	7 8 9
(2)	<i>Discretionary funds</i> are funds in the local government's operating fund that are budgeted for use by a councillor at the councillor's discretion.	10 11 12
110	Councillor's liable for improper disbursements	13
(1)	This section applies if—	14
(a)	a local government disburses local government funds in a financial year; and	15 16
(b)	the disbursement—	17
(i)	is not provided for in the local government's budget for the financial year; and	18 19
(ii)	is made without the approval of the local government by resolution.	20 21
(2)	The local government must give the public notice of the disbursement in a newspaper that is circulating generally in the local government area, within 14 days after the disbursement is made.	22 23 24 25
(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 local government—	26 27 28 29

-
- (a) the amount of the disbursement; and 1
- (b) interest on the amount of the disbursement, at the rate at 2
which interest accrues on overdue rates, calculated from 3
the day of the disbursement to the day of repayment; and 4
- (c) any fees, charges, penalties or other expenses incurred 5
by the local government in relation to the disbursement. 6
- (4) Those amounts may be recovered as a debt payable to the 7
local government. 8
- 111 Councillor's liable for loans to individuals 9**
- (1) A local government must not, either directly or indirectly, 10
make or guarantee a loan to an individual. 11
- (2) *Guarantee a loan* includes provide a security in connection 12
with a loan. 13
- (3) The councillors who knowingly agree to loan the money are 14
jointly and severally liable to pay the local government— 15
- (a) the amount of the loan; and 16
- (b) interest on the amount of the loan, at the rate at which 17
interest accrues on overdue rates, calculated from the 18
day of the borrowing to the day of repayment; and 19
- (c) any fees, charges, penalties or other expenses incurred 20
by the local government in relation to the loan. 21
- (4) Those amounts may be recovered as a debt payable to the 22
local government. 23
- 112 Councillor's liable for improper borrowings 24**
- (1) This section applies if a local government borrows money— 25
- (a) for a purpose that is not for the good rule and 26
government of the local government area; or 27
- (b) in contravention of this Act or the Statutory Bodies 28
Financial Arrangements Act. 29

[s 113]

(2)	The councillors who knowingly agree to borrow the money are jointly and severally liable to pay the local government—	1 2
(a)	the amount borrowed; and	3
(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	4 5 6
(c)	any fees, charges, penalties or other expenses incurred by the local government in relation to the borrowing.	7 8
(3)	Those amounts may be recovered as a debt payable to the local government.	9 10
(4)	This section applies despite—	11
(a)	the fact that a security was issued for the borrowing; or	12
(b)	the Statutory Bodies Financial Arrangements Act.	13
Chapter 5	Monitoring and enforcing the Local Government Acts	14 15
Part 1	Local governments	16
Division 1	Introduction	17
113	What this part is about	18
(1)	The purpose of this part is to allow the Minister, on behalf of the State—	19 20
(a)	to gather information to monitor and evaluate whether a local government—	21 22
(i)	is performing its responsibilities properly; or	23

-
- (ii) is complying with the Local Government Acts; and 1
- (b) if the information shows that the local government is not 2
performing its responsibilities properly, or is not 3
complying with the Local Government Acts—to take 4
remedial action. 5
- (2) **Remedial action** is action to improve the local government 6
performance or compliance. 7
- (3) Remedial action may include, for example, directing the local 8
government— 9
- (a) to replace a resolution, that is contrary to a Local 10
Government Act, with a resolution that complies with 11
the Local Government Act; or 12
- (b) to amend a local law by removing a provision that is 13
contrary to a Local Government Act. 14
- 114 Decisions under this part are not subject to appeal** 15
- A decision of the Minister under this part is not subject to 16
appeal. 17
- Note—* 18
- See section 247 for more information. 19
- Division 2 Monitoring and evaluation** 20
- 115 Gathering information** 21
- (1) To monitor and evaluate a local government’s performance 22
and compliance, the department’s chief executive may 23
examine the information contained in the local government’s 24
records and operations. 25
- (2) For example, this may include an examination of— 26
- (a) an activity or program of the local government; or 27
- (b) the systems and practices of the local government. 28

[s 116]

- (3) The department's chief executive may conduct the examination in any way that the department's chief executive considers appropriate. 1
2
3
- (4) Also, the department's chief executive may request a local government to provide any other information. 4
5
- (5) The request must be made in writing, and specify a reasonable time within which the local government must provide the information. 6
7
8
- (6) The local government must cooperate fully with the department's chief executive under this section. 9
10
- 116 Acting on the information gathered 11**
- (1) This section applies if the information gathered by the department's chief executive shows that the local government— 12
13
14
- (a) is not performing its responsibilities properly; or 15
- (b) is not complying with the Local Government Acts. 16
- (2) The department's chief executive may— 17
- (a) give the information to the Minister; and 18
- (b) make any recommendations to the Minister about what remedial action to take. 19
20
- (3) The Minister may take the remedial action that the Minister considers appropriate in the circumstances. 21
22
- (4) The Minister may publish the following information— 23
- (a) the way in which the local government— 24
- (i) is not performing its responsibilities properly; or 25
- (ii) is not complying with the Local Government Acts; 26
and 27
- (b) the remedial action that the Minister has taken. 28
- (5) The Minister may publish the information— 29

-
- (a) in a newspaper that is circulating generally in the local government area; or 1
2
 - (b) on the local government’s website. 3

117 Advisors 4

- (1) This section applies if the information gathered by the department’s chief executive shows that the local government— 5
6
7
 - (a) is not performing its responsibilities properly; or 8
 - (b) is not complying with the Local Government Acts. 9
- (2) The department’s chief executive may, by gazette notice, 10
appoint an advisor for the local government. 11
- (3) An *advisor* is responsible for— 12
 - (a) helping the local government to build its capacity— 13
 - (i) to perform its responsibilities properly; or 14
 - (ii) to comply with the Local Government Acts; and 15
 - (b) performing other related duties as directed by the 16
department’s chief executive. 17
- (4) The local government must cooperate fully with the advisor. 18

118 Financial controllers 19

- (1) This section applies if the information gathered by the 20
department’s chief executive shows that the local 21
government— 22
 - (a) is not performing its responsibilities properly; or 23
 - (b) is not complying with the Local Government Acts. 24
- (2) The department’s chief executive may, by gazette notice, 25
appoint a financial controller for the local government. 26
- (3) A *financial controller* is responsible for— 27

[s 118]

- (a) implementing financial controls as directed by the department's chief executive; and
- (b) performing other related duties as directed by the department's chief executive.
- (4) The local government must cooperate fully with the financial controller.
- (5) If a financial controller is appointed, a payment from an account kept by the local government with a financial institution may be made only by—
 - (a) a cheque countersigned by the financial controller; or
 - (b) an electronic funds transfer authorised by the financial controller.
- (6) However, if the financial controller reasonably believes a decision, resolution or order to make a payment is financially unsound, the financial controller must—
 - (a) refuse to make a payment; and
 - (b) advise the department's chief executive about why the decision, resolution or order is financially unsound.
- (7) A decision, resolution or order is *financially unsound* if the decision, resolution or order—
 - (a) may cause the local government to become insolvent; or
 - (b) will result in unlawful expenditure by the local government; or
 - (c) will result in a disbursement from a fund that is not provided for in the local government's budget; or
 - (d) will result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given.

119	Costs and expenses of advisors and financial controllers	1
(1)	The department's chief executive may direct a local government for which an advisor or financial controller is appointed to pay the Minister a stated amount for—	2 3 4
(a)	the salary and allowances payable to the advisor or financial controller; and	5 6
(b)	the costs and expenses of the advisor or financial controller.	7 8
(2)	The direction may state a time for payment.	9
(3)	The stated amount is a debt payable to the State.	10

Division 3 Action by the Minister 11

120	Precondition to remedial action	12
(1)	This section applies if the Minister proposes to exercise a power under this division.	13 14
(2)	The Minister must give the local government or councillor in question a written notice of the proposal to exercise the power, before the power is exercised, unless—	15 16 17
(a)	the local government or councillor asked the Minister to exercise the power; or	18 19
(b)	if the Minister proposes to exercise a power under section 122 or 123—the tribunal has made a recommendation under section 180 to suspend or dismiss a councillor; or	20 21 22 23
(c)	the Minister considers that giving notice—	24
(i)	is likely to defeat the purpose of the exercise of the power; or	25 26
(ii)	would serve no useful purpose.	27
(3)	The notice must state—	28
(a)	the power that the Minister proposes to exercise; and	29

[s 121]

- (b) the reasons for exercising the power; and 1
- (c) any remedial action that the local government or
councillor should take; and 2
3
- (d) a reasonable time within which the local government or
councillor may make submissions to the Minister about
the proposal to exercise the power. 4
5
6
- (4) The reasons stated in the notice are the only reasons that can
be relied on in support of the exercise of the power. 7
8
- (5) The Minister must have regard to all submissions that are
made by the local government or councillor within the time
specified in the notice. 9
10
11
- (6) If— 12
 - (a) the Minister receives no submissions from the local
government or councillor within the time specified in
the notice; or 13
14
15
 - (b) the submissions from the local government or councillor
do not contain reasonable grounds to persuade the
Minister not to exercise the power; 16
17
18the Minister may exercise the power without further notice to
the local government or councillor. 19
20

- 121 Removing unsound decisions 21**
 - (1) This section applies if the Minister reasonably believes that a
decision of the local government is contrary to any of the
Local Government Acts. 22
23
24
 - (2) A *decision* is— 25
 - (a) a local law; or 26
 - (b) a resolution; or 27
 - (c) an order to give effect to a resolution; or 28
 - (d) a planning scheme; or 29
 - (e) an interim development control provision; or 30

(f)	a part of a decision mentioned in paragraphs (a) to (e).	1
(3)	The Minister, by a gazette notice, may—	2
(a)	suspend the decision, for a specified period or indefinitely; or	3 4
(b)	revoke the decision.	5
(4)	The gazette notice must state—	6
(a)	how the decision is contrary to a Local Government Act; and	7 8
(b)	if the decision has been suspended—how the decision may be amended so that it is no longer contrary to the Local Government Act.	9 10 11
(5)	If the Minister suspends the decision, the decision stops having effect for the period specified in the gazette notice.	12 13
(6)	If the Minister revokes the decision—	14
(a)	the decision stops having effect on the day specified in the gazette notice; or	15 16
(b)	if no day is specified in the gazette notice—the decision is taken to never have had effect.	17 18
(7)	The State is not liable for any loss or expense incurred by a person because a local government’s decision is suspended or revoked under this section.	19 20 21
122	Removing a councillor	22
(1)	This section applies if—	23
(a)	under section 180, the tribunal recommends that a councillor be suspended or dismissed; or	24 25
(b)	the Minister reasonably believes that a councillor is incapable of performing their responsibilities.	26 27
(2)	The Minister may recommend that the Governor in Council—	28

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- (a) if the tribunal recommends that a councillor be suspended or dismissed—suspend or dismiss the councillor; or
 - (b) if the proposal in the Minister’s notice under section 120 was to suspend the councillor for a stated period—suspend the councillor for a period that is no longer than the stated period; or
 - (c) if the proposal in the Minister’s notice under section 120 was to dismiss the councillor—suspend or dismiss the councillor.
- (3) The Governor in Council may give effect to the Minister’s recommendation under a regulation.
- 123 Dissolving a local government**
- (1) This section applies if—
 - (a) the tribunal recommends under section 180 that every councillor be suspended or dismissed; or
 - (b) the Minister reasonably believes that a local government is incapable of performing its responsibilities.
 - (2) The Minister may recommend that the Governor in Council—
 - (a) dissolve the local government; and
 - (b) appoint an interim administrator to act in place of the councillors until the conclusion of a fresh election of councillors.
 - (3) The Governor in Council may give effect to the Minister’s recommendation under a regulation.
 - (4) The regulation has effect in accordance with the requirements of the *Constitution of Queensland 2001*, chapter 7, part 2.
 - (5) It is Parliament’s intention that a fresh election of the councillors of the local government should be held as soon as practicable after the Legislative Assembly ratifies the dissolution of the local government.

124	Interim administrator acts for the councillors temporarily	1
(1)	This section applies if an interim administrator is appointed to act in place of the councillors of a local government.	2 3
(2)	The interim administrator has all the responsibilities and powers of—	4 5
(a)	the local government; and	6
(b)	the mayor.	7
(3)	However, a regulation may limit the responsibilities and powers of the interim administrator.	8 9
(4)	The interim administrator must exercise power under the name of ‘interim administrator of the (name of the local government)’.	10 11 12
(5)	This Act and other Acts apply to the interim administrator, with all necessary changes, and any changes prescribed under a regulation, as if the interim administrator were the local government.	13 14 15 16
(6)	The Governor in Council may direct a local government for which an interim administrator is appointed to pay to the Minister an amount specified in the direction for the costs and expenses of the interim administrator.	17 18 19 20
(7)	The specified amount may include the salary and allowances payable to an officer of the public service who is appointed as interim administrator.	21 22 23
(8)	The direction may specify a time for payment.	24
(9)	The specified amount is a debt payable to the State.	25
(10)	The Minister may create an advisory committee to give the interim administrator advice about the performance of the local government’s responsibilities.	26 27 28

[s 125]

Part 2	The public	1
Division 1	Powers of authorised persons	2
Subdivision 1	Introduction	3
125	What this division is about	4
(1)	This division is about the powers that may be used by an authorised person.	5 6
(2)	An authorised person is a person who is appointed under this Act to ensure that members of the public comply with the Local Government Acts.	7 8 9
	<i>Note—</i>	10
	See chapter 6, part 7 for more information about the appointment of authorised persons.	11 12
(3)	The powers of an authorised person include the power, in certain circumstances—	13 14
(a)	to ask a person for their name and address; and	15
(b)	to enter a property, including private property.	16
(4)	Private property is a property that is not a public place.	17
(5)	A public place is a place, or that part of a place, that—	18
(a)	is open to the public; or	19
(b)	is used by the public; or	20
(c)	the public is entitled to use;	21
	whether or not on payment of money.	22
	<i>Example—</i>	23
	A person uses a room at the front of their home as a business office.	24
	While the business office is open to the public it is a public place.	25
	However, the home is private property and not part of the public place.	26

(6)	An <i>occupier</i> of a property includes a person who reasonably appears to be the occupier of, or in charge of, the property.	1 2
(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.	3 4 5
126	Producing authorised person’s identity card	6
(1)	An authorised person may exercise a power under this division, in relation to a person, only if the authorised person—	7 8 9
(a)	first produces his or her identity card for the person to inspect; or	10 11
(b)	has his or her identity card displayed so it is clearly visible to the person.	12 13
(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.	14 15 16 17
Subdivision 2	Power to require a person’s name and address	18 19
127	Power to require a person’s name and address	20
(1)	This section applies if an authorised person—	21
(a)	finds a person committing an infringement notice offence; or	22 23
(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	24 25 26 27

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(c)	has information that leads the authorised person to suspect, on reasonable grounds, that a person has just committed an infringement notice offence.	1 2 3
(2)	An <i>infringement notice offence</i> is an offence prescribed under the <i>State Penalties Enforcement Act 1999</i> to be an infringement notice offence.	4 5 6
(3)	The authorised person may require the person to state the person’s name and address.	7 8
(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.	9 10 11 12
(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.	13 14 15 16
(6)	The person must comply with an authorised person’s requirement under subsection (3) or (5), unless the person has a reasonable excuse.	17 18 19
	Maximum penalty—35 penalty units.	20
(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.	21 22 23
Subdivision 3	Powers to enter property etc.	24
128	Entering a public place that is open without the need for permission	25 26
(1)	This section applies if an authorised person wants to enter a public place to ensure that the public place complies with the Local Government Acts.	27 28 29

-
- (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). 1
2
3
- 129 Entering private property with, and in accordance with, the occupier's permission** 4
5
- (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 this Act. 6
7
8
9
- (2) When asking the occupier for permission, the authorised person must inform the occupier— 10
11
- (a) of the purpose of entering the property; and 12
- (b) that any thing or information that the authorised person finds on the property may be used as evidence in court; and 13
14
15
- (c) that the occupier is not obliged to give permission. 16
- (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. 17
18
19
- (4) The document must state— 20
- (a) that the authorised person informed the occupier— 21
- (i) of the purpose of entering the property; and 22
- (ii) that any thing or information that the authorised person finds on the property may be used as evidence in court; and 23
24
25
- (iii) that the occupier was not obliged to give the permission; and 26
27
- (b) that the occupier gave the authorised person permission to enter the property and exercise powers under this Act; and 28
29
30

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- (c) the date and time when the occupier gave the permission. 1
2
- (5) If the occupier signs the document, the authorised person must immediately give a copy of the document to the occupier. 3
4
5
- (6) If, in any proceedings— 6
- (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 7
8
9
- (b) a document that confirms the occupier gave permission is not produced in evidence; 10
11
- the court may assume that the occupier did give the permission, unless the contrary is proved. 12
13
- (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. 14
15
16
- (8) However, the right to stay on the property— 17
- (a) is subject to any conditions that the occupier imposes (including about the times when the property may be entered, for example); and 18
19
20
- (b) may be cancelled by the occupier at any time. 21
- 130 Entering private property with, and in accordance with, a warrant** 22
23
- (1) An authorised person may enter private property with, and in accordance with, a warrant. 24
25
- (2) An authorised person must apply to a magistrate for a warrant. 26
- (3) The application for the warrant must— 27
- (a) be in the form approved by the department’s chief executive; and 28
29
- (b) be sworn; and 30

-
- (c) state the grounds on which the warrant is sought. 1
- (4) The magistrate may refuse to consider the application until the 2
authorised person gives the magistrate all the information that 3
the magistrate requires about the application, in the way that 4
the magistrate requires. 5
- Example—* 6
- The magistrate may require additional information in support of the 7
application to be given by statutory declaration. 8
- (5) The magistrate may issue the warrant only if the magistrate is 9
satisfied that there are reasonable grounds for suspecting— 10
- (a) there is a particular thing or activity that may provide 11
evidence of an offence against a Local Government Act 12
(the *evidence*); and 13
- (b) the evidence is at the place, or may be at the place 14
within the next 7 days. 15
- (6) The warrant must state— 16
- (a) the evidence for which the warrant is issued; and 17
- (b) that the authorised person may, with necessary and 18
reasonable help and force, enter the property and 19
exercise an authorised person’s powers under this Act; 20
and 21
- (c) the hours of the day or night when the property may be 22
entered; and 23
- (d) the day (within 14 days after the warrant’s issue) when 24
the warrant ends. 25
- (7) The magistrate must keep a record of the reasons for issuing 26
the warrant. 27
- (8) A warrant is not invalidated by a defect in the warrant, or in 28
compliance with section 131, unless the defect affects the 29
substance of the warrant in a material particular. 30
- (9) As soon as an authorised person enters private property under 31
a warrant, the authorised person must do, or make a 32
reasonable attempt to do, the following things— 33
-

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- (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; and
 - (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.
- 131 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.
 - (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. 1
2
- (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. 3
4
5
6
- (7) If it is not reasonably practicable to send a copy of the warrant to the authorised person— 7
8
- (a) the magistrate must— 9
- (i) inform the authorised person of the date and time when the magistrate signed the warrant; and 10
11
- (ii) inform the authorised person of the terms of the warrant; and 12
13
- (b) the authorised person must write on a warrant form— 14
- (i) the magistrate’s name; and 15
- (ii) the date and time when the magistrate signed the warrant; and 16
17
- (iii) the terms of the warrant. 18
- (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. 19
20
21
22
23
- (9) The authorised person must, at the first reasonable opportunity, send the magistrate— 24
25
- (a) the sworn application; and 26
- (b) if the authorised person completed a warrant form—the completed warrant form. 27
28
- (10) When the magistrate receives the 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. 29
30
31

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- (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.
- 132 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 Act; 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 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 Act.
- (3) A *notice* is a notice issued under any Local Government Act.
- (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. 1
2
- (5) However, the authorised person— 3
- (a) must, as soon as the authorised person enters the property, inform any occupier of the property— 4
5
- (i) of the reason for entering the property; and 6
- (ii) that the authorised person is authorised under this Act to enter the property without the permission of the occupier; and 7
8
9
- (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. 10
11
12
- 133 Entering property under an approved inspection program 13**
- (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. 14
15
16
17
- (2) An *approved inspection program* is a program, approved by a local government, under which an authorised person may enter and inspect properties in the local government area to ensure the Local Government Acts are being complied with. 18
19
20
21
- Example of an approved inspection program—* 22
- a program to ensure that swimming pools are fenced in accordance with the local law 23
24
- (3) The local government 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— 25
26
27
- (a) the local government’s intention to enter the property; and 28
29
- (b) the reason for entering the property; and 30
- (c) an estimation of when the property will be entered. 31

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Example—

A local government may give the written notice to an occupier of a property by dropping a flyer in the letterbox for the property.

- (4) The local government 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.

134 Approving an inspection program

- (1) A local government 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 the local government area.
- (3) A ***selective inspection program*** allows an authorised person to enter and inspect those properties in the local government area that have been selected in accordance with objective criteria specified in the resolution.
- (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 local government 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) in a newspaper that is circulating generally in the local government area; and
- (b) on the local government’s website.
- (7) The notice must state the following—
- (a) the name of the local government;
- (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 inspect a copy of the program at the local government’s public office until the end of the program;
- (f) that a copy of the program may be purchased at the local government’s public office until the end of the program;
- (g) the price of a copy of the program.
- (8) The price of a copy of the program must be no more than the cost to the local government of making the copy available for purchase.

