

# Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018

Amendments during consideration in detail to be moved by  
The Honourable the Minister for Local Government, Minister for Racing  
and Minister for Multicultural Affairs

## 1 Clause 2 (Commencement)

Page 6, line 8, after ‘and 5’—

*insert—*

, and part 4, division 3,

## 2 After clause 3

Page 6, after line 12—

*insert—*

### 3A Amendment of s 6 (Definitions)

Section 6, ‘schedule 1’—

*omit, insert—*

schedule 2

## 3 Clause 4 (Amendment of s 153 (Disqualification for certain offences))

Page 6, lines 15 to 17—

*omit, insert—*

(1) Section 153(1)(c), ‘bribery’—

*omit, insert—*

serious integrity

(2) Section 153(4) and (5)—

*omit, insert—*

(4) A *serious integrity offence* is an offence  
against—

- (a) a provision of a law mentioned in schedule 1, part 1 if, for a circumstance stated for the offence (if any), the stated circumstance applies to the offence; or
  - (b) a provision of a law of another State or the Commonwealth that corresponds to a provision mentioned in paragraph (a).
- (5) An *integrity offence* is an offence against a provision of a law mentioned in schedule 1, part 2 if, for a circumstance stated for the offence (if any), the stated circumstance applies to the offence.
- (3) Section 153(6), after ‘convicted of’—  
*insert—*  
any of the following offences (each a *disqualifying offence*)
- (4) Section 153(6)(c)—  
*omit, insert—*  
(c) a serious integrity offence; or

#### **4 After clause 4**

Page 6, after line 17—

*insert—*

##### **4A Amendment of s 158 (Acting as councillor without authority)**

Section 158—

*insert—*

- (c) the person is suspended as a councillor.

##### **4B Insertion of new s 158A**

Chapter 6, part 2, division 1—

*insert—*

### **158A Councillor must give notice of disqualification**

- (1) This section applies if a councillor becomes aware the councillor is not qualified to be a councillor under this division.
- (2) The councillor must immediately give a written notice that complies with subsection (3) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor—the mayor;
  - (c) the chief executive officer.

Maximum penalty—100 penalty units.

- (3) For subsection (2), the notice must state—
  - (a) details about why the councillor is not qualified to be a councillor under this division; and
  - (b) the day the councillor became disqualified.

## **5 After clause 7**

Page 17, after line 2—

*insert—*

### **7A Insertion of new ch 6, pt 2, divs 8 and 9**

Chapter 6, part 2—

*insert—*

## **Division 8 Automatic suspension of councillors**

### **186B Automatic suspension for certain offences**

- (1) A person is automatically suspended as a councillor when the person is charged with a disqualifying offence.
- (2) Subsection (3) applies if, when a person is appointed or elected as a councillor, a proceeding for a disqualifying offence against the person has been started but has not ended.
- (3) The person is automatically suspended as a councillor when the person's term as councillor starts.

### **186C When a person is charged with disqualifying offence and proceeding is started**

For this division and division 9—

- (a) a person is charged with a disqualifying offence when—
  - (i) a police officer arrests and charges the person for the offence; or
  - (ii) the person is served with a notice to appear for the offence; or
  - (iii) the person is served with a complaint for the offence under the *Justices Act 1886*; or
  - (iv) a charge for the offence is made against the person in a proceeding without a complaint under the *Justices Act 1886*; or
  - (v) an ex officio indictment against the person for the offence is presented to the Supreme Court or the District Court; and

- (b) a proceeding for a disqualifying offence is started against a person when the person is charged with the offence.

### **186D Obligation to give notice if charged with disqualifying offence**

- (1) This section applies if—
  - (a) a councillor is charged with a disqualifying offence; or
  - (b) a proceeding for a disqualifying offence has been started, but has not ended, against a councillor when the councillor is appointed or elected.
- (2) The councillor must immediately give a written notice that complies with subsection (3) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor—the mayor;
  - (c) the chief executive officer.

Maximum penalty—100 penalty units.

- (3) For subsection (2), the notice must state—
  - (a) the provision of the law against which the councillor is charged; and
  - (b) the day the councillor was charged.

### **186E Effect of councillor's suspension**

- (1) This section applies while a councillor is suspended as a councillor.
- (2) The councillor must not act as a councillor.
- (3) If the councillor is the mayor or deputy

mayor, the councillor is also suspended as mayor or deputy mayor.

- (4) The councillor's obligations under division 5 are not affected.
- (5) The councillor is entitled to be paid remuneration as a councillor.
- (6) In this section—

*remuneration*, as a councillor, does not include an amount payable to a councillor for performing a particular responsibility, including, for example, attending a meeting of the local government or any of its committees.

### **186F When suspension of councillor ends**

If a councillor is suspended under section 186B, the suspension ends when the earliest of the following happens—

- (a) for each disqualifying offence to which the suspension relates—
  - (i) if the councillor is convicted of the offence and appeals the conviction—the conviction is set aside or quashed on appeal; or
  - (ii) if the councillor is convicted of the offence and does not appeal the conviction—the time within which an appeal must by law be started ends; or
  - (iii) the proceeding for the offence otherwise ends;

*Note—*

If the councillor is convicted of a disqualifying offence, the councillor's office becomes vacant. See section 162.