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(9)	From the time when the notice is published in the newspaper until the end of the program—	1 2
(a)	the public may inspect a copy of the program at the local government’s public office; and	3 4
(b)	copies of the program must be available for purchase at the local government’s public office at the price stated in the notice.	5 6 7
135	General powers after entering a property	8
(1)	This section explains the powers that an authorised person has after entering a property, other than entering a property—	9 10
(a)	to ask the occupier of the property for permission to stay on the property; or	11 12
(b)	under section 132 or 133.	13
(2)	The authorised person may—	14
(a)	search any part of the property; or	15
(b)	inspect, test, photograph or film anything that is in or on the property; or	16 17
(c)	copy a document that is in or on the property; or	18
(d)	take samples of or from anything that is in or on the property; or	19 20
(e)	take into or onto the property any persons, equipment and materials that the authorised person reasonably requires for exercising a power under this division; or	21 22 23
(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).	24 25 26 27
(3)	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.	28 29 30
	Maximum penalty—8 penalty units.	31

-
- (4) 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. 1
2
3
4
- 136 Authorised person to give notice of damage** 5
- (1) This section applies if— 6
- (a) something is damaged by— 7
- (i) an authorised person, when the authorised person exercises a power under this division; or 8
9
- (ii) a person who is authorised by an authorised person to take action under this division, when the person takes the action; or 10
11
12
- (b) the authorised person considers, on reasonable grounds, that the damage is more than trivial damage. 13
14
- (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. 15
16
17
- (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. 18
19
20
21
- (4) The *owner* of a thing includes a person in possession or control of the thing. 22
23
- (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. 24
25
26
27
- 137 Compensation for damage or loss caused after entry** 28
- (1) If a person incurs damage or loss because of the exercise, or purported exercise, of a power under this division, the local government must pay the person compensation. 29
30
31

[s 138]

- | | |
|---|----------------|
| (2) The compensation equals— | 1 |
| (a) the amount agreed between the person and local government; or | 2
3 |
| (b) if the person and local government can not agree, the amount that is decided by a court. | 4
5 |
| (3) The person may claim the compensation in— | 6 |
| (a) any proceedings for compensation; or | 7 |
| (b) any proceedings brought against the person for an offence against any Local Government Act. | 8
9 |
| (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. | 10
11 |
| (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. | 12
13
14 |
| (6) The court may make any order about costs that the court considers just. | 15
16 |

Division 2 Powers of other persons 17

138 What this division is about 18

- | | |
|---|----------------|
| (1) This division is about the powers that may be used— | 19 |
| (a) to enable a local government to perform its responsibilities; or | 20
21 |
| (b) to ensure that a person complies with this Act, and the other Local Government Acts, including by complying with a remedial notice. | 22
23
24 |
| (2) A <i>remedial notice</i> is a notice— | 25 |
| (a) that a local government gives to the owner of a property within the local government area; and | 26
27 |

-
- (b) that requires action to be taken in relation to the property under a Local Government Act (including fencing a pool, for example). 1
2
3
- (3) This division explains the circumstances in which a person is authorised to enter a property under this division, namely— 4
5
- (a) in a potentially dangerous situation, to take urgent action; or 6
7
- (b) to take action in relation to local government facilities on the property (including water or sewerage pipes, for example); or 8
9
10
- (c) with (and in accordance with) the permission of the occupier of the property; or 11
12
- (d) with (and in accordance with) a court order; or 13
- (e) with (and in accordance with) reasonable written notice. 14
- (4) **Reasonable written notice** is a written notice, given at least 7 days before a property is to be entered, that informs the owner and the occupier of the property of— 15
16
17
- (a) the local government’s intention to enter the property; and 18
19
- (b) the reason for entering the property; and 20
- (c) the days and times when the property is to be entered. 21
- (5) The following persons may enter a property under this division— 22
23
- (a) if the occupier of the property is not the owner of the property—the owner or the owner’s employee; 24
25
- (b) a local government worker. 26
- (6) A **local government worker** is an employee, or agent, of the local government who is authorised to act under this section. 27
28
- (7) The local government must give each local government worker an identity card. 29
30

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- (8) 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. 1
2
3
- 139 Entry with, and in accordance with, permission of occupier** 4
5
- (1) Any person may enter a property with the permission of the occupier of the property. 6
7
- (2) However, the right to enter the property— 8
- (a) is subject to any conditions that the occupier imposes (including about the times when the property may be entered, for example); and 9
10
11
- (b) may be cancelled by the occupier at any time. 12
- 140 Entry by an owner, with reasonable written notice, under a remedial notice** 13
14
- (1) This section applies if— 15
- (a) a local government gives a remedial notice to the owner of a property; and 16
17
- (b) the owner is not the occupier of the property. 18
- (2) After giving reasonable written notice to the occupier of the property, the owner or the owner’s employee may— 19
20
- (a) enter the property at any reasonable time; and 21
- (b) take the action that is required under the remedial notice. 22
23
- (3) If the occupier asks to inspect the remedial notice, the owner must allow the occupier to inspect the remedial notice. 24
25
- (4) If the occupier refuses to allow the owner to enter the property and the owner informs the local government of that, the owner is not liable for failing to comply with the remedial notice. 26
27
28
- (5) This section does not affect any rights that the owner has apart from this section. 29
30

141	Occupier may discharge owner's obligations	1
(1)	This section applies if—	2
(a)	the owner of a property fails—	3
(i)	to take the action in relation to the property that is required under a remedial notice; or	4 5
(ii)	to pay money that is payable in relation to the property under a Local Government Act (including rates, for example); and	6 7 8
(b)	the occupier of the property is not the owner of the property.	9 10
(2)	The occupier of the property may—	11
(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	12 13 14
(b)	pay the money that is payable, and recover the money as a debt payable by the owner.	15 16
(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.	17 18 19 20
142	Entry by a local government worker, with reasonable written notice, under a remedial notice	21 22
(1)	This section applies if—	23
(a)	a local government gives a remedial notice to the owner of a property; and	24 25
(b)	both the owner and the occupier of the property fail to take the action required under the remedial notice.	26 27
(2)	After giving reasonable written notice to the owner and the occupier of the property, a local government worker may—	28 29
(a)	enter the property (other than a home on the property) without the permission of the occupier; and	30 31

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- (b) take the action that is required under the remedial notice. 1
2
 - (3) However, the local government worker must, as soon as the local government worker enters the property— 3
4
 - (a) inform any occupier of the property— 5
 - (i) of the reason for entering the property; and 6
 - (ii) that the local government worker is authorised under this Act to enter the property without the permission of the occupier; and 7
8
9
 - (b) produce his or her identity card for the occupier of the property to inspect. 10
11
 - (4) The local government may recover the amount that the local government properly and reasonably incurs in taking the action as a debt payable by the person who failed to take the action. 12
13
14
15
 - (5) If both the owner and the occupier failed to take the action, the owner and the occupier are jointly and severally liable for the debt. 16
17
18
 - (6) The local government must give the person who failed to take the action written notice of the amount of the debt. 19
20
 - (7) If the debt is not paid within 30 days after the date of the written notice, the local government may recover the debt as if the debt were overdue rates. 21
22
23
 - (8) Interest is payable on the debt at the same rate that interest is payable on overdue rates levied by the local government. 24
25
- 143 Entry by a local government worker, with reasonable written notice, to take materials** 26
27
- (1) This section applies if, in the circumstances, a local government has no other reasonably practicable way of obtaining materials other than by removing the materials from rateable land that is not protected land. 28
29
30
31
 - (2) *Protected land* is land that is— 32

-
- (a) the site of, or curtilage around, a home or other structure; or 1
2
- (b) a court, lawn, park, planted walk or avenue or yard; or 3
- (c) under cultivation (including a garden, nursery or plantation, for example); or 4
5
- (d) a state forest or timber reserve under the Forestry Act; or 6
- (e) a protected area under the *Nature Conservation Act 1992*; or 7
8
- (f) the wet tropics area under the *Wet Tropics World Heritage Protection and Management Act 1993*; or 9
10
- (g) outside the local government area, unless the local government has the Minister's approval. 11
12
- (3) After giving reasonable written notice to the owner and the occupier of the rateable land, a local government worker may— 13
14
15
- (a) enter the land without the permission of the occupier of the land; and 16
17
- (b) search for materials that the local government requires to perform its responsibilities; and 18
19
- (c) remove the materials from the land. 20
- Example—* 21
- A local government 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. 22
23
24
- (4) However, the local government worker must, as soon as the local government worker enters the property— 25
26
- (a) inform any occupier of the property— 27
- (i) of the reason for entering the property; and 28
- (ii) that the local government worker is authorised under this Act to enter the property without the permission of the occupier; and 29
30
31

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- (b) produce his or her identity card for the occupier of the property to inspect. 1
2
 - (5) The local government 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). 3
4
5
- 144 Entry by a local government worker, at reasonable times, to repair etc. facilities** 6
7
- (1) At all reasonable times, a local government worker may enter a property (other than a home on the property) without the permission of the occupier of the property— 8
9
10
 - (a) to investigate the future installation of local government facilities on, over or under the property; or 11
12
 - (b) to install local government facilities on, over or under the property; or 13
14
 - (c) to inspect, maintain, operate, repair, replace or remove local government facilities, that are on, over or under the property, for their routine operations. 15
16
17
 - (2) *Local government facilities* are facilities that are installed by a local government (including sewerage pipes, for example). 18
19
 - (3) However, the local government worker must, as soon as the local government worker enters the property— 20
21
 - (a) inform any occupier of the property— 22
 - (i) of the reason for entering the property; and 23
 - (ii) that the local government worker is authorised under this Act to enter the property without the permission of the occupier; and 24
25
26
 - (b) produce his or her identity card for the occupier of the property to inspect. 27
28

145	Entry by a local government worker, at any time, for urgent action	1 2
(1)	A local government 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.	3 4 5 6
	<i>Example—</i>	7
	A local government 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.	8 9 10
(2)	However, the local government worker must, as soon as the local government worker enters the property—	11 12
(a)	inform any occupier of the property—	13
(i)	of the reason for entering the property; and	14
(ii)	that the local government worker is authorised under this Act to enter the property without the permission of the occupier; and	15 16 17
(b)	produce his or her identity card for the occupier of the property to inspect.	18 19
146	Entry with, and in accordance with, a court order	20
(1)	A person may enter a property with, and in accordance with, a court order made under this section.	21 22
(2)	The person must apply to a magistrate for the court order.	23
(3)	The application must—	24
(a)	be in the form approved by the department's chief executive; and	25 26
(b)	be sworn; and	27
(c)	state the grounds on which the court order is sought.	28
(4)	The person must, as soon as practicable, give a copy of the application to—	29 30

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- (a) if the person is not the owner of the property—the owner of the property; and 1
2
- (b) the occupier of the property. 3
- (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. 4
5
6
7
- Example—* 8
- The magistrate may require additional information supporting the application to be given by statutory declaration. 9
10
- (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 Acts, the magistrate may make the court order. 11
12
13
14
- (7) The court order must— 15
- (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 Act; and 16
17
18
- (b) state the hours of the day or night when the property may be entered; and 19
20
- (c) state the day (within 14 days after the court order is made) when the court order ends. 21
22
- (8) If the person who applied for the court order is a local government worker, the court order may authorise the local government worker to use necessary and reasonable help and force to enter the property. 23
24
25
26
- (9) The magistrate must record the reasons for making the court order. 27
28
- (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— 29
30
31
- (a) inform any occupier of the property— 32
- (i) of the reason for entering the property; and 33

	(ii) that the person is authorised under the court order to enter the property without the permission of the occupier; and	1 2 3
	(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.	4 5 6 7
147	Compensation for damage or loss caused	8
	(1) A local government worker who enters a property—	9
	(a) must not cause, or contribute to, damage to any structure or works on the property; and	10 11
	(b) must take all reasonable steps to ensure that the worker causes as little inconvenience, and does as little other damage, as is practicable in the circumstances.	12 13 14
	(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 local government must pay the person compensation.	15 16 17 18 19
	(3) The compensation equals—	20
	(a) the amount agreed between the person and local government; or	21 22
	(b) if the person and local government can not agree, the amount that is decided by a court.	23 24
	(4) The court may make any order about costs that the court considers just.	25 26
148	Limitation of time in absence of notice of work done	27
	(1) This section applies if work is done on a property without an approval that is required under a Local Government Act.	28 29

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(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 local government worker first finds out about the work.	1 2 3 4
Division 3	Offences	5
149	Obstructing enforcement of Local Government Acts	6
(1)	A person must not obstruct another person who is taking action that the other person is required or authorised to take under a Local Government Act.	7 8 9
	Maximum penalty—50 penalty units.	10
(2)	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 a local government.	11 12 13
	Maximum penalty—35 penalty units.	14
150	Impersonating an authorised person	15
	A person must not pretend to be an authorised person.	16
	Maximum penalty—50 penalty units.	17
Chapter 6	Administration	18
Part 1	Introduction	19
151	What this chapter is about	20
(1)	This chapter contains provisions about—	21

(a)	persons who are elected or appointed to perform responsibilities under this Act; and	1 2
(b)	bodies that are created to perform responsibilities under this Act.	3 4
(2)	For example, this chapter contains provisions about—	5
(a)	qualifications for election or appointment; and	6
(b)	acting appointments; and	7
(c)	conditions of appointment; and	8
(d)	ending appointments.	9
Part 2	Councillors	10
Division 1	Qualifications of councillors	11
152	Qualifications of councillors	12
(1)	A person is qualified to be a councillor of a local government, other than the Torres Strait Island Regional Council, only if the person—	13 14 15
(a)	is an Australian citizen; and	16
(b)	is not disqualified from being a councillor because of a section in this division.	17 18
(2)	A person is qualified to be the mayor of the Torres Strait Island Regional Council only if the person—	19 20
(a)	is an Australian citizen; and	21
(b)	is a Torres Strait Islander or an Aborigine; and	22
(c)	on the nomination day for the election, has lived in the local government area for the 2 years immediately before the nomination day; and	23 24 25

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- (d) is not disqualified from being a councillor because of a section in this division. 1
2
- (3) A person is qualified to be another councillor of the Torres Strait Island Regional Council only if the person— 3
4
- (a) is an Australian citizen; and 5
- (b) is a Torres Strait Islander or an Aborigine; and 6
- (c) on the nomination day for the election, has lived in the particular division for which the person is to be a candidate for the 2 years immediately before the nomination day; and 7
8
9
10
- (d) is not disqualified from being a councillor because of a section in this division. 11
12
- 153 Disqualification for certain offences** 13
- (1) A person can not be a councillor— 14
- (a) after the person is convicted of a treason offence, unless the person is pardoned of the treason offence; or 15
16
- (b) for 10 years after the person is convicted of an electoral offence; or 17
18
- (c) for 7 years after the person is convicted of a bribery offence; or 19
20
- (d) for 4 years after the person is convicted of an integrity offence; or 21
22
- (e) for the remainder of the term before the next quadrennial elections, if the person— 23
24
- (i) has been dismissed as a councillor under section 122 or 123; or 25
26
- (ii) stops being a councillor under subsection (6). 27
- (2) A *treason offence* is an offence of treason, sedition or sabotage under the law of Queensland, another State or the Commonwealth. 28
29
30

-
- (3) An *electoral offence* is— 1
- (a) a disqualifying electoral offence under the Electoral Act; or 2
3
 - (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
5
6
7
- (4) A *bribery offence* is an offence against— 8
- (a) section 98C of the Criminal Code; or 9
 - (b) a corresponding law of another State or the Commonwealth; or 10
11
 - (c) another offence prescribed under a regulation. 12
- (5) An *integrity offence* is an offence against— 13
- (a) section 171, 172, 173, 174, 237; or 14
 - (b) section 98B, 98E or 98G(a) or (b) of the Criminal Code; or 15
16
 - (c) another offence prescribed under a regulation. 17
- (6) A person automatically stops being a councillor when the person is convicted of— 18
19
- (a) a treason offence; or 20
 - (b) an electoral offence; or 21
 - (c) a bribery offence; or 22
 - (d) an integrity offence. 23
- (7) A person is taken to have been convicted of an offence— 24
- (a) if the person appeals the conviction—when the appeal is dismissed, struck out or discontinued; or 25
26
 - (b) if the person does not appeal the conviction—at the end of the time within which an appeal must by law be started. 27
28
29

[s 154]

- 154 Disqualification of prisoners** 1
- (1) A person can not be a councillor while the person is a prisoner. 2
3
- (2) A *prisoner* is a person who— 4
- (a) is serving a period of imprisonment; or 5
- (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). 6
7
8
- (3) A person automatically stops being a councillor when the person becomes a prisoner. 9
10
- 155 Disqualification because of other high office** 11
- (1) A person can not be a councillor while the person is a government member. 12
13
- (2) A *government member* is— 14
- (a) a member of a Parliament of the Commonwealth or a State (including Queensland); or 15
16
- (b) a councillor of a local government of another State. 17
- (3) A person automatically stops being a councillor when the person becomes— 18
19
- (a) a government member; or 20
- (b) a candidate for election as a member of the Legislative Assembly; or 21
22
- (c) a type of person prescribed under a regulation. 23
- 156 Disqualification during bankruptcy** 24
- (1) A person can not be a councillor while the person is a bankrupt. 25
26
- (2) A person is a *bankrupt* if, under a bankruptcy law— 27
- (a) the person is an undischarged bankrupt; or 28

-
- (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 local government 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.
- 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.
- Maximum penalty—85 penalty units.
- Division 2 Councillor’s term of office**
- 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	1 2
(b)	if the councillor is appointed—the day on which the councillor is appointed.	3 4
160	When a councillor’s term ends	5
	A councillor’s term ends—	6
(a)	if the councillor is elected at a quadrennial election or at a fresh election—at the conclusion of the next quadrennial election; or	7 8 9
(b)	if the councillor is elected at a fresh election and a declaration is also made under a regulation—at the conclusion of the quadrennial election after the next quadrennial election; or	10 11 12 13
(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	14 15 16
(d)	when the Legislative Assembly ratifies the dissolution of the local government under section 123; or	17 18
(e)	when the councillor’s office becomes otherwise vacant.	19
	<i>Note—</i>	20
	See section 162 for an explanation of when this happens.	21
Division 3	Vacancies in councillor’s office	22
161	What this division is about	23
(1)	This division is about when a councillor’s office becomes vacant, and the way in which the vacancy is to be filled.	24 25
(2)	The way in which a vacancy is to be filled depends on—	26
(a)	whether the vacancy is in the office of the mayor or of another councillor; and	27 28

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-
- (b) if the vacancy is in the office of another councillor—whether the office becomes vacant during the beginning, middle or end of the local government’s term. 1
2
3
4
- (3) The *beginning* of the local government’s term is the period of 5
12 months that— 6
- (a) starts on the day when the last quadrennial elections were held; and 7
8
- (b) ends on the day before the first anniversary of the last quadrennial elections. 9
10
- (4) The *middle* of the local government’s term is the period of 18 11
months that— 12
- (a) starts on the first anniversary of the last quadrennial elections; and 13
14
- (b) ends on the day before the final part of the local government’s term starts. 15
16
- (5) The *final part* of the local government’s term is the period 17
that— 18
- (a) starts 30 months after the last quadrennial elections were held; and 19
20
- (b) ends on the day before the next quadrennial elections are held. 21
22

162 When a councillor’s office becomes vacant 23

- (1) A councillor’s office becomes vacant if the councillor— 24
- (a) is dismissed; or 25
- (b) ceases to be qualified to be a councillor under division 1; or 26
27
- (c) is found, on a judicial review, to be ineligible to continue to be a councillor; or 28
29
- (d) does not comply with section 169; or 30

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(e)	is absent, without the local government’s leave, from 2 or more consecutive ordinary meetings of the local government over at least 2 months; or	1 2 3
(f)	resigns as a councillor by signed notice of resignation given to the chief executive officer; or	4 5
(g)	dies; or	6
(h)	becomes a local government employee.	7
(2)	<i>A local government employee</i> does not include—	8
(a)	a person employed under a federally funded community development project for Aborigines or Torres Strait Islanders; or	9 10 11
(b)	a person prescribed under a regulation.	12
163	When a vacancy in an office must be filled	13
(1)	This section explains when a vacant office of a councillor (including the mayor) must be filled.	14 15
(2)	If a councillor’s office becomes vacant 6 months or more before quadrennial elections are required to be held, the local government must fill the vacant office.	16 17 18
(3)	The local government must fill the vacant office within 2 months after the office becomes vacant.	19 20
(4)	If the local government does not do so, the Governor in Council may appoint a qualified person to fill the vacant office.	21 22 23
(5)	If a councillor’s office becomes vacant within 6 months of when quadrennial elections are required to be held, the local government may decide not to fill the vacant office.	24 25 26

164	Filling a vacancy in the office of mayor	1
(1)	This section applies if the local government is to fill a vacant office of a mayor.	2 3
(2)	The vacant office must be filled by a by-election.	4
165	Acting mayor	5
(1)	The deputy mayor acts for the mayor during—	6
(a)	the absence or temporary incapacity of the mayor; or	7
(b)	a vacancy in the office of mayor.	8
(2)	If—	9
(a)	the office of mayor is vacant and the deputy mayor is prevented, by absence or temporary incapacity, from acting as the mayor; or	10 11 12
(b)	the mayor and deputy mayor are both prevented, by absence or temporary incapacity, from performing the role of mayor; or	13 14 15
(c)	the offices of both the mayor and deputy mayor are vacant;	16 17
	the local government may, by resolution, appoint an acting mayor from its councillors.	18 19
(3)	A local government may, by resolution, declare that the office of deputy mayor is vacant.	20 21
(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.	22 23 24
(5)	If a local government declares that the office of deputy mayor is vacant, it must immediately appoint another deputy mayor from its councillors.	25 26 27

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- 166 Filling a vacancy in the office of another councillor** 1
- (1) This section applies if the local government is to fill a vacant 2
office of a councillor (the *former councillor*) who is not the 3
mayor. 4
- (2) If the office becomes vacant during the beginning of the local 5
government's term, the local government must fill the vacant 6
office by either— 7
- (a) a by-election; or 8
- (b) appointing the runner-up in the last election. 9
- (3) The *runner-up* in the last election is the person who would 10
have been elected if the former councillor had not won the last 11
quadrennial election. 12
- (4) If the office becomes vacant during the middle of the local 13
government's term, the vacant office must be filled by a 14
by-election. 15
- (5) If the office becomes vacant during the final part of the local 16
government's term, the vacant office must be filled by 17
appointing a person who is— 18
- (a) qualified to be a councillor; and 19
- (b) if the former councillor was elected or appointed to 20
office as a political party's nominee—the political 21
party's nominee. 22
- (6) If the person who is to be appointed must be the political 23
party's nominee, the chief executive officer must request the 24
political party to advise the full name and address of its 25
nominee. 26
- (7) The request must be made by a written notice given to the 27
political party's registered officer, within 14 days after the 28
office becomes vacant. 29
- (8) If the person who is to be appointed need not be a political 30
party's nominee, the chief executive officer must, within 14 31
days after the office becomes vacant, invite nominations 32
from— 33

[s 167]

-
- (a) any person who is qualified to be a councillor, by written notice published—
- (i) in a newspaper that is circulating generally in the local government area; and
- (ii) on the local government’s website; and
- (b) each person who was a candidate for the office of the former councillor at the last quadrennial election, by written notice.
- (9) If the chief executive officer receives any nominations from qualified persons or candidates, the local government must fill the vacant office by appointing one of those persons or candidates.