- (b) the councillor's term ends under section 160;
- (c) the councillor's office becomes vacant under section 162.

## **Division 9            Criminal history information**

### **186G Criminal history report**

- (1) This section applies if the Minister—
  - (a) receives a notice from a councillor—
    - (i) under section 158A in relation to the conviction of the councillor for a disqualifying offence; or
    - (ii) under section 186D; or
  - (b) reasonably suspects a councillor has been charged with, or convicted of, a disqualifying offence.
- (2) The Minister may ask the police commissioner for a written report about the criminal history of the councillor that includes a brief description of the circumstances of a conviction or charge mentioned in the criminal history.
- (3) The police commissioner must comply with the request.
- (4) However, the duty to comply applies only to information in the police commissioner's possession or to which the police commissioner has access.
- (5) In this section—

***criminal history***, of a councillor, includes—

  - (a) spent convictions; and

- (b) every charge made against the councillor for an offence, in Queensland or elsewhere.

### **186H Confidentiality of criminal history information**

- (1) This section applies to a person who possesses criminal history information because the person—
  - (a) is or was an officer, employee or agent of the department; or
  - (b) is or was a councillor, officer, employee or agent of the council.
- (2) The person must not, directly or indirectly, disclose criminal history information to any other person unless the disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

- (3) The person is permitted to disclose the criminal history information to another person—
  - (a) to the extent necessary to perform the person's functions under this Act; or
  - (b) if the disclosure is authorised under an Act; or
  - (c) if the disclosure is otherwise required or permitted by law; or
  - (d) if the person to whom the information relates consents to the disclosure; or
  - (e) if the disclosure is in a form that does not identify the person to whom the information relates; or
  - (f) if the information is, or has been, lawfully accessible to the public.



- (4) The person must ensure a document containing criminal history information is destroyed as soon as practicable after it is no longer needed for the purpose for which it is given.
- (5) In this section—
- criminal history information* means the information contained in—
- (a) a report given to the Minister under section 186G; or
  - (b) a notice given to the Minister, a councillor or the chief executive officer—
    - (i) under section 158A in relation to the conviction of a councillor for a disqualifying offence; or
    - (ii) under section 186D.

## **7B Insertion of new ch 8, pt 9**

Chapter 8—

*insert—*

### **Part 9**

### **Transitional provisions for Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018**

## **277 Disqualifying offence committed before commencement**

Chapter 6, part 2, as in force after the commencement, applies in relation to a disqualifying offence, whether the act or omission constituting the offence was committed before or after the commencement.

## **278 Existing charge for disqualifying offence**

- (1) This section applies if a proceeding for a disqualifying offence against a councillor had started before the commencement but has not ended.
- (2) The councillor is automatically suspended as a councillor on the commencement.
- (3) Chapter 6, part 2, division 8 applies in relation to the councillor as if the councillor was suspended under section 186B.
- (4) Immediately after the commencement, the councillor must give a written notice that complies with subsection (5) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor—the mayor;
  - (c) the chief executive officer.Maximum penalty—100 penalty units.
- (5) For subsection (4), the notice must state—
  - (a) the provision of the law against which the councillor was charged; and
  - (b) the day the councillor was charged.
- (6) The information contained in the notice is

taken to be criminal history information for section 186H.

### **279 Existing conviction for new disqualifying offence**

- (1) This section applies if—
  - (a) before the commencement, a councillor was convicted of an offence that is a new disqualifying offence; and
  - (b) on the commencement, the disqualifying period for the offence would not have ended.
- (2) The councillor automatically stops being a councillor on the commencement.
- (3) Immediately after the commencement, the councillor must give a written notice that complies with subsection (4) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor—the mayor;
  - (c) the chief executive officer.

Maximum penalty—100 penalty units.
- (4) For subsection (3), the notice must state—
  - (a) the provision of the law against which the councillor was convicted; and
  - (b) the day the councillor was convicted.
- (5) Section 153(7) applies in relation to the offence.
- (6) The information contained in the notice is taken to be criminal history information for section 186H.

(7) In this section—

*conviction* includes a spent conviction.

*disqualifying period*, for a new disqualifying offence, means the period stated in section 153(1) during which a person convicted of the offence can not be a councillor.

*new disqualifying offence* means an offence that, under section 153—

- (a) is a disqualifying offence after the commencement; but
- (b) was not a disqualifying offence before the commencement.

**6 Clause 8 (Amendment of sch 1 (Dictionary))**

Page 17, line 3, after ‘Amendment’—

*insert—*

**and renumbering**

**7 Clause 8 (Amendment of sch 1 (Dictionary))**

Page 17, after line 5—

*insert—*

*disqualifying offence* see section 153(6).

**8 Clause 8 (Amendment of sch 1 (Dictionary))**

Page 17, after line 15—

*insert—*

(4) Schedule 1, as amended by this section—

*renumber* as schedule 2.