Division 4 Councillors with other jobs 13

167 Councillors and local government jobs 14

- (1) If a person becomes a councillor while the person is a local government employee, the person is taken to have resigned as a local government employee on the day before the person becomes a councillor.
- (2) A *local government employee* includes an employee of a type of entity prescribed under a regulation.
- (3) However, a *local government employee* does not include a person who—
- (a) is employed under a federally funded community development project for Aborigines or Torres Strait Islanders; or
- (b) is a member of a class of employees that is prescribed under a regulation.

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168	Senior councillors and full-time government jobs	1
(1)	A person can not be a senior councillor and have a full-time government job at the same time.	2 3
(2)	A <i>senior councillor</i> is—	4
(a)	a councillor of a local government with a remuneration category of 5 or higher; or	5 6
(b)	the mayor of a local government with a remuneration category of 3 or 4; or	7 8
(c)	a councillor of another local government that is prescribed under a regulation.	9 10
(3)	A person has a <i>full-time government job</i> if—	11
(a)	the person holds a full-time appointment with a government entity or the parliamentary service; and	12 13
(b)	the person or someone else (including a family member, for example) is entitled to a reward because the person has the job.	14 15 16
(4)	However, subsection (1) does not apply if—	17
(a)	the senior councillor, before accepting the full-time government job—	18 19
(i)	signs a waiver that irrevocably waives the entitlement to the reward; and	20 21
(ii)	gives a copy of the waiver to the mayor or, if the senior councillor is the mayor, to the chief executive officer; or	22 23 24
(b)	an Act expressly requires or allows the senior councillor to have the full-time government job (including by requiring the senior councillor to be a member of a board or tribunal, for example).	25 26 27 28
(5)	If a senior councillor purports to accept an appointment in contravention of subsection (1), the appointment is void.	29 30
(6)	If a person becomes a senior councillor while the person has a full-time government job, the person is taken to have resigned	31 32

from the full-time government job on the day before the person became a senior councillor. 1
2

- (7) This section does not stop a senior councillor from— 3
- (a) having a part-time government job; or 4
 - (b) converting a full-time government job to a part-time government job, before the person becomes a senior councillor. 5
6
7
- (8) If a full-time government job is converted to a part-time government job, the senior councillor is entitled to all existing and accruing rights as if the part-time government job were a continuation of the full-time government job. 8
9
10
11

Division 5 Obligations of councillors 12

169 Obligations of councillors before acting in office 13

- (1) A councillor must not act in office until the councillor makes the declaration of office. 14
15
- (2) The *declaration of office* is a declaration prescribed under a regulation. 16
17
- (3) The chief executive officer is authorised to take the declaration of office. 18
19
- (4) The chief executive officer must keep a record of the taking of the declaration of office. 20
21
- (5) A person ceases to be a councillor if the person does not comply with subsection (1) within— 22
23
- (a) 1 month after being appointed or elected; or 24
 - (b) a longer period allowed by the Minister. 25

170 Mayor only to give directions to local government staff 26

- (1) The mayor may give a direction to the chief executive officer. 27

[s 171]

<i>Note—</i>	1
See section 261 for the prohibition on the mayor delegating this power.	2
(2) However, no other councillor may give a direction to the chief executive officer.	3 4
(3) No councillor, including the mayor, may give a direction to any other local government employee.	5 6
(4) The chief executive officer may make guidelines about the way in which a councillor is to ask a senior local government employee for advice to help the councillor to make a decision.	7 8 9
171 Use of information by councillors	10
(1) A person who is, or has been, a councillor must not use information that was acquired as a councillor in order to—	11 12
(a) gain, directly or indirectly, a financial advantage for the person or someone else; or	13 14
(b) harm the local government.	15
(2) A person who is, or has been, a councillor must not release information that the person knows, or should reasonably know, is information that is confidential to the local government.	16 17 18 19
Maximum penalty—100 penalty units or 2 years imprisonment.	20 21
172 Councillor’s material personal interest at a meeting	22
(1) This section applies if—	23
(a) a matter is to be considered at a meeting of a local government, or any of its committees; and	24 25
(b) the matter is not an ordinary business matter; and	26
(c) a councillor has a material personal interest in the matter.	27 28

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- Note—* 1
- See the dictionary for the definition of an *ordinary business matter*. 2
- (2) A councillor has a ***material personal interest*** in the matter if 3
any of the following persons stands to gain a benefit, or suffer 4
a loss, (either directly or indirectly) depending on the outcome 5
of the consideration of the matter at the meeting— 6
- (a) the councillor; 7
 - (b) a spouse of the councillor; 8
 - (c) a member of the councillor’s household; 9
 - (d) a partner of the councillor; 10
 - (e) an employer (other than a government entity) of the 11
councillor; 12
 - (f) an entity (other than a government entity) of which the 13
councillor or the person’s nominee is a member; 14
 - (g) another person prescribed under a regulation. 15
- (3) The councillor must— 16
- (a) inform the meeting of the councillor’s material personal 17
interest in the matter; and 18
 - (b) leave the meeting room (including any area set aside for 19
the public), and stay out of the meeting room while the 20
matter is being considered and voted on. 21
- Maximum penalty— 22
- (a) if the councillor votes on the matter with an intention to 23
gain a benefit, or avoid a loss, for the councillor or 24
someone else—200 penalty units or 2 years 25
imprisonment; or 26
 - (b) otherwise—85 penalty units. 27
- (4) Also, if the councillor is unsure whether the councillor’s 28
interest in the matter is a material personal interest, the 29
councillor must inform the meeting of the councillor’s interest 30
in the matter. 31

[s 173]

- (5) If the other persons who are entitled to vote at the meeting are informed about a councillor's interest in a matter, by the councillor or someone one else, the other persons must—
- (a) decide whether the councillor's interest in the matter is a material personal interest; and
 - (b) if the other persons decide that the councillor's interest in the matter is a material personal interest—direct the councillor to leave the meeting room (including any area set aside for the public), and stay out of the meeting room while the matter is being considered and voted on.
- (6) The councillor must comply with the decision, unless the councillor has a reasonable excuse.
- Maximum penalty—100 penalty units.
- (7) The following information must be recorded in the minutes of the meeting, and on the local government's website—
- (a) the name of the councillor who has the material personal interest, or possible material personal interest, in a matter;
 - (b) the nature of the material personal interest, or possible material personal interest, as described by the councillor.
- 173 Councillor's conflict of interest at a meeting**
- (1) This section applies if—
- (a) a matter is to be considered at a meeting of a local government, or any of its committees; and
 - (b) a councillor has a conflict of interest, or could reasonably be taken to have a conflict of interest, in the matter.
- (2) The councillor must inform the meeting about the councillor's interest in the matter.
- Maximum penalty—100 penalty units.

-
- (3) A *conflict of interest* is a conflict between— 1
- (a) a councillor’s personal interests (including personal 2
interests arising from the councillor’s relationships or 3
club memberships, for example); and 4
 - (b) the public interest; 5
- that might lead to a decision that is contrary to the public 6
interest. 7
- (4) If the other persons who are entitled to vote at the meeting are 8
informed about a councillor’s interest in a matter, by the 9
councillor or someone else, the other persons must— 10
- (a) decide whether the councillor has a conflict of interest, 11
or could reasonably be taken to have a conflict of 12
interest, in the matter; and 13
 - (b) if the other persons decide that is the case—direct the 14
councillor to leave the meeting room (including any area 15
set aside for the public), and stay out of the meeting 16
room while the matter is being considered and voted on. 17
- (5) The councillor must comply with the decision, unless the 18
councillor has a reasonable excuse. 19
- Maximum penalty—100 penalty units. 20
- (6) The following must be recorded in the minutes of the meeting, 21
and on the local government’s website— 22
- (a) the name of the councillor who has a conflict of interest, 23
or could reasonably be taken to have a conflict of 24
interest; 25
 - (b) the nature of the interest, as described by the councillor; 26
 - (c) if the majority of persons who were entitled to vote at 27
the meeting decided that there was no conflict of 28
interest—how the councillor voted on the matter; 29
 - (d) how the majority of persons who were entitled to vote at 30
the meeting voted on the matter. 31

[s 174]

174	Duty to report another councillor’s material personal interest, conflict of interest or misconduct	1 2
(1)	This section applies if a councillor knows, or suspects on reasonable grounds, that another councillor has—	3 4
(a)	a material personal interest, or conflict of interest, in a matter before the local government; or	5 6
(b)	engaged in misconduct.	7
(2)	The councillor must, as soon as is practicable, report to—	8
(a)	for a material personal interest or conflict of interest—	9
(i)	if the material personal interest or conflict of interest arises at a meeting of a local government, or any of its committees—the person who is presiding over the meeting; or	10 11 12 13
(ii)	otherwise—the chief executive officer; or	14
(b)	for misconduct—the chief executive officer.	15
	Maximum penalty—35 penalty units.	16
(3)	A person commits an offence if the person—	17
(a)	prejudices, or threatens to prejudice, the safety or career of another person because that other person or someone else complied with subsection (2); or	18 19 20
(b)	intimidates or harasses, or threatens to intimidate or harass, another person because that other person or someone else complied with subsection (2); or	21 22 23
(c)	takes any action that is, or is likely to be, detrimental to another person because that other person or someone else complied with subsection (2).	24 25 26
	Maximum penalty—100 penalty units or 2 years imprisonment.	27 28

175	Post-election meetings	1
(1)	A local government must hold a meeting within 14 days after—	2 3
(a)	the conclusion of each quadrennial election; and	4
(b)	the conclusion of a fresh election of its councillors.	5
(2)	The local government must, by resolution, appoint a deputy mayor from its councillors—	6 7
(a)	at that meeting; and	8
(b)	at the first meeting after the office of the councillor who is the deputy mayor becomes vacant.	9 10
Division 6	Conduct and performance of councillors	11 12
176	What this division is about	13
(1)	This division is about dealing with complaints about the conduct and performance of councillors, to ensure that—	14 15
(a)	appropriate standards of conduct and performance are maintained; and	16 17
(b)	a councillor who engages in misconduct is disciplined.	18
(2)	A <i>councillor</i> includes a person who is no longer a councillor but who was a councillor when the misconduct is alleged to have happened.	19 20 21
(3)	<i>Misconduct</i> is conduct, or a conspiracy or attempt to engage in conduct, of or by a councillor—	22 23
(a)	that adversely affects, or could adversely affect, (either directly or indirectly) the honest and impartial performance of the councillor’s responsibilities or exercise of the councillor’s powers; or	24 25 26 27
(b)	that is or involves—	28

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- (i) the performance of the councillor's responsibilities, or the exercise of the councillor's powers, in a way that is not honest or is not impartial; or 1
2
3
4
- (ii) a breach of the trust placed in the councillor; or 5
- (iii) a misuse of information or material acquired in or in connection with the performance of the councillor's responsibilities, whether the misuse is for the benefit of the councillor or someone else; or 6
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8
9
- (c) repeated inappropriate conduct that is referred to the department's chief executive as misconduct under section 181. 10
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- (4) ***Inappropriate conduct*** is conduct that is not appropriate conduct for a representative of a local government, but is not misconduct, including for example— 13
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15
- (a) a councillor failing to comply with the local government's procedures; or 16
17
- (b) a councillor behaving in an offensive or disorderly way in a meeting of the local government or any of its committees. 18
19
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- (5) It is irrelevant whether the conduct that constitutes misconduct, or inappropriate conduct, was engaged in— 21
22
- (a) within Queensland or elsewhere; or 23
- (b) when the councillor was not exercising the responsibilities of a councillor. 24
25
- (6) In summary, the process for reviewing complaints of misconduct by councillors is as follows— 26
27
- *assessing complaints*—the chief executive officer assesses each complaint of misconduct, and refers all complaints of misconduct that are not frivolous or vexatious to the department's chief executive 28
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- *notifying councillor of the hearing of a complaint of misconduct*—the department’s chief executive notifies the councillor about the hearing of the complaint
 - *hearing and deciding complaints*—the regional conduct review panel or tribunal hears the complaint and decides whether or not the councillor engaged in misconduct, and if so, what is the appropriate disciplinary action
 - *taking disciplinary action*—disciplinary action is taken against a councillor who has engaged in misconduct, by the regional conduct review panel, the tribunal or the Minister, depending on the severity of the misconduct.
- (7) A **regional conduct review panel** is a body, created under this Act, that is responsible for hearing and deciding a complaint of misconduct by a councillor.
- Note—*
- See chapter 6, part 4 for more information about the creation of a regional conduct review panel.
- (8) The **tribunal** is a body, created under this Act, that is responsible (amongst other things) for hearing and deciding the most serious complaints of misconduct by a councillor.
- Note—*
- See chapter 6, part 3 for more information about the creation of the tribunal, and section 183 for the tribunal’s other responsibilities.
- (9) To remove any doubt, a councillor may be dealt with for an act or omission that constitutes misconduct under this Act, and also dealt with for the same act or omission—
- (a) as the commission of an offence; or
 - (b) under the Crime and Misconduct Commission Act.

177 Assessing complaints

- (1) This section applies if a local government, or the department’s chief executive, makes or receives a complaint about the conduct or performance of a councillor.

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- (2) The local government or department’s chief executive must give written notice of the complaint to the chief executive officer. 1
2
3
- (3) The chief executive officer must assess each complaint to decide whether the complaint— 4
5
- (a) is about a frivolous matter or was made vexatiously; or 6
- (b) is about inappropriate conduct, misconduct, official misconduct or another matter (including a general complaint against the local government, for example). 7
8
9
- (4) If the chief executive officer assesses that the complaint is about a frivolous matter or was made vexatiously, the chief executive officer may decide that no further action be taken in relation to the complaint. 10
11
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13
- (5) If the chief executive officer assesses that the complaint is about inappropriate conduct, the chief executive officer must— 14
15
16
- (a) if the complaint is about conduct of the mayor—refer the complaint to the deputy mayor; or 17
18
- (b) if the complaint is about conduct of another councillor—refer the complaint to the mayor. 19
20
- (6) If the chief executive officer assesses that the complaint is about misconduct, the chief executive officer must refer the complaint to the department’s chief executive. 21
22
23
- (7) If the chief executive officer assesses that the complaint is about official misconduct, the chief executive officer must deal with the complaint in accordance with the Crime and Misconduct Act. 24
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- (8) If the chief executive officer assesses that the complaint is about another matter, the chief executive officer must deal with the complaint in an appropriate way. 28
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- (9) The chief executive officer must give the entity who made the complaint, and the accused councillor, a written notice that states— 31
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- (a) the type of complaint that the chief executive officer has assessed the complaint as; and 1
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- (b) the action (if any) that is proposed to be taken in relation to the complaint; and 3
4
- (c) if the complaint was about a frivolous matter or was made vexatiously—that it is an offence for a person to make a complaint that is substantially about a matter that the chief executive officer has assessed as being frivolous or vexatious. 5
6
7
8
9
- (10) A person must not make a complaint about the misconduct of a councillor if— 10
11
- (a) the complaint is substantially the same as a complaint that the person has previously made; and 12
13
- (b) the chief executive officer has given the person a notice that complies with subsection (9). 14
15
- Maximum penalty—10 penalty units. 16
- (11) The chief executive officer must keep a record of— 17
- (a) all written complaints received by the chief executive officer; and 18
19
- (b) all action (including disciplinary action) that is taken in relation to the complaint. 20
21
- (12) The chief executive must ensure that the public may inspect the record— 22
23
- (a) at the local government’s public office; or 24
- (b) on the local government’s website. 25
- 178 Notifying councillor of the hearing of a complaint of misconduct** 26
27
- (1) This section applies if the chief executive officer refers a complaint to the department’s chief executive. 28
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- (2) The department's chief executive must give the accused councillor a written notice that informs the councillor about the hearing of the complaint of misconduct. 1
2
3
- (3) The notice must state— 4
- (a) the misconduct that is alleged to have been engaged in by the councillor; and 5
6
- (b) the time and date when the hearing is to begin; and 7
- (c) the place where the complaint is to be heard. 8
- (4) The notice must be given to the councillor at least 7 days before the hearing is to begin. 9
10
- (5) If all reasonable attempts to give the notice to the councillor have failed, the notice may be published, at least 7 days before the hearing is to begin— 11
12
13
- (a) in a newspaper that is circulating in the local government area; and 14
15
- (b) on the websites of the local government and the department. 16
17
- 179 Hearing and deciding complaints 18**
- (1) This section is about the hearing of a complaint of misconduct by a regional conduct review panel or the tribunal. 19
20
- (2) A regional conduct review panel or the tribunal may hear complaints of misconduct by a number of councillors in the same hearing, unless the defence of any of the councillors may be prejudiced. 21
22
23
24
- (3) The hearing must be conducted in the way set out in chapter 7, part 1. 25
26
- (4) The regional conduct review panel or tribunal may decide all or part of the hearing from the documents brought before the regional conduct review panel or tribunal, without the parties or the witnesses appearing, if— 27
28
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- (a) the regional conduct review panel or tribunal considers it appropriate in all the circumstances; or
 - (b) the parties agree.
- (5) The standard of proof in the hearing is the balance of probabilities.
- (6) The regional conduct review panel or tribunal must keep a written record of the hearing, in which it records—
- (a) the statements of the councillor and all witnesses; and
 - (b) any reports relating to the councillor that are tendered at the hearing.

180 Taking disciplinary action

- (1) This section applies if, after hearing a complaint of misconduct, the regional conduct review panel or tribunal decides that the councillor engaged in misconduct.
- (2) The regional conduct review panel may make any 1 or more of the following orders or recommendations that it considers appropriate in view of the circumstances relating to the misconduct—
- (a) an order that the councillor be counselled about the misconduct, and how not to repeat the misconduct;
 - (b) an order that the councillor make an admission of error or an apology;
 - (c) an order that the councillor participate in mediation with another person;
 - (d) a recommendation to the department’s chief executive to monitor the councillor or the local government for compliance with the Local Government Acts.
- (3) However, if the regional conduct review panel considers that more serious disciplinary action should be taken, the regional conduct review panel must report the matter to the tribunal for the tribunal to take disciplinary action.

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- (4) The tribunal may make any order or recommendation that it considers appropriate in view of the circumstances relating to the misconduct. 1
2
3
- (5) For example, the tribunal may make any 1 or more of the following orders or recommendations— 4
5
- (a) an order that the councillor be counselled about the misconduct, and how not to repeat the misconduct; 6
7
- (b) an order that the councillor make an admission of error or an apology; 8
9
- (c) an order that the councillor participate in mediation with another person; 10
11
- (d) a recommendation to the department’s chief executive to monitor the councillor or the local government for compliance with the Local Government Acts; 12
13
14
- (e) an order that the councillor forfeit an allowance, benefit, payment or privilege; 15
16
- (f) an order that the councillor reimburse the local government; 17
18
- (g) a recommendation to the Minister that the councillor be suspended for a specified period; 19
20
- (h) a recommendation to the Minister that the councillor be dismissed; 21
22
- (i) a recommendation to the Crime and Misconduct Commission or the Commissioner of Police that the councillor’s conduct be further investigated. 23
24
25
- (6) When deciding what disciplinary action is appropriate in view of the circumstances relating to the misconduct, the regional conduct review panel or tribunal may consider— 26
27
28
- (a) any misconduct of the councillor in the past; and 29
- (b) any allegation made in the hearing that was admitted, or was not challenged. 30
31

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- (7) However, the regional conduct review panel or tribunal may consider an allegation that was not admitted, or was challenged, only if the regional conduct review panel or tribunal is satisfied that the allegation is true.
- (8) The degree to which the regional conduct review panel or tribunal must be satisfied depends on the consequences, that are adverse to the councillor, of finding the allegation to be true.

181 Inappropriate conduct that is not misconduct

- (1) This section applies if the chief executive officer refers a complaint to the mayor or deputy mayor.
- (2) The mayor or deputy mayor may make any 1 or more of the following orders that the mayor or deputy mayor considers appropriate in the circumstances—
- (a) if the inappropriate conduct happens in a meeting of the local government or its committees—
 - (i) an order that the councillor’s inappropriate conduct be noted in the minutes of the meeting; or
 - (ii) an order that the councillor leave the meeting room (including any area set aside for the public), and stay out of the meeting room for the rest of the day; or
 - (iii) an order that a councillor who fails to leave the place where a meeting is being held when ordered to do so, be removed from the place;
 - (b) an order reprimanding the councillor for the inappropriate conduct;
 - (c) an order that any repeat of the inappropriate conduct be referred to the department’s chief executive as misconduct.

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182	Department's chief executive is public official for CMC Act	1 2
(1)	A local government is a unit of public administration for the Crime and Misconduct Act.	3 4
(2)	For any complaint of, or information or matter involving, misconduct by a councillor, a reference to a public official in the Crime and Misconduct Act, section 46(2), is taken to be a reference to the department's chief executive.	5 6 7 8
Part 3	The tribunal	9
183	Continuation of the tribunal	10
(1)	The Local Government Remuneration Tribunal established under the 1993 Act is continued as the Local Government Remuneration and Discipline Tribunal (the <i>tribunal</i>) under this Act.	11 12 13 14
(2)	As well as the responsibilities mentioned in section 176, the tribunal is responsible for—	15 16
(a)	establishing the categories of local governments; and	17
(b)	deciding which category each local government belongs to; and	18 19
(c)	deciding the remuneration that is payable to the councillors in each of those categories; and	20 21
(d)	any other functions that the Minister directs the tribunal to perform.	22 23
184	Members of tribunal	24
(1)	The tribunal is made up of 3 qualified persons who are appointed by the Governor in Council.	25 26
(2)	A person is qualified to be a member only if the person—	27

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- (a) has extensive knowledge of, and experience in, 1 or
more of the following— 2
- (i) local government; 3
 - (ii) community affairs; 4
 - (iii) industrial relations; 5
 - (iv) investigations; 6
 - (v) law; 7
 - (vi) public administration; 8
 - (vii) public sector ethics; 9
 - (viii) public finance; or 10
- (b) has other knowledge and experience that the Governor 11
in Council considers appropriate. 12
- (3) However, a person is not qualified to be a member of the 13
tribunal if the person is— 14
- (a) a councillor of a local government; or 15
 - (b) an employee of a local government; or 16
 - (c) a contractor of a local government; or 17
 - (d) a consultant engaged by a local government; or 18
 - (e) an insolvent under administration (within the meaning 19
of the Corporations Act, section 9); or 20
 - (f) a person who has a conviction for an indictable offence 21
that is not an expired conviction; or 22
 - (g) a type of person prescribed under a regulation. 23
- (4) The Governor in Council must appoint 1 of the members to be 24
the chairperson of the tribunal. 25
- (5) A member may be appointed for not longer than 4 years. 26
- (6) However, a member may be reappointed. 27
- (7) A person stops being a member if the person— 28
- (a) completes a term of office but is not reappointed; or 29
-

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(b)	resigns by signed notice of resignation given to the department's chief executive; or	1 2
(c)	is removed as a member by the Governor in Council for misbehaviour or physical or mental incapacity; or	3 4
(d)	is not qualified to be a member under subsection (3).	5
185	Remuneration and appointment conditions of members	6
(1)	A member of the tribunal is entitled to be paid the remuneration and allowances decided by the Governor in Council.	7 8 9
(2)	A member of the tribunal holds office on the other conditions that the Governor in Council decides.	10 11
(3)	If a commissioner under the Industrial Relations Act is appointed as a member, the person is not entitled to any remuneration or allowances in addition to the person's salary or allowances as a commissioner.	12 13 14 15
(4)	However, the person is entitled to be paid any expenses reasonably incurred by the person in performing the responsibilities of a member.	16 17 18
186	Costs of tribunal to be met by local government	19
	The local government must pay the costs of the tribunal in relation to a complaint of misconduct of a councillor, including the remuneration, allowances and expenses paid to members of the tribunal.	20 21 22 23
187	Conflict of interests	24
(1)	This section applies if a member of the tribunal has any interest that may conflict with a fair and impartial hearing of a complaint made against an accused councillor.	25 26 27
(2)	The member must not take part, or take further part, in any consideration of the matter.	28 29

Maximum penalty—35 penalty units.	1
(3) As soon as practicable after the member becomes aware that this section applies to the member, the member must inform the department’s chief executive.	2 3 4
Maximum penalty—35 penalty units.	5
188 Assistance from departmental staff	6
The department’s chief executive must make available to the tribunal the staff assistance that the tribunal needs to effectively perform its responsibilities.	7 8 9
Part 4 Regional conduct review panels	10 11
189 Appointing members of regional conduct review panels	12
(1) A regional conduct review panel is constituted by at least 3 members that the chief executive officer chooses from a pool of members for the region in which the councillor in question resides.	13 14 15 16
(2) The department’s chief executive must appoint a pool of members for a regional conduct review panel for the different regions of the State decided by the department’s chief executive.	17 18 19 20
(3) A person is qualified to be a member of the pool of members only if the person—	21 22
(a) has extensive knowledge of, and experience in, 1 or more of the following—	23 24
(i) local government;	25
(ii) community affairs;	26
(iii) investigations;	27

[s 189]

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|--|----------------|
| (iv) law; | 1 |
| (v) public administration; | 2 |
| (vi) public sector ethics; | 3 |
| (vii) public finance; or | 4 |
| (b) has the other qualifications and experience that the department's chief executive considers appropriate. | 5
6 |
| (4) However, a person is not qualified to be a member of the pool of members if the person— | 7
8 |
| (a) is a member of an Australian parliament; or | 9 |
| (b) is a nominee for election as a member of an Australian parliament; or | 10
11 |
| (c) is a councillor; or | 12 |
| (d) is a nominee for election as a councillor; or | 13 |
| (e) accepts an appointment as a councillor; or | 14 |
| (f) is a member of a political party; or | 15 |
| (g) is a local government employee; or | 16 |
| (h) has a conviction for an indictable offence that is not an expired conviction. | 17
18 |
| (5) A member may be appointed for not longer than 4 years. | 19 |
| (6) However, a member may be reappointed. | 20 |
| (7) A person stops being a member if the person— | 21 |
| (a) completes a term of office but is not reappointed; or | 22 |
| (b) resigns by signed notice of resignation given to the department's chief executive; or | 23
24 |
| (c) is removed as a member by the department's chief executive for misbehaviour or physical or mental incapacity; or | 25
26
27 |
| (d) is not qualified to be a member under subsection (4). | 28 |

190	Remuneration and appointment conditions of members	1
(1)	A member of a regional conduct review panel is entitled to be paid the remuneration and allowances decided by the department's chief executive.	2 3 4
(2)	A member of a regional conduct review panel holds office on the other conditions that the department's chief executive decides.	5 6 7
191	Costs of regional conduct review panels to be met by local government	8 9
	The local government must pay the costs of a regional conduct review panel in relation to a complaint of misconduct of a councillor, including the remuneration, allowances and expenses paid to members of the regional conduct review panel.	10 11 12 13 14
192	Conflict of interests	15
(1)	This section applies if a member of a regional conduct review panel has any interest that may conflict with a fair and impartial hearing of a complaint made against an accused councillor.	16 17 18 19
(2)	The member must not take part, or take further part, in any consideration of the matter. Maximum penalty—35 penalty units.	20 21 22
(3)	As soon as practicable after the member becomes aware that this section applies to the member, the member must inform the department's chief executive. Maximum penalty for subsection (3)—35 penalty units.	23 24 25 26
193	Assistance from departmental staff	27
	The department's chief executive must make available to the regional conduct review panel the staff assistance that the	28 29

Part 6	Local government employees	1
Division 1	Chief executive officer	2
197	Appointing a chief executive officer	3
(1)	A local government must appoint a qualified person to be its chief executive officer.	4 5
(2)	A person is qualified to be the chief executive officer if the person has the ability, experience, knowledge and skills that the local government considers appropriate, having regard to the responsibilities of a chief executive officer.	6 7 8 9
(3)	A person who is appointed as the chief executive officer must enter into a written contract of employment with the local government.	10 11 12
(4)	The contract of employment must provide for—	13
(a)	the chief executive officer to meet performance standards set by the local government; and	14 15
(b)	the chief executive officers’s conditions of employment (including remuneration).	16 17
198	Appointing an acting chief executive officer	18
	A local government may appoint a qualified person to act as the chief executive officer during—	19 20
(a)	any vacancy, or all vacancies, in the position; or	21
(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.	22 23 24 25

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Division 2	Other local government employees	1
199	Appointing other local government employees	2
(1)	A local government must, by resolution, adopt a staff structure that is appropriate to the performance of the local government's responsibilities.	3 4 5
(2)	The local government may employ local government employees for the performance of the local government's responsibilities.	6 7 8
(3)	The chief executive officer must appoint the local government employees.	9 10
(4)	A local government employee is employed on—	11
(a)	the conditions contained in any relevant industrial instrument; and	12 13
(b)	any other conditions that the local government decides.	14
200	Disciplinary action against local government employees	15
(1)	The chief executive officer is the only person who may take disciplinary action against a local government employee.	16 17
(2)	If the chief executive officer takes disciplinary action against a local government employee, the local government employee may appeal against the decision to the entity prescribed under a regulation.	18 19 20 21
Division 3	Common provisions	22
201	Concurrent employment of local government employees	23
(1)	This section applies to all local government employees, including the chief executive officer.	24 25

[s 202]

-
- (2) A local government employee may be employed by more than 1
1 local government at the same time, if each of the local 2
governments agree. 3

202 Improper conduct by local government employees 4

- (1) This section applies to all local government employees, 5
including the chief executive officer. 6
- (2) A *local government employee* includes— 7
- (a) an employee of a corporate entity; and 8
 - (b) a contractor of the local government; and 9
 - (c) a type of person prescribed under a regulation. 10
- (3) A local government employee must not ask for, or accept, a 11
fee or other benefit (other than remuneration paid by the local 12
government) for doing something as a local government 13
employee. 14
- Maximum penalty— 15
- (a) for an employee of a corporate entity—500 penalty units 16
or 5 years imprisonment; and 17
 - (b) for any other local government employee—100 penalty 18
units or 2 years imprisonment. 19
- (4) A local government employee must not unlawfully destroy or 20
damage property of the local government. 21
- Maximum penalty—100 penalty units or 2 years 22
imprisonment. 23

**203 Improper use of information by local government 24
employees** 25

- (1) This section applies to all local government employees, 26
including the chief executive officer. 27
- (2) A *local government employee* includes— 28
- (a) an employee of a corporate entity; and 29

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- (b) a contractor of the local government; and 1
- (c) a type of person prescribed under a regulation. 2
- (3) A person who is, or has been, a local government employee 3
must not make improper use of information acquired as a 4
local government employee— 5
 - (a) to gain (directly or indirectly) an advantage for the 6
person or someone else; or 7
 - (b) to cause detriment to the local government. 8
- Maximum penalty— 9
 - (a) for an employee of a corporate entity—500 penalty units 10
or 5 years imprisonment; or 11
 - (b) for any other local government employee—100 penalty 12
units or 2 years imprisonment. 13
- (4) A **local government** includes a corporate entity of the local 14
government. 15
- (5) If an employee of a corporate entity contravenes subsection 16
(3), the corporate entity may recover from the employee, as a 17
debt due to the corporate entity— 18
 - (a) if anyone made a profit because of the 19
contravention—an amount equal to the profit; and 20
 - (b) if the corporate entity suffered loss or damage because 21
of the contravention—an amount equal to the loss or 22
damage. 23
- (6) The amount may be recovered from the employee whether or 24
not the employee has been convicted of an offence in relation 25
to the contravention. 26
- (7) Subsection (5) applies in addition to, and does not limit, the 27
Criminal Proceeds Confiscation Act 2002. 28
- (8) A person who is, or has been, a local government employee 29
must not release information that the person knows, or should 30
reasonably know, is information that— 31
 - (a) is confidential to the local government; and 32

(b) the local government wishes to keep confidential.	1
Maximum penalty—	2
(a) for an employee of a corporate entity—500 penalty units or 5 years imprisonment; or	3 4
(b) for any other local government employee—100 penalty units or 2 years imprisonment.	5 6
204 Annual report must detail remuneration	7
The annual report of a local government must detail the remuneration payable, in the year to which the annual report relates, to—	8 9 10
(a) the chief executive officer; and	11
(b) any other local government employee who is employed on a contractual basis.	12 13

Part 7 Authorised persons 14

205 Appointing authorised persons	15
(1) A local government may appoint a qualified person to be an authorised person.	16 17
(2) A person is qualified to be an authorised person if the person—	18 19
(a) has the competencies—	20
(i) that the local government considers is necessary to perform the responsibilities that are required to be performed by the authorised person; or	21 22 23
(ii) prescribed under a regulation; and	24
(b) is either—	25

[s 206]

(i)	an employee of the local government; or	1
(ii)	another type of person prescribed under a regulation.	2 3
(3)	The appointment of an authorised person must state the provisions of this Act for which the authorised person is appointed.	4 5 6
(4)	An authorised person's appointment is subject to the conditions stated in—	7 8
(a)	the document that appoints the authorised person; or	9
(b)	a written notice given to the authorised person by the local government; or	10 11
(c)	a regulation.	12
206	End of appointment of authorised persons	13
(1)	A person stops being an authorised person—	14
(a)	at the end of the term of appointment stated in the document that appointed the authorised person; or	15 16
(b)	if the authorised person gives the local government a signed notice of resignation; or	17 18
(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.	19 20 21 22
(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.	23 24 25 26
(3)	This section does not limit the ways in which an authorised person's appointment ends.	27 28

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209	Conditions of appointment as interim administrator or member of committee	1 2
(1)	An interim administrator or a member of a committee is entitled to the fees, allowances and expenses decided by the Governor in Council.	3 4 5
(2)	The local government must pay the fees, allowances and expenses.	6 7
(3)	An officer of the public service who is appointed as an interim administrator, or as a member of a committee, may hold the appointment as well as the public service office.	8 9 10
210	End of appointment of interim management	11
	A person stops being an interim administrator, or a member of an interim management committee—	12 13
(a)	if the person resigns by signed notice of resignation given to the department’s chief executive; or	14 15
(b)	if the Governor in Council, for any reason, cancels the person’s appointment; or	16 17
(c)	on the conclusion of a fresh election of the councillors of the local government.	18 19
Part 9	The superannuation board	20
211	Superannuation board	21
(1)	The Queensland Local Government Superannuation Board under the 1993 Act (the <i>super board</i>) continues in existence under this Act.	22 23 24
(2)	The super board—	25
(a)	is a body corporate; and	26
(b)	may sue and be sued in its corporate name.	27

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- 212 Board's responsibilities** 1
- (1) The super board's primary responsibility is to act as the trustee of the LG super scheme. 2
3
- (2) The super board, with the Governor in Council's approval, has the following extra responsibilities— 4
5
- (a) to manage another superannuation scheme for the scheme's trustee; 6
7
- (b) to act as trustee of a related persons scheme; 8
- (c) to establish, and act as trustee of, a related persons scheme. 9
10
- (3) A *related persons scheme* is a scheme providing superannuation, retirement or other similar benefits for persons (other than eligible members) who— 11
12
13
- (a) work for, or provide a service to, a local government; 14
and 15
- (b) are prescribed under a regulation as a related person. 16
- (4) The super board may delegate its powers to an employee of the super board. 17
18
- 213 Board of directors** 19
- (1) The super board has a board of directors. 20
- (2) The board of directors is responsible for how the super board performs its responsibilities. 21
22
- (3) The board of directors must ensure that the super board performs its responsibilities in a proper, effective and efficient way. 23
24
25
- (4) The board of directors is made up of— 26
- (a) 3 directors appointed on the nomination of the Local Government Association of Queensland Inc. or its successor in law; and 27
28
29

[s 214]

	(b) 3 directors appointed on the nomination of members of the LG super scheme; and	1 2
	(c) if the trust deed provides for the appointment of an additional independent director and an independent director is appointed—the appointed independent director.	3 4 5 6
	(5) The directors must be appointed under the rules established to comply with the Commonwealth Super Act.	7 8
	(6) A regulation may change the number of directors that are to be appointed under subsection (4)(a) and (b).	9 10
214	Seal of the super board	11
	(1) The super board has a seal.	12
	(2) Judicial notice must be taken of the seal on a document.	13
	(3) A document marked with the seal must be presumed to have been properly sealed, unless the contrary is proved.	14 15
Chapter 7	Other provisions	16
Part 1	Way to hold a hearing	17
215	What this part is about	18
	(1) This part sets out the way to hold a hearing under this Act.	19
	(2) The person or other entity that is conducting the hearing is called the <i>investigator</i> in this part.	20 21
216	Procedures at hearing	22
	(1) When conducting a hearing, the investigator must—	23

[s 217]

-
- (a) observe natural justice; but 1
- (b) act as quickly and informally as is consistent with a fair 2
and proper consideration of the issues raised in the 3
hearing. 4
- (2) For example, the investigator may— 5
- (a) act in the absence of a person who has been given 6
reasonable notice of the hearing; or 7
- (b) receive evidence by statutory declaration; or 8
- (c) refuse to allow a person to be represented by a legal 9
practitioner; or 10
- (d) disregard the rules of evidence; or 11
- (e) disregard any defect, error, omission or insufficiency in 12
a document; or 13
- (f) allow a document to be amended; or 14
- (g) adjourn a hearing. 15
- (3) However, the investigator must comply with any procedural 16
rules prescribed under a regulation. 17
- (4) A hearing is not affected by a change of the members of an 18
entity that is the investigator. 19
- 217 Witnesses at hearings 20**
- (1) The investigator may require a person, by giving them a 21
written notice, to attend a hearing as a witness in order to— 22
- (a) give evidence; or 23
- (b) produce specified documents. 24
- (2) The person must— 25
- (a) attend at the time and place specified in the notice; and 26
- (b) continue to attend until excused by the investigator; and 27
- (c) take an oath or make an affirmation if required by the 28
investigator; and 29

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(d)	answer a question that the person is required to answer by the investigator, unless the person has a reasonable excuse; and	1 2 3
(e)	produce a document that the person is required to produce by the investigator, unless the person has a reasonable excuse.	4 5 6
	Maximum penalty—35 penalty units.	7
(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.	8 9 10
(4)	A person who attends as a witness is entitled to—	11
(a)	the witness fees that are prescribed under a regulation; or	12 13
(b)	if no witness fees are prescribed, the reasonable witness fees decided by the investigator.	14 15
218	Contempt at hearing	16
	A person must not—	17
(a)	insult the investigator in a hearing; or	18
(b)	deliberately interrupt a hearing; or	19
(c)	take part in a disturbance in or near a place where the investigator is conducting a hearing; or	20 21
(d)	do anything that would be a contempt of court if the investigator were a court.	22 23
	Maximum penalty—50 penalty units.	24

Part 2	Superannuation	1
219	What this part is about	2
(1)	This part is about superannuation for certain persons who are connected to a local government.	3 4
(2)	In this part, a reference to a <i>local government</i> includes a local government entity.	5 6
(3)	A <i>local government entity</i> is an entity, prescribed under a regulation, that—	7 8
(a)	under an Act, exercises a power similar to a power that may be exercised by a local government in performing the local government’s responsibilities; or	9 10 11
(b)	under an Act, exclusively performs a responsibility in relation to the system of local government; or	12 13
(c)	exclusively exercises, for a local government, a power that may be exercised by the local government in performing the local government’s responsibilities; or	14 15 16
(d)	helps a local government in the performance of the local government’s responsibilities.	17 18
220	LG super scheme	19
(1)	The Local Government Superannuation Scheme under the 1993 Act (the <i>LG super scheme</i>) continues in existence under this Act.	20 21 22
(2)	The super board must make a trust deed that contains—	23
(a)	the rules that govern the operation of the LG super scheme; and	24 25
(b)	the matters that, under the Commonwealth Super Act, are required to be contained in the governing rules of regulated superannuation funds within the meaning of that Act.	26 27 28 29

[s 221]

221	Members of LG super scheme	1
(1)	An employee of a local government (other than a local government entity) is automatically a member of the LG super scheme (an <i>automatic member</i>) while their employment continues.	2 3 4 5
(2)	The following persons are eligible to become a member of the LG super scheme (<i>eligible members</i>)—	6 7
(a)	a councillor of a local government;	8
(b)	a contractor of a local government;	9
(c)	an employee of a local government entity;	10
(d)	a member of the governing body of a local government entity;	11 12
(e)	a person for whom a local government is required under the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cwlth) to contribute to a superannuation scheme;	13 14 15
(f)	a person for whom the super board is required under the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cwlth) to contribute to a superannuation scheme;	16 17 18
(g)	a person who is entitled, or conditionally entitled, to payment of an amount from the LG super scheme, in accordance with an agreement or court order made under the <i>Family Law Act 1975</i> (Cwlth);	19 20 21 22
(h)	another type of person prescribed under a regulation;	23
(i)	a person—	24
(i)	who was, but is no longer, a member of the LG super scheme because the person was a type of person mentioned in paragraphs (a) to (f) or (h); and	25 26 27 28
(ii)	whose benefit under the LG super scheme has not been fully paid out, withdrawn or transferred from the LG super scheme;	29 30 31
(j)	a person—	32

-
- (i) who was, but is no longer an automatic member;
and
 - (ii) whose benefit under the LG super scheme has not
been fully paid out, withdrawn or transferred from
the LG super scheme;
 - (k) the spouse of an automatic member;
 - (l) the spouse of a person mentioned in paragraphs (a) to
(h).
- (3) If a person mentioned in subsection (2)(f) becomes a member
of the LG super scheme, this part applies to the super board—
- (a) with all necessary changes; and
 - (b) with any changes prescribed under a regulation.

222 Compulsory super contributions

- (1) If the Commonwealth Super Act requires a local government
to make superannuation contributions for a permanent
employee, the superannuation contributions must be paid into
the LG super scheme.
- (2) An employee of a local government entity is a *permanent
employee* if the local government entity declares the
employee to be a permanent employee by a written notice
given to the super board.
- (3) An employee of a local government (other than a local
government entity) is a *permanent employee* if the employee
has been continuously employed by the local government, or
by the local government and other local governments
consecutively, for—
 - (a) at least 1 year; or
 - (b) less than 1 year, but the employee has given the local
government a membership notice.
- (4) A *membership notice* is a written notice given to the local
government and board by the employee electing to become a
permanent employee for this part.

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- (5) An employee is not *continuously employed* if the super board is satisfied that—
- (a) the employee’s employment is broken by at least 60 consecutive days when the employee was not employed by a local government, and the employee is not in a position to accept an offer of employment by a local government; or
 - (b) the employee—
 - (i) is no longer employed by a local government; and
 - (ii) has no intention of taking up employment with a local government.
- (6) An employee is not a permanent employee if—
- (a) the employee is employed by a local government only to carry out work on a particular job or project; and
 - (b) the employee’s employment is dependent on the time taken to carry out the job or project.
- (7) Also, an employee is not a permanent employee if the employee is employed by a local government under a federally funded community development project for Aborigines or Torres Strait Islanders.

223 Amount of compulsory contributions

- (1) The yearly contributions that must be paid into the LG super scheme must equal—
- (a) if the employee is a special permanent employee—16% of the employee’s salary under the trust deed; or
 - (b) if the employee is a standard permanent employee—18% of the employee’s salary under the trust deed.
- (2) A *special permanent employee* is a permanent employee who, immediately before 1 July 1995, was required to make superannuation contributions under the repealed *Local*

-
- Government Superannuation Act 1985* at the rate of 5% of the employee's salary under the trust deed. 1
2
- (3) A ***standard permanent employee*** is a permanent employee 3
who— 4
- (a) immediately before 1 July 1995, was required to make 5
superannuation contributions under the repealed *Local* 6
Government Superannuation Act 1985 at the rate of 6% 7
of the employee's salary under the trust deed; or 8
- (b) immediately before the repeal of the 1993 Act, was a 9
permanent employee of a community government under 10
the repealed *Local Government (Community* 11
Government Areas) Act 2004; or 12
- (c) starts employment after the commencement of this 13
section. 14
- (4) The local government need not pay an amount as a 15
contribution to the extent that the amount can not, under the 16
Commonwealth Super Act, be accepted by a regulated 17
superannuation fund under that Act. 18
- Note—* 19
- See the *Superannuation Industry (Supervision) Regulations 1994* 20
(Cwlth), regulation 7.04. 21
- (5) The contributions under subsection (1) are taken to include 22
any contributions that are required to be paid under an 23
industrial instrument. 24
- (6) The local government must pay the yearly contributions 25
within the time stated in the trust deed. 26
- (7) The permanent employee must pay to the local government 27
yearly contributions calculated at the following rate— 28
- (a) if the employee is a special permanent employee—5% 29
of the employee's salary under the trust deed; 30
- (b) if the employee is a standard permanent employee—6% 31
of the employee's salary under the trust deed. 32

[s 224]

- (8) However, subsection (7) does not apply if, under the employee's remuneration agreement with the local government, a contribution equivalent to the contribution mentioned in subsection (7) is made by the local government in addition to any contribution that the local government is required to make under this Act. 1
2
3
4
5
6
- (9) The local government may (despite the provisions of any other Act) deduct all or part of an employee's contributions from— 7
8
9
- (a) the employee's salary; or 10
- (b) any money that the employee owes to the local government. 11
12
- 224 Extra super contributions 13**
- (1) Subject to section 229, a member, or a local government for a member, may make extra contributions to the LG super scheme to obtain extra benefits under the trust deed. 14
15
16
- (2) However, the member or local government can not make an extra contribution to the extent that the extra contribution can not, under the Commonwealth Super Act, be accepted by a regulated superannuation fund under that Act. 17
18
19
20
- 225 Adjusting super contributions when salary changed 21**
- (1) The super board, by written notice, may require a local government to give the super board details of the salary of each of the local government's permanent employees as at a stated day during the year after any change to the salary of any of the employees. 22
23
24
25
26
- (2) The local government must comply with the notice. 27
- (3) If— 28
- (a) a permanent employee's salary has decreased; and 29

[s 226]

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- (b) the employee gives the local government written notice that the employee wants to pay contributions as if the employee's salary had not decreased;
the local government must calculate the yearly contributions payable for the employee based on the employee's salary before it was decreased.
- (4) The employee must give the notice within the time stated in the trust deed.
- 226 Super contributions for non-contributory members**
- (1) This section applies if—
- (a) a local government is required, under an industrial instrument, to pay superannuation contributions for a non-contributory member; or
- (b) a local government (other than a local government entity) is required, under an Act of the State or Commonwealth, to pay superannuation contributions for a non-contributory member.
- (2) A *non-contributory member* is a member of the LG super scheme who is not required to make contributions for membership.
- (3) The local government must pay the contributions to the LG super scheme.
- 227 Interest is payable on unpaid super contributions**
- (1) This section applies if a local government does not pay a contribution that is payable to the LG super scheme within the time stated in the trust deed.
- (2) The local government must pay interest on the amount of the contribution to the LG super scheme.
- (3) However, the super board may waive the payment of interest.
- (4) Any interest that is payable—

[s 228]

(a)	is to be paid at the rate prescribed under a regulation; and	1 2
(b)	is to be calculated on a daily basis.	3
228	Local governments must not establish employee superannuation schemes	4 5
	A local government (other than a local government entity) must not establish a superannuation scheme for its employees.	6 7
229	Super scheme for councillors	8
(1)	A local government may—	9
(a)	establish and amend a superannuation scheme for its councillors; or	10 11
(b)	take part in a superannuation scheme for its councillors.	12
(2)	If it does so, the local government may pay an amount from its operating fund to the superannuation scheme as a contribution for its councillors.	13 14 15
(3)	However, the local government must not make contributions to the superannuation scheme—	16 17
(a)	of more than the proportion of a salary that is payable by the local government for its standard permanent employees under the LG super scheme; or	18 19 20
(b)	for a person who is no longer a councillor.	21
(4)	A councillor of the local government may enter into an arrangement with the local government under which—	22 23
(a)	the councillor agrees to forgo a percentage or amount of the remuneration that the councillor is entitled to as a councillor; and	24 25 26
(b)	the local government agrees to contribute the percentage or amount to the superannuation scheme for the councillor.	27 28 29

(5)	A <i>superannuation scheme</i> is a superannuation scheme that complies with the Commonwealth Super Act.	1 2
230	Super schemes to be audited by auditor-general	3
(1)	This section applies if the super board acts as the trustee of a superannuation scheme.	4 5
(2)	The audit of the superannuation scheme that is required under the Commonwealth Super Act must be carried out by the auditor-general.	6 7 8
Part 3	Allocating Commonwealth funding to local governments	9 10
Division 1	Allocating Commonwealth funding	11
231	Allocating Commonwealth funding	12
(1)	The <i>grants commission</i> is a body that is created under this Act to perform the responsibilities of a Local Government Grants Commission under the Local Government (Financial Assistance) Act.	13 14 15 16
(2)	The grants commission and the Minister must comply with the Local Government (Financial Assistance) Act.	17 18
(3)	The public hearings that the grants commission is required to hold under the Local Government (Financial Assistance) Act must be held in the way set out in part 1.	19 20 21
(4)	If—	22
(a)	the grants commission requires a local governing body to provide information to help the grants commission make a decision about funding under the Local Government (Financial Assistance) Act; and	23 24 25 26

[s 232]

- (b) the local governing body does not make a submission by the date reasonably specified by the grants commission; the grants commission can recommend that no funding be allocated to the local governing body. 1
2
3
4
- (5) A **local governing body** is a local governing body within the meaning of the Local Government (Financial Assistance) Act. 5
6
- (6) The Minister must not distribute to a local government an amount equal to notional GST if the local government has not paid the notional GST. 7
8
9
- (7) **Notional GST** is an amount that a local government may pay under the *GST and Related Matters Act 2000*, section 5. 10
11
- (8) The Minister must table the following in the Legislative Assembly— 12
13
- (a) the grants commission’s recommendations about the allocation of funding; 14
15
- (b) a breakdown of how the funding was allocated between local governments. 16
17
- 232 Decisions under this division are not subject to appeal** 18
- A decision of the grants commission or the Minister under this division is not subject to appeal. 19
20
- Note—* 21
- See section 247 (Decisions not subject to appeal) for more information. 22
- Division 2 The grants commission** 23
- 233 Grants commission is established** 24
- (1) The Local Government Grants Commission (the **grants commission**) is established. 25
26
- (2) The grants commission is made up of the following members— 27
28

-
- (a) a chairperson; 1
 - (b) a deputy chairperson; 2
 - (c) 4 other members. 3
- 234 Members of grants commission** 4
- (1) The Governor in Council must appoint the members of the grants commission. 5
6
 - (2) The Governor in Council must ensure— 7
 - (a) the person who is appointed as the deputy chairperson is an officer of the department; and 8
9
 - (b) the other members have extensive knowledge of, and experience in, local government. 10
11
 - (3) A member may be appointed for a term of not longer than 3 years. 12
13
 - (4) A member holds office on the conditions (including about fees and allowances, for example) that the Governor in Council decides. 14
15
16
 - (5) The Governor in Council may pay members different rates. 17
 - (6) A person may be a member of the grants commission at the same time as the person holds an office under another Act, even though the other Act— 18
19
20
 - (a) requires the holder of an office to devote all of the person's time to the duties of the office; or 21
22
 - (b) prohibits the holder of an office from engaging in employment outside the duties of the office. 23
24
 - (7) A person stops being a member of the grants commission if— 25
 - (a) the member resigns by signed notice of resignation given to the Minister; or 26
27
 - (b) the member is convicted of an indictable offence; or 28
 - (c) if the member is the deputy chairperson—the member stops being an officer of the department; or 29
30
-

[s 235]

- (d) the Governor in Council cancels the member's appointment. 1
2
- (8) The Governor in Council may cancel a member's appointment if the member— 3
4
- (a) becomes incapable of performing duties because of physical or mental incapacity; or 5
6
- (b) engages in misbehaviour; or 7
- (c) is incompetent; or 8
- (d) uses the office for party political purposes; or 9
- (e) does anything else that the Governor in Council considers is a reasonable and sufficient justification for removal from office. 10
11
12
- (9) The Governor in Council may appoint a person to act for a member of the grants commission if the member is— 13
14
- (a) absent; or 15
- (b) unable to carry out the member's responsibilities (including because of illness, for example). 16
17
- 235 Conflict of interests** 18
- (1) This section applies if— 19
- (a) a member of the grants commission has a direct or indirect financial interest in a matter being considered, or about to be considered, by the grants commission; and 20
21
22
23
- (b) the interest could conflict with the proper performance of the member's responsibilities for the matter. 24
25
- (2) The person must not take part, or take further part, in any consideration of the matter. 26
27
- Maximum penalty—35 penalty units. 28

[s 236]

-
- (3) As soon as practicable after the member becomes aware that this section applies to the member, the member must inform the department's chief executive.
Maximum penalty—35 penalty units.

236 Staff assistance to the grants commission

The department's chief executive must make available to the grants commission the staff assistance that the grants commission needs to effectively perform its responsibilities.

Part 4 Legal provisions

237 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 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) a regional conduct review panel;
 - (g) the tribunal;
 - (h) the grants commission.
- Maximum penalty—100 penalty units.

[s 238]

- (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.
- 238 Administrators who act honestly are protected from liability**
- (1) A constituter of a local government is not civilly liable for an act done, or omission made, honestly by the local government or the constituter, as a constituter of the local government—
- (a) in the administration of this Act; or
 - (b) in the exercise, or intended exercise, of any of the local government’s powers under this Act.
- (2) A *constituter of a local government* is—
- (a) the head of the local government, when constituting the local government; or
 - (b) a councillor, when constituting the local government.
- (3) A State administrator or local government administrator is not civilly liable for an act done under this Act, or omission made under this Act, honestly and without negligence.
- (4) A *State administrator* is—
- (a) the Minister; or
 - (b) the department’s chief executive; or
 - (c) an authorised person; or
 - (d) a member of the change commission; or
 - (e) a member of the grants commission; or

(f)	a member of a regional conduct review panel; or	1
(g)	a member of the tribunal; or	2
(h)	a member of the ethics advisory committee; or	3
(i)	a person acting under the direction of a person mentioned in paragraph (a), (b) or (c); or	4 5
(j)	an advisor or financial controller.	6
(5)	An local government administrator is—	7
(a)	a councillor, when acting other than in the capacity of a constituter of a local government; or	8 9
(b)	the chief executive officer, when acting other than in the capacity of a constituter of a local government; or	10 11
(c)	another local government employee.	12
(6)	If subsection (3) prevents civil liability attaching to a State administrator, liability attaches instead to the State.	13 14
(7)	If subsection (3) prevents civil liability attaching to a local government administrator, liability attaches instead to the local government.	15 16 17
(8)	The protection given under this section is in addition to any other protection given under another law or Act (including the <i>Whistleblowers Protection Act 1994</i> , for example).	18 19 20
239	Who is authorised to sign local government documents	21
(1)	The following persons may sign a document on behalf of a local government—	22 23
(a)	the head of the local government;	24
(b)	a delegate of the local government;	25
(c)	an authorised councillor of the local government.	26
	<i>Note—</i>	27
	See section 260 for the local government’s power to delegate.	28

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(2)	An <i>authorised councillor</i> is a councillor who is authorised in writing, by the head of the local government to sign documents.	1 2 3
240	Name in proceedings by or against a local government	4
(1)	Any proceedings by a local government must be started in the name of the local government.	5 6
(2)	Any proceedings against a local government must be started against the local government in its name.	7 8
241	Service of documents on local governments	9
	A document is properly served on a local government if it is given to the chief executive officer in a way that is authorised by law.	10 11 12
242	Substituted service	13
(1)	If an owner of rateable land is known to be absent from the State, a local government may serve a document on the owner by serving the document on the owner's agent in the State.	14 15 16
(2)	If—	17
(a)	a local government must serve a document on a person who owns or occupies a property; but	18 19
(b)	the local government does not know, or is uncertain about, the person's current address;	20 21
	the local government may serve the document by publishing a notice that contains a copy of the document in a newspaper that is circulating generally throughout the State, in the gazette and on the local government's website.	22 23 24 25
(3)	The notice must be addressed to—	26
(a)	if the local government knows the person's name—the person by name; or	27 28

(b)	if the local government does not know the person's name—the 'owner' or 'occupier' at the property's address.	1 2 3
(4)	A provision of a Local Government Act, 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 obtained, free of charge, on application to the local government.	4 5 6 7 8
243	Acting for a local government in legal proceedings	9
(1)	In any proceedings, the chief executive officer, or another employee authorised in writing by the local government—	10 11
(a)	may give instructions and act as the authorised agent for the local government; and	12 13
(b)	may sign all documents for the local government.	14
(2)	A local government must pay the costs incurred by the chief executive officer or other employee in any proceedings.	15 16
(3)	If the Attorney-General could take proceedings on behalf of a local government to ensure compliance with a Local Government Act, the local government may take the proceeding in its own name.	17 18 19 20
244	Attempt to commit offence	21
	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.	22 23 24
245	Types of offences under this Act	25
(1)	An offence that has a penalty of more than 2 years imprisonment, is an indictable offence that is a misdemeanour.	26 27 28
(2)	Any other offence against this Act is a summary offence.	29

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- (3) A proceeding for an indictable offence may be taken, at the prosecution's election—
- (a) by way of summary proceedings under the *Justices Act 1886*; or
 - (b) on indictment.
- (4) A magistrate must not hear an indictable offence summarily if—
- (a) at the start of the hearing, the defendant asks that the charge be prosecuted on indictment; or
 - (b) the magistrate considers that the charge should be prosecuted on indictment.
- (5) If subsection (4) applies—
- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
 - (b) a plea of the person charged at the start of the proceeding must be disregarded; and
 - (c) evidence brought in the proceeding before the magistrate decided to act under subsection (4) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
 - (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).
- (6) The maximum penalty that may be summarily imposed for an indictable offence is 100 penalty units or 1 year's imprisonment.
- (7) A proceeding must be before a magistrate if it is a proceeding—
- (a) for the summary conviction of a person on a charge for an indictable offence; or
 - (b) for an examination of witnesses for a charge for an indictable offence.

-
- (8) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

246 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.

247 Decisions not subject to appeal

- (1) If a provision of this Act declares a decision to be not subject to appeal, that means the decision—
- (a) can not be appealed against, challenged, reviewed, quashed, set aside, or called into question in any way (including under the Judicial Review Act, for example); and
- (b) is not subject to any writ or order of a court on any ground.
- Examples—*
- 1 A person may not bring any proceedings for an injunction to stop conduct that is authorised by the decision.
- 2 A person may not bring any proceedings for a declaration about the validity of conduct that is authorised by the decision.
- (2) A *decision* includes—
- (a) conduct related to making the decision; and

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(b)	a failure to make a decision.	1
(3)	A <i>court</i> includes a tribunal or another similar entity.	2
248	Judges and other office holders not disqualified from adjudicating	3 4
	A judge, magistrate, justice or presiding member of a tribunal is not disqualified from adjudicating in any proceedings to which a local government is a party only because the person is, or is liable to be, a ratepayer of the local government.	5 6 7 8
249	Where fines are to be paid to	9
(1)	This section applies if, in proceedings brought by a local government for an offence against a Local Government Act, the court imposes a fine.	10 11 12
(2)	The fine must be paid to the local government's operating fund, unless the court ordered the fine to be paid to a person.	13 14
250	Local government references in this Act	15
(1)	In a provision of this Act about a local government—	16
(a)	a reference to the mayor or another councillor is a reference to the mayor or another councillor of the local government; and	17 18 19
(b)	a reference to the chief executive officer or another employee is a reference to the chief executive officer or another employee of the local government; and	20 21 22
(c)	a reference to an authorised person is a reference to an authorised person appointed by the local government; and	23 24 25
(d)	a reference to a local government area is a reference to the local government area of the local government.	26 27
(2)	In a provision of this Act, a reference to a local government is a reference to the local government that—	28 29

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(a)	in a provision about the mayor or another councillor—the mayor or other councillor was elected or appointed to; and	1 2 3
(b)	in a provision about the chief executive officer or another employee—employs the chief executive officer or another employee; and	4 5 6
(c)	in a provision about an authorised person—appointed the authorised person; and	7 8
(d)	in a provision about a local government area—has jurisdiction over the local government area.	9 10
251	Evidence of local laws	11
(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.	12 13 14
(2)	A <i>certified copy</i> 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 local government.	15 16 17 18
(3)	In any proceedings, a copy of the gazette that contains a notice of making a local law is—	19 20
(a)	evidence of the content of the notice; and	21
(b)	evidence that the local law has been properly made.	22
(4)	In any proceedings, the competence of a local government to make a particular local law is presumed unless the matter is raised.	23 24 25
252	Evidence of proceedings of local government	26
(1)	This section applies to a document that—	27
(a)	purports to be a copy of an entry in a record of the proceedings of—	28 29
(i)	the local government; or	30

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(ii)	a committee of a local government; and	1
(b)	purports to have been signed at the time when the entry was made by—	2 3
(i)	the mayor; or	4
(ii)	the chairperson of the committee; and	5
(c)	is certified by the chief executive officer to be a true copy of the document.	6 7
(2)	The document is evidence—	8
(a)	of the proceedings; and	9
(b)	that the proceedings were properly held.	10
253	Evidentiary value of copies	11
(1)	This section applies to a copy of a document that—	12
(a)	purports to be made under the authority of a local government or its mayor; and	13 14
(b)	purports to be verified by the mayor or an employee who is authorised by the local government.	15 16
(2)	The copy of the document is evidence in any proceedings as if the copy were the original of the document.	17 18
254	Evidentiary value of certificates	19
(1)	This section applies to a certificate that—	20
(a)	purports to be about the state of, or a fact in, a record of the local government; and	21 22
(b)	purports to be signed by the chief executive officer.	23
(2)	The certificate is evidence of the matters contained in the certificate.	24 25

255	Evidence of directions given to local government	1
(1)	This section applies to a document that—	2
(a)	purports to be a direction given to a local government by the Minister under this Act; and	3 4
(b)	purports to be certified by, or for, the Minister to be a true copy of the direction.	5 6
(2)	The document is evidence of—	7
(a)	the giving of the direction; and	8
(b)	the matters contained in the direction.	9
256	Evidence of complainant’s knowledge of matter	10
	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.	11 12 13
257	Constitution and limits of local government need not be proved	14 15
	It is not necessary for the plaintiff in any proceedings started by, for or against a local government to prove—	16 17
(a)	the local government’s constitution; or	18
(b)	the boundaries of the local government area; or	19
(c)	the boundaries of a division of the local government area.	20 21

Part 5	Delegation of powers	1
258	Delegation of Minister’s powers	2
(1)	The Minister may delegate the Minister’s powers under this Act, or another Local Government Act, to an appropriately qualified person.	3 4 5
(2)	However, the Minister must not delegate a power under section 121, 122 or 123.	6 7
259	Delegation of department’s chief executive’s powers	8
	The department’s chief executive may delegate the chief executive’s powers under this Act, or another Local Government Act, to an appropriately qualified person.	9 10 11
260	Delegation of local government powers	12
(1)	A local government may, by resolution, delegate a power under this Act or another Act to—	13 14
(a)	the mayor; or	15
(b)	the chief executive officer; or	16
(c)	a standing committee, or joint standing committee, of the local government; or	17 18
(d)	the chairperson of a standing committee, or joint standing committee, of the local government; or	19 20
(e)	another local government, for the purposes of a joint government activity.	21 22
(2)	However, a local government must not delegate a power that an Act states must be exercised by resolution.	23 24
261	Delegation of mayor’s powers	25
(1)	A mayor may delegate the mayor’s powers to another councillor of the local government.	26 27

(2)	However, the mayor must not delegate the power to give directions to the chief executive officer.	1 2
262	Delegation of chief executive officer powers	3
(1)	A chief executive officer may delegate the chief executive officer's powers to an appropriately qualified employee or contractor of the local government.	4 5 6
(2)	However, the chief executive officer must not delegate the following powers—	7 8
(a)	a power delegated by the local government, if the local government has directed the chief executive officer not to further delegate the power;	9 10 11
(b)	a power to keep a register of interests;	12
(c)	the power to sign a drafting certificate for a local law.	13
263	Local government delegations register	14
(1)	The chief executive officer must establish a register of delegations that contains the particulars prescribed under a regulation.	15 16 17
(2)	The chief executive officer must record the following delegations in the register of delegations—	18 19
(a)	all delegations by the local government;	20
(b)	all delegations by the chief executive officer.	21
(3)	The public may inspect the register of delegations.	22

Part 6	Other provisions	1
264	Public office of a local government	2
(1)	A local government must keep premises for use as a public office.	3 4
(2)	The public office must be in, or as near as practicable to, the local government area.	5 6
265	Powers in support of responsibilities	7
(1)	This section applies if a local government or another entity is required or empowered to perform a responsibility under this Act.	8 9 10
(2)	The local government or entity has the power to do anything that is necessary or convenient for performing the responsibilities.	11 12 13
(3)	The powers include all the powers that an individual may exercise, including for example—	14 15
(a)	power to enter into contracts; and	16
(b)	power to acquire, hold, deal with and dispose of property; and	17 18
(c)	power to charge for a service or facility, other than a service or facility for which a service fee may be fixed.	19 20
266	Validity of committee proceedings	21
	The proceedings of a local government 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—	22 23 24
(a)	vacancies in the membership of the local government or committee; or	25 26
(b)	a defect or irregularity in the election or appointment of any councillor or committee member; or	27 28

(c)	the disqualification of a councillor or committee member from acting as a councillor or committee member.	1 2 3
267	Approved forms	4
	The department's chief executive may approve forms for use under this Act.	5 6
268	Review of this Act	7
	The Minister must, within 4 years after the commencement of this Act, carry out a review of the operation and effectiveness of this Act.	8 9 10
269	Process for administrative action complaints	11
(1)	A local government must adopt a process for resolving administrative action complaints.	12 13
(2)	An <i>administrative action complaint</i> is a complaint that—	14
(a)	is about an administrative action of a local government, including the following, for example—	15 16
(i)	a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision;	17 18 19
(ii)	an act, or a failure to do an act;	20
(iii)	the formulation of a proposal or intention;	21
(iv)	the making of a recommendation; and	22
(b)	is made by an affected person.	23
(3)	An <i>affected person</i> is a person who is apparently directly affected by an administrative action of a local government.	24 25
(4)	A regulation may provide for the process for resolving complaints about administrative actions of the local government by affected persons.	26 27 28

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270	Regulation-making power	1
(1)	The Governor in Council may make regulations under this Act.	2 3
(2)	For example, a regulation may be made about—	4
(a)	the processes of the tribunal in deciding the remuneration that is payable to councillors (including the remuneration schedule, for example); or	5 6 7
(b)	corporate entities, including local government owned corporations; or	8 9
(c)	appeals against decisions made under this Act; or	10
(d)	a register of interests of councillors or other persons who are given responsibilities to perform under this Act; or	11 12 13
(e)	the recording of conflicts of interest arising from the performance of a responsibility under this Act; or	14 15
(f)	the regulation and management of local government assets and infrastructure, including special entertainment precincts; or	16 17 18
(g)	a levy on the railway between Cairns and Kuranda; or	19
(h)	drafting standards for local laws.	20

Chapter 8	Transitionals, savings and repeals	21 22
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271	What this chapter is about	23
(1)	This chapter is about the transition from the repealed LG Acts to this Act (including the transition of rights, liabilities and interests, for example).	24 25 26

(2)	The <i>repealed LG Acts</i> are—	1
	• the <i>Local Government Act 1993</i>	2
	• the <i>Local Government (Community Government Areas) Act 2004</i> .	3
		4
272	Local governments, including joint local governments	5
(1)	A local government under the repealed LG Acts continues in existence as a local government under this Act.	6
		7
(2)	The following joint local governments continue in existence under this Act—	8
		9
	(a) the Esk–Gatton–Laidley Water Board;	10
	(b) the Nogoia River Flood Plain Board.	11
(3)	The joint local governments have—	12
	(a) the same responsibilities that the joint local governments had immediately before the commencement of this section; and	13
		14
		15
	(b) all powers of a local government under this Act, other than the power to levy rates on land.	16
		17
(4)	If the context permits—	18
	(a) a reference in an Act or document to a local government includes a reference to the joint local governments; and	19
		20
	(b) a reference in an Act or document to a local government area includes a reference to the joint local government areas; and	21
		22
		23
	(c) a reference in an Act or document to a councillor of a local government includes a reference to a member of the joint local governments.	24
		25
		26
(5)	A reference in an Act or document to a joint local government may, if the context permits, be taken to be a reference to a local government.	27
		28
		29

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273	Community governments	1
(1)	A community government under the repealed <i>Local Government (Community Government Areas) Act 2004</i> continues in existence as a local government under this Act.	2 3 4
(2)	Anything done by a community government has effect, on the commencement of this section, as if it had been done by a local government.	5 6 7
(3)	A reference in an Act or document to a community government may, if the context permits, be taken to be a reference to a local government.	8 9 10
274	Local service committees	11
(1)	The local service committee of the Yarrabah Shire Council continues in existence as if the <i>Local Government (Community Government Areas) Act 2004</i> was not repealed.	12 13 14
(2)	On the commencement of this section—	15
(a)	all other local service committees are dissolved; and	16
(b)	the members of all other local service committees go out of office.	17 18
(3)	No compensation is payable to a member because of subsection (2).	19 20
275	Local government owned corporation	21
	The local government owned corporation known as the Wide Bay Water Corporation continues in existence under this Act.	22 23
276	Local laws	24
(1)	A local law under a repealed LG Act, that was in force immediately before the commencement of this section, continues in force as a local law made under this Act.	25 26 27
(2)	A <i>local law</i> includes an interim local law, model local law, and subordinate local law.	28 29

277	Decisions	1
(1)	A decision under a repealed LG Act, that was in force immediately before the commencement of this section, continues in force as if the decision were made under this Act.	2 3 4
(2)	A <i>decision</i> includes an agreement, appointment, approval, authorisation, certificate, charge, consent, declaration, delegation, direction, dismissal, exemption, immunity, instruction, licence, memorandum of understanding, order, permit, plan, policy, protocol, rates, release, resolution, restriction, settlement, suspension and warrant, for example.	5 6 7 8 9 10
278	Proceedings and evidence	11
(1)	If, immediately before the commencement of this section, proceedings for an appeal, a complaint or an offence could legally have been started under a repealed LG Act, the proceedings may be started under this Act.	12 13 14 15
(2)	Proceedings for an appeal, a complaint or an offence under a repealed LG Act may be continued under the repealed LG Act, as if this Act had not commenced.	16 17 18
(3)	Any document that was given evidentiary effect under a repealed LG Act continues to have the evidentiary effect as if the LG Act had not been repealed.	19 20 21
279	Super trust deed	22
	A trust deed made by the board of directors of the super board, that was in force immediately before the commencement of this section, continues in force as a trust deed made by the board of directors of the super board under this Act.	23 24 25 26 27
280	Registers	28
(1)	A register under a repealed LG Act continues as if it were made under this Act.	29 30
(2)	A <i>register</i> includes—	31

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(a)	a register of delegations; and	1
(b)	a register relating to enterprises; and	2
(c)	a register of interests; and	3
(d)	a register of service fees; and	4
(e)	a register of assets and gifts.	5
281	Remuneration schedule	6
	The remuneration schedule for councillors, that was in force immediately before the commencement of this section, continues in force as the remuneration schedule for councillors under this Act.	7 8 9 10
282	References to repealed LG Act	11
	A reference in an Act or document to a repealed LG Act may, if the context permits, be taken to be a reference to this Act.	12 13
283	Transitional regulation-making power	14
(1)	A transitional regulation may provide about a matter that—	15
(a)	it is necessary to provide for, to allow or facilitate the doing of anything to achieve the transition from a repealed LG Act to this Act; and	16 17 18
(b)	this Act does not provide for or sufficiently provide for.	19
(2)	A transitional regulation may have retrospective operation to a day that is not earlier than the day on which this section commences.	20 21 22
(3)	A transitional regulation must declare it is a transitional regulation.	23 24
(4)	This section and any transitional regulation expire 1 year after the day on which this section commences.	25 26

284	Administration of sinking fund for liquidation of current borrowings	1 2
(1)	The corporation continued in existence by the 1993 Act, under the name ‘Trustees of the Local Governments Debt Redemption Fund’ (the <i>Trustees</i>) is continued in existence.	3 4 5
(2)	The Trustees are responsible for administering the sinking funds for the liquidation of amounts borrowed by local governments before this section commences.	6 7 8
(3)	The 1936 Act, section 28(15) continues to apply to the Trustees with any necessary changes, and any changes prescribed under a regulation.	9 10 11
(4)	The Trustees are a statutory body for the Statutory Bodies Financial Arrangements Act.	12 13
(5)	Part 2B of that Act sets out the way in which that Act affects the Trustees’ powers.	14 15
285	Local Government Association	16
(1)	The Local Government Association of Queensland (Incorporated) (<i>LGAQ Inc.</i>) is taken to be the Local Government Association of Queensland, or its successor in title (<i>LGAQ Limited</i>).	17 18 19 20
(2)	All rights, liabilities and interests of LGAQ Inc., that were in existence immediately before the commencement of this section, are taken to be the rights, liabilities and interests of LGAQ Limited.	21 22 23 24
(3)	For example—	25
(a)	an agreement with the LGAQ Inc. becomes an agreement with LGAQ Limited; and	26 27
(b)	an interest in real or personal property of LGAQ Inc. becomes an interest of LGAQ Limited; and	28 29
(c)	a proceeding that could be started or continued by or against LGAQ Inc., immediately before the commencement of this section, may be started or continued by or against LGAQ Limited; and	30 31 32 33

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(d)	a person who was employed by LGAQ Inc., immediately before the commencement of this section, is taken to be employed by LGAQ Limited.	1 2 3
(4)	This change of employer does not—	4
(a)	affect the employee’s employment conditions, benefits, entitlements or remuneration; or	5 6
(b)	prejudice the employee’s existing or accruing rights to—	7 8
(i)	recreation, sick, long service or other leave; or	9
(ii)	superannuation; or	10
(c)	entitle the person to a payment or other benefit merely because the person is no longer employed by LGAQ Inc.; or	11 12 13
(d)	interrupt the person’s continuity of service; or	14
(e)	constitute a retrenchment or redundancy.	15
(5)	A reference in an Act or document to the LGAQ Inc. may, if the context permits, be taken to be a reference to LGAQ Limited.	16 17 18
286	Repeal	19
	The following Acts are repealed—	20
•	the Local Government Act 1993, No. 70	21
•	the Local Government (Community Government Areas) Act 2004, No. 37.	22 23

Chapter 9 Amendments of other Acts 24

287	Acts amended in sch 1	25
	Schedule 1 amends the Acts that it mentions.	26

Schedule 1	Other Acts amended	1
	section 287	2
Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984		3 4
1	Section 4, definitions <i>community government</i> and <i>community government area</i>—	5 6
	<i>omit, insert—</i>	7
	<i>‘community government</i> is an indigenous local government, that is not an indigenous regional council, under the <i>Local Government Act 2008</i> .	8 9 10
	<i>community government area</i> is the local government area of a community government.’.	11 12
2	Section 4, definition <i>IRC division area</i>, ‘<i>Local Government Act 1993</i>’—	13 14
	<i>omit, insert—</i>	15
	<i>‘Local Government Act 2008’.</i>	16
3	Section 4, definition <i>local law</i>—	17
	<i>omit, insert—</i>	18
	<i>‘local law</i> has the meaning given in the <i>Local Government Act 2008</i> .’.	19 20

Aboriginal Land Act 1991	1
1 Section 22(1), ‘Local Government Act 1993’—	2
<i>omit, insert—</i>	3
‘ <i>Local Government Act 2008</i> ’.	4
2 Section 35(a), from ‘a community government’ to ‘2004’—	5
<i>omit, insert—</i>	6
‘an indigenous local government, other than an indigenous regional council, under the <i>Local Government Act 2008</i> ’.	7
	8
Aborigines and Torres Strait Islanders (Land Holding) Act 1985	9
	10
1 Section 4, definition <i>indigenous council</i>—	11
<i>omit, insert—</i>	12
‘ <i>indigenous council</i> means an indigenous local government under the <i>Local Government Act 2008</i> .’.	13
	14
Acts Interpretation Act 1954	15
1 Section 36, definitions <i>additional territorial unit, area, basic territorial unit, joint local government</i> and <i>territorial unit</i>—	16
	17
	18
<i>omit.</i>	19
2 Section 36—	20
<i>insert—</i>	21

	<i>'local government area</i> means a local government area under the <i>Local Government Act 2008</i> .'	1 2
3	Section 36, definition <i>local government</i>, paragraph (b)— <i>omit, insert—</i>	3 4
	(b) a local government under the <i>Local Government Act 2008</i> .'	5 6
 Airport Assets (Restructuring and Disposal) Act 2008		 7
1	Section 99(2)(a), '<i>Local Government Act 1936</i>— <i>omit, insert—</i> <i>'Local Government Act 2008</i> '.	8 9 10
 Body Corporate and Community Management Act 1997		 11 12
1	Section 80(1)(b), '<i>Local Government Act 1936</i>— <i>omit, insert—</i> <i>'Local Government Act 2008</i> '.	13 14 15
2	Section 196(8), '<i>Local Government Act 1993</i>, section 1016'— <i>omit, insert—</i> <i>'Local Government Act 2008</i> '.	16 17 18 19

3	Section 198(3), ‘Local Government Act 1993’—	1
	<i>omit, insert—</i>	2
	<i>‘Local Government Act 2008’.</i>	3
	Brisbane City Council Business and Procedure Act 1939	4
		5
1	Section 6, ‘Local Government Act 1936’—	6
	<i>omit, insert—</i>	7
	<i>‘Local Government Act 2008’.</i>	8
2	Section 6(1), ‘and pursuant to’—	9
	<i>omit, insert—</i>	10
	<i>‘the’.</i>	11
3	Section 6(1), ‘as referred to in section 27(11)(iv) of the Local Government Act 1936’—	12
	<i>omit.</i>	13
		14
4	Section 6(2), ‘Local Government Act 1936 does not require the registrar of titles’—	15
	<i>omit, insert—</i>	16
	<i>‘registrar of titles is not required’.</i>	17
		18

Brisbane River Tidal Lands Improvement Act 1927		1
1	Section 4, ‘Local Government Act 1993’—	2
	<i>omit, insert—</i>	3
	<i>‘Local Government Act 2008’.</i>	4
Building Act 1975		5
1	Section 86(1)(c), ‘Local Government Act 1993, section 1071(1)(e)’—	6
	<i>omit, insert—</i>	7
	<i>‘Local Government Act 2008’.</i>	8
2	Section 108A(7)(b), ‘Local Government Act 1993’—	10
	<i>omit, insert—</i>	11
	<i>‘Local Government Act 2008’.</i>	12
3	Section 229(4), definition <i>local government Act</i>, ‘Local Government Act 1993’—	13
	<i>omit, insert—</i>	14
	<i>‘Local Government Act 2008’.</i>	15
4	Section 242(6), ‘perform work’ to ‘section 1066.’—	17
	<i>omit, insert—</i>	18
	<i>‘take action under the Local Government Act 2008, section 142.’.</i>	19
5	Section 252, ‘mentioned in’ to ‘section 1066.’—	20
	<i>omit, insert—</i>	21

Schedule 1

	‘to take action under the <i>Local Government Act 2008</i> , section 142.’.	1 2
6	Section 256(2)(a)(ii), ‘<i>Local Government Act 1993</i>’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	3 4 5
7	Schedule 2, definition <i>owner</i>, ‘<i>Local Government Act 1993</i>, section 1124’— <i>omit, insert—</i> <i>‘Local Government Act 2008 as the person who will accept service for the owners’.</i>	6 7 8 9 10
	Building Units and Group Titles Act 1980	11
1	Section 64(1), ‘<i>Local Government Act 1993</i>’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	12 13 14
	City of Brisbane Act 1924	15
1	Schedule 2, definition <i>conduct review panel</i>— <i>omit, insert—</i> <i>‘conduct review panel means the regional conduct review panel under the <i>Local Government Act 2008</i>.’.</i>	16 17 18 19

2	Schedule 2, definition <i>general complaints process</i>, ‘, chapter 6, part 5’—	1 2
	<i>omit.</i>	3
3	Schedule 2, definition <i>Local Government Act</i>, ‘<i>Local Government Act 1993</i>’—	4 5
	<i>omit, insert—</i>	6
	‘ <i>Local Government Act 2008</i> ’.	7
4	Schedule 2, definition <i>owner</i>, ‘, section 4’—	8
	<i>omit.</i>	9
5	Schedule 2, definition <i>regulatory fee</i>—	10
	<i>omit, insert—</i>	11
	‘ <i>regulatory fee</i> means a fee fixed under the Local Government Act 2008, section 97.’.	12 13
	 Coastal Protection and Management Act 1995	 14
1	Schedule, definition <i>local government area</i>, ‘<i>Local Government Act 1993</i>’—	15 16
	<i>omit, insert—</i>	17
	‘ <i>Local Government Act 2008</i> ’.	18

	Community Services Act 2007	1
1	Section 22(d), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	2 3 4
	Constitution of Queensland 2001	5
1	Section 71(4)— <i>omit.</i>	6 7
2	Section 77(1)(a), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	8 9 10
	Criminal Code Act 1899	11
1	Section 442A, definition <i>local government</i>— <i>omit.</i>	12 13
2	Section 552C(5)(a)— <i>omit, insert—</i> ‘(a) that is within a local government area of an indigenous local government under the <i>Local Government Act</i> 2008; or’.	14 15 16 17 18

Criminal Offence Victims Act 1995		1
1	Section 9, example, ‘Local Government Act 1993’—	2
	<i>omit, insert—</i>	3
	<i>‘Local Government Act 2008’.</i>	4
 Disaster Management Act 2003		 5
1	Schedule 2, definition <i>SES unit</i>, ‘the area of a local government’—	6
	<i>omit, insert—</i>	7
	<i>‘a local government area’.</i>	8
		9
 Domestic and Family Violence Protection Act 1989		 10
1	Section 50(3), examples, ‘Local Government Act 1993’—	11
	<i>omit, insert—</i>	12
	<i>‘Local Government Act 2008’.</i>	13
 Duties Act 2001		 14
1	Section 430(d)—	15
	<i>omit, insert—</i>	16
	‘(d) for implementing a local government change under the	17
	<i>Local Government Act 2008; or’.</i>	18

Electoral Act 1992	1
1 Section 31(3)(a), ‘Local Government Act 1993’—	2
<i>omit, insert—</i>	3
<i>‘Local Government Act 2008’.</i>	4
2 Section 152(2)(a)(ii), ‘Local Government Act 1993’—	5
<i>omit, insert—</i>	6
<i>‘Local Government Act 2008’.</i>	7
3 Section 152(2)(a)(iv)—	8
<i>omit.</i>	9
Financial Administration and Audit Act 1977	10
1 Schedule 3, definition <i>appropriate Minister</i>, ‘Local Government Act 1993’—	11
<i>omit, insert—</i>	12
<i>‘Local Government Act 2008’.</i>	13
	14
Fire and Rescue Service Act 1990	15
1 Section 114(3), ‘Local Government Act 1993’—	16
<i>omit, insert—</i>	17
<i>‘Local Government Act 2008’.</i>	18

2	Section 119(1), ‘Local Government Act 1993, section 1018(3)(a)’— <i>omit, insert—</i> <i>‘Local Government Act 2008 for overdue rates’.</i>	1 2 3 4
3	Section 123(2), ‘Local Government Act 1993, section 1018(1)’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	5 6 7 8
4	Section 128A(b)— <i>omit, insert—</i> (b) for another local government—special rates, or separate rates, under the <i>Local Government Act 2008</i> .’.	9 10 11 12
Fisheries Act 1994		13
1	Section 145(2)(a), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	14 15 16
Fluoridation of Public Water Supplies Act 1963		17
1	Section 4(4)(c)— <i>omit.</i>	18 19

Forestry Act 1959 1

- 1 **Section 72(6)(b), ‘Local Government Act 1993’—** 2
omit, insert— 3
‘Local Government Act 2008’. 4

Fossicking Act 1994 5

- 1 **Section 82(e)(i), ‘Local Government Act 1993’—** 6
omit, insert— 7
‘Local Government Act 2008’. 8

Freedom of Information Act 1992 9

- 1 **Section 7, definition *corporatised corporation*—** 10
omit, insert— 11
‘corporatised corporation means a corporate entity under the 12
Local Government Act 2008.’. 13
- 2 **Section 7, definition *responsible Minister*, paragraph (d),** 14
‘Local Government Act 1993’— 15
omit, insert— 16
‘Local Government Act 2008’. 17

3	Section 11(1)(u), ‘Local Government Act 1993, sections 247(1)(b) and 1139(2)’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	1 2 3 4
4	Section 11(1)(v), ‘Local Government Act 1993, section 1139(1)’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	5 6 7 8
5	Section 11B, ‘Local Government Act 1993, section 1205’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	9 10 11 12
Geothermal Exploration Act 2004		13
1	Section 97I(1)(b)(ii), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	14 15 16
Housing Act 2003		17
1	Section 95(1), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	18 19 20

	Housing (Freeholding of Land) Act 1957	1
1	Section 7(7), ‘Local Government Act 1993, section 1057’—	2
	<i>omit, insert—</i>	3
	<i>‘Local Government Act 2008’.</i>	4
2	Section 8B(1)(b), ‘Local Government Act 1993, section 1037A’—	6
	<i>omit, insert—</i>	7
	<i>‘Local Government Act 2008’.</i>	8
		9
	Iconic Queensland Places Act 2008	10
1	Section 36(5), ‘Local Government Act, section 6’—	11
	<i>omit, insert—</i>	12
	<i>‘Local Government Act 2008’.</i>	13
2	Section 60(1)(b)—	14
	<i>omit, insert—</i>	15
	‘(b) the relevant local government is proposing to amend or repeal the local law.’	16
		17
3	Section 60(3) and (4) ‘, chapter 12’—	18
	<i>omit.</i>	19
4	Section 63, ‘chapter 12, part 2, division 2 or 3’—	20
	<i>omit, insert—</i>	21
	<i>‘chapter 3, part 1, division 2’.</i>	22

5	Section 64(1), ‘section 861(1), 867(1) or 872(2)(b)’— <i>omit, insert—</i> ‘section 29’.	1 2 3
6	Section 65, ‘chapter 12, part 2, division 2 or 3’— <i>omit, insert—</i> ‘chapter 3, part 1, division 2’.	4 5 6
7	Schedule 2, definition <i>Local Government Act</i>, ‘<i>Local Government Act 1993</i>’— <i>omit, insert—</i> ‘ <i>Local Government Act 2008</i> ’.	7 8 9 10
Inala Shopping Centre Freeholding Act 2006		11
1	Section 19(4), ‘<i>Local Government Act 1993</i>, section 1057’— <i>omit, insert—</i> ‘ <i>Local Government Act 2008</i> ’.	12 13 14 15
2	Section 23(1)(b), ‘<i>Local Government Act 1993</i>, section 1037A’— <i>omit, insert—</i> ‘ <i>Local Government Act 2008</i> ’.	16 17 18 19

Industrial Development Act 1963 1

1 Section 3(6), ‘Local Government Act 1993’— 2
omit, insert— 3
‘Local Government Act 2008’. 4

2 Section 5(7), (9), (10) and (11), ‘Local Government Act 1993’— 5
omit, insert— 6
‘Local Government Act 2008’. 7 8

Judicial Review Act 1991 9

1 Section 3, definition *corporatised corporation*— 10
omit, insert— 11
‘corporatised corporation means a corporate entity under the Local Government Act 2008.’. 12 13

2 Section 18B, ‘Local Government Act 1993, section 1205’— 14
omit, insert— 15
‘Local Government Act 2008’. 16 17

3 Schedule 1, part 1, ‘Local Government Act 1993, sections 159X and 159YP’— 18
omit, insert— 19
‘Local Government Act 2008, sections 21, 114 and 232’. 20 21

Justices Act 1886	1
1 Section 53(2)(a)(iii), ‘Local Government Act 1993’—	2
<i>omit, insert—</i>	3
<i>‘Local Government Act 2008’.</i>	4
Land Act 1994	5
1 Sections 56(4)(a) and (5) and 111(1) and (2)(b), ‘Local Government Act 1993’—	6
<i>omit, insert—</i>	7
<i>‘Local Government Act 2008’.</i>	8
	9
2 Section 240G(4), ‘Local Government Act 1993, section 1016’—	10
<i>omit, insert—</i>	11
<i>‘Local Government Act 2008’.</i>	12
	13
3 Section 240Q(e), ‘Local Government Act 1993, chapter 14, part 7’—	14
<i>omit, insert—</i>	15
<i>‘Local Government Act 2008’.</i>	16
	17
4 Section 369(8), definition <i>relevant provisions</i>, paragraph (a), ‘Local Government Act 1993’—	18
<i>omit, insert—</i>	19
<i>‘Local Government Act 2008’.</i>	20
	21

Land Protection (Pest and Stock Route Management) Act 2002	1 2
1 Sections 84(2) and 154(1), ‘an unpaid amount under the <i>Local Government Act 1993</i>, section 1068’—	3 4
<i>omit, insert—</i>	5
‘overdue rates under the <i>Local Government Act 2008</i> ’.	6
2 Section 306, ‘<i>Local Government Act 1993</i>’—	7
<i>omit, insert—</i>	8
‘ <i>Local Government Act 2008</i> ’.	9
Land Tax Act 1915	10
1 Section 26C(1), ‘<i>Local Government Act 1993</i>’—	11
<i>omit, insert—</i>	12
‘ <i>Local Government Act 2008</i> ’.	13
Land Title Act 1994	14
1 Section 89(7), definition <i>relevant provisions</i>, paragraph (a), ‘<i>Local Government Act 1993</i>’—	15 16
<i>omit, insert—</i>	17
‘ <i>Local Government Act 2008</i> ’.	18

Libraries Act 1988	1
1 Sections 54 and 55(3), ‘Local Government Act 1993’—	2
<i>omit, insert—</i>	3
<i>‘Local Government Act 2008’.</i>	4
2 Section 55(1)(a), ‘or a joint local government’—	5
<i>omit.</i>	6
3 Section 55(1), ‘or the joint local government as the case may be,’—	7
<i>omit.</i>	8
	9
4 Section 55(2), ‘or joint local government’—	10
<i>omit.</i>	11
Liquor Act 1992	12
1 Section 4, definition <i>corporatised corporation</i>—	13
<i>omit, insert—</i>	14
<i>‘corporatised corporation means a corporate entity under the Local Government Act 2008.’.</i>	15
	16
2 Section 4, definition <i>Council</i>, paragraph (a) and (b)—	17
<i>omit, insert—</i>	18
<i>‘(a) an indigenous local government under the Local Government Act 2008; or’.</i>	19
	20

3	Section 4, definition <i>indigenous regional council</i>, ‘<i>Local Government Act 1993</i>’—	1
	<i>omit, insert—</i>	2
	‘ <i>Local Government Act 2008</i> ’.	3
		4
4	Section 112B(1)(b) and (3)(b), ‘<i>Local Government Act 1993</i>, section 956G’—	5
	<i>omit, insert—</i>	6
	‘ <i>Local Government Act 2008</i> ’.	7
		8
5	Section 112B(1)(c), ‘<i>Local Government Act 1993</i>, section 956G(3)(b)’—	9
	<i>omit, insert—</i>	10
	‘ <i>Local Government Act 2008</i> ’.	11
		12
6	Section 173A, definition <i>road</i>, paragraph (a), ‘<i>Local Government Act 1993</i>’—	13
	<i>omit, insert—</i>	14
	‘ <i>Local Government Act 2008</i> ’.	15
		16
7	Section 187(1A)(a), ‘<i>Local Government Act 1993</i>, section 956G’—	17
	<i>omit, insert—</i>	18
	‘ <i>Local Government Act 2008</i> ’.	19
		20
8	Section 187(1A)(b), ‘<i>Local Government Act 1993</i>, section 956G(3)(b)’—	21
	<i>omit, insert—</i>	22
	‘ <i>Local Government Act 2008</i> ’.	23
		24

	Local Government (Aboriginal Lands) Act 1978	1
1	Sections 6, 7, 9, 10, 21(1), 29, 32(2) and 43(4), ‘Local Government Act 1993’—	2 3
	<i>omit, insert—</i>	4
	<i>‘Local Government Act 2008’.</i>	5
2	Section 6, ‘SC211’—	6
	<i>omit, insert—</i>	7
	<i>‘LGRB 2’.</i>	8
3	Section 7, ‘SC212’—	9
	<i>omit, insert—</i>	10
	<i>‘LGRB 45’.</i>	11
4	Section 12, ‘Local Government Act 1993, section 164’—	12
	<i>omit, insert—</i>	13
	<i>‘Local Government Act 2008’.</i>	14
	Local Government (Chinatown and The Valley Malls) Act 1984	15 16
1	Schedule 4, definition <i>authorised person</i>, ‘Local Government Act 1993, chapter 15, part 5’—	17 18
	<i>omit, insert—</i>	19
	<i>‘Local Government Act 2008’.</i>	20

	Local Government (Queen Street Mall) Act 1981	1
1	Schedule 2, definition <i>authorised person</i>, ‘<i>Local Government Act 1993</i>, chapter 15, part 5’—	2
	<i>omit, insert—</i>	3
	‘ <i>Local Government Act 2008</i> ’.	4
		5
	Metropolitan Water Supply and Sewerage Act 1909	6
1	Section 4, definition <i>Local Government Act</i>, from ‘<i>Local Government Act 1993</i>’—	7
	<i>omit, insert—</i>	8
	‘ <i>Local Government Act 2008</i> ’.	9
		10
2	Section 4, definition <i>local government</i>—	11
	<i>omit.</i>	12
	Mineral Resources Act 1989	13
1	Section 318EV(1)(b)(ii), ‘<i>Local Government Act 1993</i>’—	14
	<i>omit, insert—</i>	15
	‘ <i>Local Government Act 2008</i> ’.	16
2	Schedule, definition <i>eligible person</i>, paragraph (a)(iii), ‘<i>Local Government Act 1993</i>, chapter 14, part 7’—	17
	<i>omit, insert—</i>	18
	‘ <i>Local Government Act 2008</i> for overdue rates’.	19
		20

	Motor Racing Events Act 1990	1
1	Sections 5G(2) and 12(4), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	2 3 4
	National Trust of Queensland Act 1963	5
1	Sections 6(3)(b) and 39(a), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	6 7 8 9
	Ombudsman Act 2001	10
1	Schedule 3, definition <i>responsible Minister</i>, paragraph (b), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	11 12 13 14
	Parliament of Queensland Act 2001	15
1	Section 68(1)(c), note 2, ‘Local Government Act 1993, section 224A’— <i>omit, insert—</i> <i>‘Local Government Act 2008, section 155’.</i>	16 17 18 19

Petroleum Act 1923 1

- 1 **Section 79E(1)(b)(ii), ‘Local Government Act 1993’—** 2
omit, insert— 3
‘Local Government Act 2008’. 4

Petroleum and Gas (Production and Safety) Act 2004 5

- 1 **Section 522(1)(b)(ii), ‘Local Government Act 1993’—** 6
omit, insert— 7
‘Local Government Act 2008’. 8

Plumbing and Drainage Act 2002 9

- 1 **Sections 83(3)(b) and 86A(9)(b)—** 10
omit, insert— 11
 (b) ensure a copy of the resolution is available for 12
 inspection at the local government’s public office under 13
 the *Local Government Act 2008*.’. 14
- 2 **Section 114, hdg, ‘Local Government Act 1993’—** 15
omit, insert— 16
‘Local Government Act 2008’. 17
- 3 **Section 114(1)(c), ‘Local Government Act 1993’—** 18
omit, insert— 19
‘Local Government Act 2008’. 20

4	Section 114(3)(a), ‘Local Government Act 1993, section 1084’—	1 2
	<i>omit, insert—</i>	3
	<i>‘Local Government Act 2008’.</i>	4
5	Section 114(3)(a), ‘chapter 15, part 5 of’—	5
	<i>omit.</i>	6
6	Section 143(2)(a)—	7
	<i>omit, insert—</i>	8
	‘(a) ensure a copy of the resolution is available for inspection at the local government’s public office under the <i>Local Government Act 2008</i> ; and’.	9 10 11
	 Police Powers and Responsibilities Act 2000	 12
1	Schedule 6, definition <i>community government area</i>—	13
	<i>omit, insert—</i>	14
	‘ <i>community government area</i> is the local government area of an indigenous local government, that is not an indigenous local government, under the <i>Local Government Act 2008</i> .’.	15 16 17
2	Schedule 6, definition <i>mall</i>, paragraph (a), ‘Local Government Act 1993’—	18 19
	<i>omit, insert—</i>	20
	<i>‘Local Government Act 2008’.</i>	21

3	Schedule 6, definition <i>public official</i>, paragraph (c), ‘<i>Local Government Act 1993</i>’—	1
	<i>omit, insert—</i>	2
	<i>‘Local Government Act 2008’.</i>	3
		4
	Property Agents and Motor Dealers Act 2000	5
1	Sections 148(b), 187(b) and 225(b)—	6
	<i>omit, insert—</i>	7
	‘(b) the land is within a local government area; and’.	8
	Prostitution Act 1999	9
1	Schedule 4, definition <i>local government area</i>—	10
	<i>omit.</i>	11
	Public Health Act 2005	12
1	Section 19(2), ‘<i>Local Government Act 1993</i>, section 31’—	13
	<i>omit, insert—</i>	14
	<i>‘Local Government Act 2008, section 27’.</i>	15
2	Section 20—	16
	<i>omit, insert—</i>	17

‘20	Application of Local Government Act	1
	‘The <i>Local Government Act 2008</i> , chapter 5, part 2, does not apply to the administration and enforcement of this Act by a local government.’.	2 3 4
3	Sections 31(3) and 406(3), ‘<i>Local Government Act 1993</i>’—	5
	<i>omit, insert—</i>	6
	‘ <i>Local Government Act 2008</i> ’.	7
4	Schedule 2, definition <i>owner</i>, ‘<i>Local Government Act 1993</i>, section 4’—	8
	<i>omit, insert—</i>	9 10
	‘ <i>Local Government Act 2008</i> ’.	11
	 Public Records Act 2002	 12
1	Section 29(3)(a), ‘<i>Local Government Act 1993</i>’—	13
	<i>omit, insert—</i>	14
	‘ <i>Local Government Act 2008</i> ’.	15
	 Public Sector Ethics Act 1994	 16
1	Schedule, definitions <i>corporatised corporation</i> and <i>local government legislation</i>—	17
	<i>omit, insert—</i>	18 19
	‘ <i>corporatised corporation</i> means a corporate entity under the <i>Local Government Act 2008</i> .’	20 21
	<i>local government legislation</i> means—	22

Schedule 1

- (a) the following Acts— 1
- (i) the *City of Brisbane Act 1924*; 2
- (ii) the *Local Government Act 2008*; or 3
- (b) an Act prescribed under a regulation.’. 4

Public Service Act 2008 5

- 1 Section 24(2)(b), ‘Local Government Act 1993, section 592’—** 6
7
omit, insert— 8
‘Local Government Act 2008’. 9

- 2 Schedule 2, from ‘Local Government’ to ‘review commissioner’—** 10
11
omit, insert— 12
‘Local Government Act 2008 13
• a member of the change commission’. 14

Queensland Competition Authority Act 1997 15

- 1 Schedule—** 16
insert— 17
‘Local Government Act means the *Local Government Act 2008.’.* 18
19

2	Schedule, definition <i>local government Minister</i>, ‘<i>Local Government Act 1993</i>’—	1 2
	<i>omit, insert—</i>	3
	‘ <i>Local Government Act</i> ’.	4
3	Schedule, definition <i>local government owned corporation</i>, ‘<i>Local Government Act 1993</i>, chapter 8, part 7’—	5 6 7
	<i>omit, insert—</i>	8
	‘ <i>Local Government Act</i> ’.	9
4	Schedule, definition <i>significant business activity</i>, paragraph (a)—	10 11
	<i>omit, insert—</i>	12
	(a) for part 3—a significant business entity of a local government under the <i>Local Government Act</i> ; or’.	13 14
	Queensland Treasury Corporation Act 1988	15
1	Section 19AAA, ‘<i>Local Government Act 1993</i>’—	16
	<i>omit, insert—</i>	17
	‘ <i>Local Government Act 2008</i> ’.	18
	Racing Venues Development Act 1982	19
1	Section 32, ‘<i>Local Government Act 1993</i>’—	20
	<i>omit, insert—</i>	21
	‘ <i>Local Government Act 2008</i> ’.	22

Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980	1 2
1 Section 4, definition <i>road</i>, ‘<i>Local Government Act 1993</i>’—	3
<i>omit, insert—</i>	4
<i>‘Local Government Act 2008’.</i>	5
Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984	6 7
1 Section 3, definition <i>road</i>, ‘<i>Local Government Act 1993</i>’—	8
<i>omit, insert—</i>	9
<i>‘Local Government Act 2008’.</i>	10
Residential Tenancies Act 1994	11
1 Section 251(1)(a)(i)—	12
<i>omit, insert—</i>	13
(i) an indigenous local government, other than an indigenous regional council, under the <i>Local Government Act 2008</i> ; or’.	14 15 16
2 Section 252(1)(a)(i), ‘<i>Local Government Act 1993</i>’—	17
<i>omit, insert—</i>	18
<i>‘Local Government Act 2008’.</i>	19

River Improvement Trust Act 1940		1
1	Section 5(8), from ‘Local Government Act’ to ‘applies’—	2
	<i>omit, insert—</i>	3
	‘Local Government Act 2008, chapter 6, part 2, division 5 applies’.	4
2	Section 14(2A), ‘joint local government under the Local Government Act 1993’—	5
	<i>omit, insert—</i>	6
	‘local government under the <i>Local Government Act 2008</i> ’.	7
3	Section 14(2A), second occurrence, (4), (5) and (6), ‘Local Government Act 1993’—	9
	<i>omit, insert—</i>	10
	‘Local Government Act 2008’.	11
		12
Sanctuary Cove Resort Act 1985		13
1	Section 4, definition <i>Albert Shire Council</i>, ‘Local Government Act 1993’—	14
	<i>omit, insert—</i>	15
	‘Local Government Act 2008’.	16
		17
2	Section 5(3), ‘Local Government Act 1993’—	18
	<i>omit, insert—</i>	19
	‘Local Government Act 2008’.	20

South Bank Corporation Act 1989	1
1 Sections 17(3), 18(2), 92(2), 100(1), and schedule 4, item 64(1), ‘Local Government Act 1993’—	2 3
<i>omit, insert—</i>	4
<i>‘Local Government Act 2008’.</i>	5
South East Queensland Water (Restructuring) Act 2007	6 7
1 Section 65(3)(b)—	8
<i>omit, insert—</i>	9
‘(b) the Esk–Gatton–Laidley Water Board is a water entity until it ceases to exist;’.	10 11
2 Schedule 1, entry for Caloundra–Maroochy Water Supply Board—	12 13
<i>omit.</i>	14
3 Schedule 3, definition <i>Caloundra–Maroochy Water Supply Board</i>—	15 16
<i>omit.</i>	17
4 Schedule 3, definition <i>Esk–Gatton–Laidley Water Board</i>, ‘joint’—	18 19
<i>omit.</i>	20

Sugar Industry Act 1999	1
1 Section 75(2)(a), ‘Local Government Act 1993, section 919’—	2 3
<i>omit, insert—</i>	4
<i>‘Local Government Act 2008, section 60’.</i>	5
Torres Strait Islander Land Act 1991	6
1 Section 19(1), ‘Local Government Act 1993’—	7
<i>omit, insert—</i>	8
<i>‘Local Government Act 2008’.</i>	9
Townsville Breakwater Entertainment Centre Act 1991	10
1 Section 8, ‘Local Government Act 1993’—	11
<i>omit, insert—</i>	12
<i>‘Local Government Act 2008’.</i>	13
Townsville City Council (Douglas Land Development) Act 1993	14 15
1 Section 32, ‘section 27 of the Local Government Act 1936’—	16 17
<i>omit, insert—</i>	18
<i>‘the Local Government Act 2008’.</i>	19

	Transport Infrastructure Act 1994	1
1	Section 89, ‘Local Government Act 1993’—	2
	<i>omit, insert—</i>	3
	<i>‘Local Government Act 2008’.</i>	4
2	Sections 105ZA, 359(5) and 462(a), ‘Local Government Act 1993’—	5
	<i>omit, insert—</i>	6
	<i>‘Local Government Act 2008’.</i>	7
3	Section 303C, hdg, ‘Local Government Act 1993, section 901’—	9
	<i>omit, insert—</i>	10
	<i>‘Local Government Act 2008, section 60’.</i>	11
4	Section 303C(1), ‘Local Government Act 1993, section 901’—	12
	<i>omit, insert—</i>	13
	<i>‘Local Government Act 2008, section 60’.</i>	14
5	Sections 307, 358(5)(b), 359(7)(a), 362(2)(a) and 377(3)(a), ‘Local Government Act 1993, section 901(1)’—	15
	<i>omit, insert—</i>	16
	<i>‘Local Government Act 2008, section 60’.</i>	17
6	Section 359(8), ‘taking the necessary steps mentioned in the Local Government Act 1993, section 901(2)’—	18
	<i>omit, insert—</i>	19
	<i>‘acting under the Local Government Act 2008, section 60’.</i>	20
		21
		22
		23
		24

Transport Operations (Road Use Management) Act 1995		1 2
1	Section 182(2), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	3 4 5
Urban Land Development Authority Act 2007		6
1	Sections 12(4), 20(1)(a) and heading, ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	7 8 9 10
2	Section 101(9), ‘Local Government Act 1993, section 957’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	11 12 13 14
3	Section 103(2), ‘Local Government Act 1993, sections 1063, 1070 and 1071’— <i>omit, insert—</i> <i>‘Local Government Act 2008, sections 144, 146 and 147’.</i>	15 16 17 18
4	Section 129(2), ‘Local Government Act 1993, section 921’— <i>omit, insert—</i> <i>‘Local Government Act 2008, section 74’.</i>	19 20 21 22

	Valuation of Land Act 1944	1
1	Section 2, definitions <i>area</i>, <i>NPARC</i> and <i>TSIRC</i>— <i>omit.</i>	2 3
2	Section 2— <i>insert—</i> <i>‘area</i> means a local government area, other than a local government area for an indigenous local government under the <i>Local Government Act 2008</i> .’.	4 5 6 7 8
3	Sections 29A(1), 30(1)(a), 72(1)(b), 82(2)(d) and 101A(7)(c), ‘<i>Local Government Act 1993</i>’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	9 10 11 12
	Vegetation Management Act 1999	13
1	Section 7(3) and (4), ‘<i>Local Government Act 1993</i>, section 31’— <i>omit, insert—</i> <i>‘Local Government Act 2008, section 27’.</i>	14 15 16 17
	Water Act 2000	18
1	Section 26(8)(d)— <i>omit, insert—</i>	19 20

	‘(d) if a permit for a levee bank construction under the <i>Local Government Act 2008</i> is required for the works—the permit has been issued; and’.	1 2 3
2	Section 206(3)(b)(iv), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	4 5 6
3	Section 605(3), ‘Local Government Act 1993’— <i>omit, insert—</i> <i>‘Local Government Act 2008’.</i>	7 8 9
	Water Supply (Safety and Reliability) Act 2008	10
1	Section 138(3)— <i>omit, insert—</i> ‘(3) This section applies despite the requirements for levying rates under the Local Government Act.’	11 12 13 14
2	Section 139(3), ‘, section 963’— <i>omit.</i>	15 16
3	Section 141(4)(a)(i)— <i>omit, insert—</i> ‘(i) the local government includes the information mentioned in section 142 in its annual report prepared under the Local Government Act; and’.	17 18 19 20 21

4	Schedule 3, definition <i>Local Government Act</i>—	1
	<i>omit, insert—</i>	2
	<i>‘Local Government Act</i> means the <i>Local Government Act 2008</i> .’.	3
		4
	 Whistleblowers Protection Act 1994	5
1	Schedule 6, definition <i>corporatised corporation</i>—	6
	<i>omit, insert—</i>	7
	<i>‘corporatised corporation</i> means a corporate entity under the <i>Local Government Act 2008</i> .’.	8
		9
	 Workers’ Compensation and Rehabilitation Act 2003	10
1	Schedule 6, definition <i>councillor</i>, ‘<i>Local Government Act 1993</i>’—	11
	<i>omit, insert—</i>	12
	<i>‘Local Government Act 2008</i> ’.	13
		14

Schedule 2 **Comparative terms for the Brisbane City Council**

section 5

column 1 term used in this Act	column 2 term used in the <i>City of Brisbane Act 1924</i>
a local government	the Brisbane City Council
a local government area	the City of Brisbane
a division of a local government area	a ward of the City of Brisbane
a chief executive officer	the town clerk of the Brisbane City Council
the operating fund of a local government	the City Fund
a quadrennial election	a quadrennial election under the <i>City of Brisbane Act 1924</i>
an election	an election under the <i>City of Brisbane Act 1924</i>
a councillor	the mayor and councillors of the Brisbane City Council
a by-election	a separate election to fill a vacancy in the office of mayor or other councillor of the Brisbane City Council
an annual report of a local government	an annual report of the Brisbane City Council
utility rates	a utility charge under the <i>City of Brisbane Act 1924</i>

Schedule 2

the public office of a local government	the premises kept by the Brisbane City Council as its public office and any place the council has, by resolution or under a local law, declared to be its public office for a stated matter
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Schedule 3	Dictionary	1
	section 6	2
	<i>1936 Act</i> means the repealed <i>Local Government Act 1936</i> .	3
	<i>1993 Act</i> means the repealed <i>Local Government Act 1993</i> .	4
	<i>adopt</i> , by a local government, means adopt by resolution of the local government.	5 6
	<i>advisor</i> see section 117.	7
	<i>ancillary works and encroachments</i> means—	8
	(a) cellars; or	9
	(b) gates; or	10
	(c) temporary rock anchors for building support; or	11
	(d) ancillary works and encroachments under the Transport Infrastructure Act.	12 13
	<i>anti-competitive provision</i> means a provision that a regulation identifies as creating barriers to—	14 15
	(a) entry to a market; or	16
	(b) competition within a market.	17
	<i>appropriately qualified</i> , in relation to a delegated power, includes having the qualifications, experience or standing to exercise the power.	18 19 20
	<i>Example of standing</i> —	21
	a person's classification level in the public service	22
	<i>approved form</i> see section 267.	23
	<i>approved inspection program</i> see section 133(2).	24
	<i>auditor-general</i> means the Queensland Auditor-General under the <i>Financial Administration and Audit Act 1977</i> .	25 26
	<i>authorised person</i> means a person who holds office under section 205.	27 28

<i>beginning</i> of the local government's term see section 161(3).	1
<i>beneficial enterprise</i> see section 40.	2
<i>Building Act</i> means the Building Act 1975.	3
<i>building certifying activity</i> see section 47(4).	4
<i>building unit</i> means a lot under—	5
(a) the <i>Body Corporate and Community Management Act 1997</i> ; or	6 7
(b) the <i>Building Units and Group Titles Act 1980</i> ; or	8
(c) the <i>Integrated Resort Development Act 1987</i> ; or	9
(d) the <i>Mixed Use Development Act 1993</i> ; or	10
(e) another Act prescribed under a regulation.	11
<i>business unit</i> , of a local government, is a part of the local government that conducts a business activity of the local government.	12 13 14
<i>change commission</i> see section 22.	15
<i>chief executive officer</i> means a person who holds an appointment under section 197.	16 17
<i>code of competitive conduct</i> see section 47.	18
<i>commercialisation</i> , of a significant business activity, see section 44(2).	19 20
<i>Commonwealth Super Act</i> means the <i>Superannuation Industry (Supervision) Act 1993</i> (Cwlth).	21 22
<i>community forum</i> see section 87(2).	23
<i>conclusion</i> , of the election of a councillor, means the day—	24
(a) if the election is to the Brisbane City Council—	25
(i) for a quadrennial election—when the names of all elected candidates are published in the gazette; or	26 27
(ii) for a by-election (whether or not a poll is conducted)—when the name of the elected candidate is published in the gazette; or	28 29 30
(b) if the election is to another local government—	31

(i) for an election of all the councillors—when the last declaration of a poll conducted in the election is displayed in the local government’s public office; or	1 2 3 4
(ii) for a by-election when a poll is conducted—when the declaration of the poll is displayed in the local government’s public office; or	5 6 7
(iii) for a by-election when no poll is conducted—after the nomination day for the by-election; or	8 9
(iv) if the councillor is automatically elected (other than at a by-election) and a poll is conducted—the day on which the last declaration of a poll is displayed in the local government’s public office; or	10 11 12 13 14
(v) if the councillor is automatically elected (other than at a by-election) and no poll is conducted—6p.m. on the day when a poll would otherwise have been required to be conducted.	15 16 17 18
<i>conflict of interest</i> see section 173(3).	19
<i>consolidated version</i> , of a local law, see section 32.	20
<i>contractor</i> , of a local government, means—	21
(a) a person who provides services under a contract with the local government; or	22 23
(b) a person prescribed under a regulation.	24
<i>conviction</i> includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.	25 26 27
<i>corporate entity</i> means an entity that has been corporatised under this Act.	28 29
<i>corporatisation</i> , of a significant business activity, see section 44.	30 31
<i>councillor</i> , of a local government, includes the mayor.	32
<i>court</i> means a court of competent jurisdiction.	33

<i>Crime and Misconduct Act</i> means the <i>Crime and Misconduct Act 2001</i> .	1 2
<i>department's chief executive</i> means the chief executive of the department.	3 4
<i>deputy electoral commissioner</i> means the deputy electoral commissioner under the Electoral Act.	5 6
<i>distribute</i> a how-to-vote card—	7
(a) includes make the card available to other persons; but	8
(b) does not include merely display the card.	9
<i>Examples—</i>	10
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.	11 12 13
2 A person does not distribute how-to-vote cards if the person attaches the cards to walls and other structures, merely for display.	14 15
<i>division</i> , of a local government area, see section 8(3).	16
<i>drafting certificate</i> , for a local law, means a certificate signed by the chief executive officer stating the local law was drafted in accordance with the drafting standards prescribed under a regulation.	17 18 19 20
<i>elect</i> includes re-elect.	21
<i>elector</i> means a person entitled to vote in an election of councillors.	22 23
<i>Electoral Act</i> means the <i>Electoral Act 1992</i> .	24
<i>electoral commission</i> means the Electoral Commission of Queensland under the Electoral Act.	25 26
<i>electoral commissioner</i> means the electoral commissioner under the Electoral Act.	27 28
<i>encumbrance</i> includes any of the following that affects land—	29 30
(a) a mortgage, lien or charge;	31
(b) a caveat;	32
(c) an agreement;	33

-
- (d) a judgement, writ or process; 1
- (e) an interest adverse to the interest of the land's owner; 2
but does not include an easement. 3
- establish**, a superannuation scheme, includes join in 4
establishing a superannuation scheme. 5
- ethics advisory committee** see section 194. 6
- expired conviction** means a conviction— 7
- (a) for which the rehabilitation period under the *Criminal* 8
Law (Rehabilitation of Offenders) Act 1986 has expired; 9
and 10
- (b) that is not revived as prescribed by section 11 of that 11
Act. 12
- final part** of the local government's term see section 161(5). 13
- financial controller** see section 118. 14
- financial management documents** see section 104. 15
- Forestry Act** means the *Forestry Act 1959*. 16
- fresh election** means an election of all the councillors of a 17
local government that is not a quadrennial election. 18
- full cost pricing**, of a significant business activity, see section 19
44(4). 20
- full-time government job** see section 168(3). 21
- government entity** has the same meaning as in the 22
Government Owned Corporations Act 1993. 23
- grants commission** see section 231(1). 24
- head of a local government** means— 25
- (a) if the local government is constituted by its 26
councillors—the mayor; or 27
- (b) if the local government is constituted by its chief 28
executive officer—the chief executive officer; or 29
- (c) if the local government is constituted by an interim 30
administrator—the interim administrator. 31
-

home includes—	1
(a) a room in a boarding house; and	2
(b) a caravan; and	3
(c) a manufactured home within the meaning of the <i>Manufactured Homes (Residential Parks) Act 2003</i> , section 10.	4 5 6
Housing Act contract means a contract of sale—	7
(a) that was entered into under—	8
(i) the <i>State Housing Act 1945</i> , section 24, before the repeal of that Act; or	9 10
(ii) the <i>Housing Act 2003</i> , section 113; or	11
(b) under which—	12
(i) the purchase price, other than the deposit, is payable in 2 or more instalments; or	13 14
(ii) the sale is of a share in a house and land.	15
how-to-vote card means—	16
(a) a card, handbill or pamphlet, relating to an election for which optional-preferential voting applies, that—	17 18
(i) is or includes a representation of a ballot paper or part of a ballot paper; or	19 20
(ii) is or includes something apparently intended to represent a ballot paper or part of a ballot paper; or	21 22
(iii) lists the names of any or all of the candidates for the election with a number indicating an order of voting preference against the names of any or all of the candidates; or	23 24 25 26
(iv) otherwise directs or encourages the casting of preference votes, other than first preference votes, in a particular way; or	27 28 29
(b) a card, handbill or pamphlet, relating to an election for which first-past-the-post voting applies, that—	30 31

-
- | | | |
|-------|--|-------------|
| (i) | is or includes a representation of a ballot paper or part of a ballot paper; or | 1
2 |
| (ii) | is or includes something apparently intended to represent a ballot paper or part of a ballot paper; or | 3
4 |
| (iii) | directs or encourages the casting of a vote for a number of particular candidates equal to the number of candidates to be elected. | 5
6
7 |
| | <i>identity card</i> of a person means a card that— | 8 |
| (a) | identifies the person as an authorised person or local government worker; and | 9
10 |
| (b) | contains a recent photo of the person; and | 11 |
| (c) | contains a copy of the person’s signature; and | 12 |
| (d) | states the expiry date for the identity card. | 13 |
| | <i>inappropriate conduct</i> see section 176(4). | 14 |
| | <i>indigenous local government</i> means— | 15 |
| (a) | the local government for the following local government areas— | 16
17 |
| | • Cherbourg | 18 |
| | • Doomadgee | 19 |
| | • Hope Vale | 20 |
| | • Kowanyama | 21 |
| | • Lockhart River | 22 |
| | • Mapoon | 23 |
| | • Napranum | 24 |
| | • Palm Island | 25 |
| | • Pormpuraaw | 26 |
| | • Woorabinda | 27 |
| | • Wujal Wujal | 28 |
| | • Yarrabah; or | 29 |
| (b) | an indigenous regional council. | 30 |
-

<i>indigenous regional council</i> see section 81(2).	1
<i>industrial instrument</i> means an industrial instrument under the Industrial Relations Act.	2 3
<i>Industrial Relations Act</i> means the <i>Industrial Relations Act 1999</i> .	4 5
<i>interim development control provision</i> means an interim development control provision that continues to have effect under the Planning Act, section 6.1.12.	6 7 8
<i>interim local law</i> see section 26(4).	9
<i>joint government activity</i> see section 10(2).	10
<i>judicial review</i> is a review under the Judicial Review Act.	11
<i>Judicial Review Act</i> is the <i>Judicial Review Act 1991</i> .	12
<i>land</i> includes—	13
(a) freehold land; and	14
(b) land held from the State for a leasehold interest; and	15
(c) a mining claim.	16
<i>Land Act</i> means the <i>Land Act 1994</i> .	17
<i>Land Title Act</i> means the <i>Land Title Act 1994</i> .	18
<i>LG super scheme</i> means the Local Government Superannuation Scheme continued in existence under section 220.	19 20 21
<i>local government</i> see section 8(1).	22
<i>Local Government Act</i> means a law under which a local government performs the local government’s responsibilities, including for example—	23 24 25
(a) this Act; and	26
(b) a local law; and	27
(c) the Planning Act; and	28
(d) a planning scheme, and an interim development control provision, under the Planning Act; and	29 30
(e) the Plumbing and Drainage Act; and	31

-
- (f) the *Water Act 2000*; and 1
- (g) the *Water Supply (Safety and Reliability) Act 2008*. 2
- local government area*** see section 8(2). 3
- local government change*** see section 17(2). 4
- Local Government Electoral Act*** means the Act that replaces 5
the provisions relating to local government elections in the 6
1993 Act. 7
- local government employee*** means— 8
- (a) the chief executive officer; or 9
- (b) a person holding an appointment under section 199. 10
- local government entity*** see section 219(3). 11
- Local Government (Financial Assistance) Act*** means the 12
Local Government (Financial Assistance) Act 1995 (Cwlth). 13
- local government principles*** means the principles expressed 14
in the form of outcomes set out in section 4(2). 15
- local government worker*** see section 138(6). 16
- local law*** see section 26(2). 17
- long-term asset management plan*** see section 104(6). 18
- long-term community plan*** see section 104(4). 19
- long-term financial plan*** see section 104(5). 20
- material personal interest*** see section 172(2). 21
- middle*** of the local government’s term see section 161(4). 22
- mining claim*** means a mining claim to which the *Mineral* 23
Resources Act 1989 applies. 24
- misconduct*** see section 176(3). 25
- model local law*** see section 26(8). 26
- National Competition Policy Agreements*** means the 27
following agreements (made between the Commonwealth and 28
the States on 11 April 1995), as in force for the time being— 29
- (a) the Conduct Code Agreement; 30
-

(b) the Competition Principles Agreement;	1
(c) the Agreement to Implement National Competition Policy and Related Reforms.	2 3
<i>notice of intention to acquire land</i> see section 61(2).	4
<i>occupier</i> , of property, see section 125(6).	5
<i>ordinary business matter</i> , in relation to a person, is—	6
(a) the remuneration of councillors or members of a local government committee; or	7 8
(b) the provision of superannuation entitlements or accident insurance for councillors or local government employees; or	9 10 11
(c) the terms on which goods, services or facilities are to be offered by the local government for use or enjoyment of the public in the local government area; or	12 13 14
(d) the making or levying of rates, or the fixing of a service fee, by the local government; or	15 16
(e) a planning scheme of general application in the local government area; or	17 18
(f) a matter that is of interest to a person merely as—	19
(i) an employee of the State or a government entity; or	20
(ii) an elector, ratepayer or resident of the local government area; or	21 22
(iii) a beneficiary under a policy of accident insurance, public liability or professional indemnity insurance held, or to be held, by the local government; or	23 24 25
(iv) a user of goods, services or facilities supplied, or to be supplied, by the local government (whether under a contract or otherwise) as a member of the public in common with other members of the public; or	26 27 28 29 30
(v) a candidate for election or appointment as a mayor, deputy mayor or member of a committee of the local government.	31 32 33

<i>overall State interest</i> is—	1
(a) an interest that the Minister considers affects the economic, environmental or social interest of all or part of the State; or	2 3 4
(b) an interest that the Minister considers affects the interest of ensuring there is an accountable, effective, and efficient system of local government; or	5 6 7
(c) an interest prescribed under a regulation.	8
<i>owner</i> of land—	9
(a) means—	10
(i) a registered proprietor of freehold land; or	11
(ii) a purchaser of freehold land from the State under an Act; or	12 13
(iii) a purchaser of land under a Housing Act contract; or	14 15
(iv) a person who has a share in land that the person bought under a Housing Act contract; or	16 17
(v) a lessee of land held from the State, and a manager, overseer or superintendent of the lessee who lives on the land; or	18 19 20
(vi) the holder of a mining claim or lease; or	21
(vii) the holder of land mentioned in the <i>Mineral Resources Act 1989</i> , schedule, definition <i>owner</i> ; or	22 23
(viii) a lessee under the <i>Petroleum Act 1923</i> or the <i>Petroleum and Gas (Production and Safety) Act 2004</i> ; or	24 25 26
(ix) a lessee of land held from a government entity or local government; or	27 28
(x) the holder of an occupation permit or stock grazing permit under the <i>Forestry Act</i> or of a permit prescribed under a regulation; or	29 30 31

Schedule 3

- (xi) the holder of a permission to occupy from the chief executive of the department responsible for the administration of the Forestry Act; or
 - (xii) the holder of a permit to occupy under the Land Act; or
 - (xiii) a licensee under the Land Act; or
 - (xiv) for land on which there is a structure subject to a time share scheme—the person notified to the local government concerned as the person responsible for the administration of the scheme as between the participants in the scheme; or
 - (xv) another person who is entitled to receive rent for the land; or
 - (xvi) another person who would be entitled to receive rent for the land if it were leased at a full commercial rent; but
- (b) 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 *Integrated Planning Act 1997*.
- planning and accountability documents*** see section 104(3).
- Planning and Environment Court*** see the Planning Act.
- planning scheme*** has the meaning given in the Planning Act, section 2.1.1.
- Plumbing and Drainage Act*** means the *Plumbing and Drainage Act 2002*.
- political party*** means an organisation registered as a political party under the Electoral Act.
- private property*** see section 125(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.

<i>property</i> means land, any structure on the land, and a vehicle.	1
<i>public office</i> , of a local government, see section 264.	2
<i>public place</i> see section 125(5).	3
<i>public thoroughfare easement</i> is an easement created under—	4 5
(a) the Land Act, chapter 6, part 4, division 8; or	6
(b) the Land Title Act, part 6, division 4.	7
<i>public utilities</i> means—	8
(a) works for the supply of drainage, electricity, gas, sewerage, telecommunications or water; or	9 10
(b) works for an infrastructure corridor under the <i>State Development and Public Works Organisation Act 1971</i> , section 82; or	11 12 13
(c) works for a purpose mentioned in the <i>State Development and Public Works Organisation Act 1971</i> , section 125; or	14 15 16
(d) other works that is declared under a regulation to be a public utility.	17 18
<i>quadrennial election</i> means the election for local governments that is held in 2012, and every fourth year after 2012.	19 20 21
<i>rateable land</i> see section 93(2).	22
<i>rates</i> includes any interest accrued, or premium owing, on the rates.	23 24
<i>reasonable proportion of electors</i> see section 15(2).	25
<i>regional conduct review panel</i> see section 176(7).	26
<i>registered officer</i> , of a political party, means the registered officer of the political party under the Electoral Act.	27 28
<i>registrar of titles</i> means the public authority responsible for registering title to land and dealings affecting land.	29 30
<i>remedial action</i> see section 113(2).	31
<i>remedial notice</i> see section 138(2).	32

<i>remuneration category</i> means a remuneration category prescribed under a regulation.	1 2
<i>resolution</i> , of a local government, means the formal decision of the local government at a local government meeting.	3 4
<i>responsibility</i> includes a function.	5
<i>reward</i> does not include—	6
(a) a councillor’s remuneration as a councillor; or	7
(b) an amount decided under the deed under the <i>Superannuation (State Public Sector) Act 1990</i> in relation to a transferring member within the meaning of section 32A of that Act; or	8 9 10 11
(c) reasonable expenses actually incurred for any 1 or more of the following—	12 13
(i) accommodation;	14
(ii) meals;	15
(iii) domestic air travel;	16
(iv) taxi fares or public transport charges;	17
(v) motor vehicle hire; or	18
(d) an amount paid as a pension or otherwise for past service in a full-time government job.	19 20
<i>road</i> see section 59(2).	21
<i>roads activity</i> see section 47(5).	22
<i>sanitary drain</i> —	23
(a) means a drain that is immediately connected to, and used to carry discharges from, a soil or waste pipe; but	24 25
(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.	26 27 28
<i>service fee</i> see section 97(2).	29
<i>sewerage treatment system</i> means the infrastructure used to receive, transport and treat sewage or effluent (including	30 31

sewers, access chambers, machinery, outfalls, pumps, structures and vents, for example).	1 2
<i>sign</i> , a thing, includes the making of a mark on the thing in front of someone else who signs the thing as witness.	3 4
<i>significant business activity</i> see section 43(4).	5
<i>State-controlled road</i> has the meaning given in the Transport Infrastructure Act.	6 7
<i>State office</i> , of the department, means the office of the department at the address prescribed under a regulation.	8 9
<i>Statutory Bodies Financial Arrangements Act</i> means the <i>Statutory Bodies Financial Arrangements Act 1982</i> .	10 11
<i>stormwater drain</i> see section 76(2).	12
<i>stormwater installation</i> see section 76(3).	13
<i>structure</i> means anything that is built or constructed, whether or not it is attached to land.	14 15
<i>subordinate local law</i> see section 26(5).	16
<i>super board</i> see section 211.	17
<i>sustainable development</i> 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).	18 19 20 21
<i>time share scheme</i> , 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.	22 23 24 25 26
<i>Transport Infrastructure Act</i> means the <i>Transport Infrastructure Act 1994</i> .	27 28
<i>tribunal</i> see section 183.	29
<i>trust deed</i> means a trust deed made by the super board.	30
<i>trustee council</i> see section 82(2).	31
<i>trust land</i> see section 82(3).	32

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