**9 After clause 8**

Page 17, before line 16—

*insert—*

**8A Insertion of new sch 1**

After section 279, as inserted by this Act—

*insert—*

**Schedule 1 Serious integrity offences and integrity offences**

section 153

**Part 1 Serious integrity offences**

**Criminal Code**

54A(1)	Demands with menaces upon agencies of government
57(1)	False evidence before Parliament
60(1)	Bribery of member of Parliament
87(1) or (1A)	Official corruption
92A(1) or (2)	Misconduct in relation to public office
98B(1)	False or misleading information
98C(1) or (2)	Bribery
98D(1) or (2)	Forging or uttering electoral or referendum paper

110	Stuffing ballot boxes
112(1)	False or misleading information
119B(1)	Retaliation against or intimidation of judicial officer, juror, witness etc.
122(1)	Corruption of jurors
123(1)	Perjury
126(1)	Fabricating evidence
127(1)	Corruption of witnesses
129	Damaging evidence with intent
131(1)	Conspiracy to bring false accusation
132(1)	Conspiring to defeat justice
133(1)	Compounding an indictable offence circumstance—the penalty in subsection (2) applies to the offence
140(1)	Attempting to pervert justice
193(1)	False verified statements
398(1)	Punishment of stealing circumstance—a circumstance of aggravation with a maximum penalty of 7 years or more imprisonment applies to the offence
399	Fraudulent concealment of particular documents circumstance—paragraph (b) of the penalty applies to the offence
408C(1)	Fraud circumstance—a circumstance of aggravation mentioned in subsection (2), (2A) or (2B) applies to the offence

- 408E(1) Computer hacking and misuse  
circumstance—a circumstance of aggravation  
mentioned in subsection (3) applies to the offence
- 415(1) Extortion
- 430 Fraudulent falsification of records
- 433(1) Receiving tainted property
- 442B Receipt or solicitation of secret commission by an  
agent
- 442BA Gift or offer of secret commission to an agent
- 442D False or misleading receipt or account
- 442E Secret commission for advice given
- 442EA Offer or solicitation of secret commission in return  
for advice given or to be given
- 442F Secret commission to trustee in return for  
substituted appointment
- 442G Liability of director etc. acting without authority
- 488(1) Forgery and uttering  
circumstance—paragraph (a) or (b) of the penalty  
applies to the offence
- 541(1) Conspiracy to commit crime  
circumstance—a maximum penalty of 7 years  
imprisonment or more applies to the offence

**Crime and Corruption Act**

- 198(1) Contempt of person conducting commission hearing

***Criminal Proceeds Confiscation Act 2002***

- 250(1) Money laundering

### **Electoral Act**

307B(1) Schemes to circumvent prohibition on particular political donations

### **Local Government Electoral Act**

169(1) False or misleading information

170(1) or  
(2) Bribery

175(1) or  
(2) Forged electoral papers

194B(1) Schemes to circumvent prohibition on particular political donations

## **Part 2 Integrity offences**

### **This Act**

173(1) Use of information by councillors

173A(2)  
or (3) Prohibited conduct by councillor in possession of inside information

173B(2) Obligation of councillor to correct register of interests  
circumstance—paragraph (a) of the penalty applies to the offence

177C(2) Councillor's material personal interest at a meeting

177E(2)  
or (5) Councillor's conflict of interest at a meeting

177H Offence to take retaliatory action

177I(2)  
or (3) Offence for councillor with material personal interest or conflict of interest to influence others



215(1) False or misleading information

**Criminal Code**

54(1) Interference with Governor or Ministers

55(1) Interference with the Legislature

58(1) Witness refusing to attend, answer question or  
produce a thing before Legislative Assembly or  
authorised committee

78(1) or  
(2) Interfering with political liberty

85 Disclosure of official secrets

98E(1) Influencing voting

98F Providing money for illegal payments

98G Voting if not entitled

99(1),  
(2), (3),  
(4) or (5) Voting if not entitled

100(1) or  
(2) Hindering or interfering with voting conduct

101(1) or  
(2) Bribery

102 Publishing false information about a candidate

113(2),  
(3), (4) or  
(5) Interfering with secrecy at elections

128 Deceiving witnesses

130 Preventing witnesses from attending

- 133(1)            Compounding an indictable offence  
                         circumstance—the penalty in subsection (3) applies  
                         to the offence
- 194(1)            False declarations
- 204(1)            Disobedience to statute law
- 398(1)            Punishment of stealing  
                         circumstance—no circumstance of aggravation  
                         applies to the offence
- 399                Fraudulent concealment of particular documents  
                         circumstance—paragraph (a) of the penalty applies  
                         to the offence
- 408C              Fraud  
                         circumstance—the circumstance of aggravation  
                         mentioned in subsection (2), (2A) or (2B) does not  
                         apply to the offence
- 408D(1)  
or (1A)            Obtaining or dealing with identification information
- 408E              Computer hacking and misuse  
                         circumstance—no circumstance of aggravation, or  
                         the circumstance of aggravation mentioned in  
                         subsection (2), applies to the offence
- 414                Demanding property with menaces with intent to  
                         steal
- 488(1)            Forgery and uttering  
                         circumstance—paragraph (c) of the penalty applies  
                         to the offence
- 541(1)            Conspiracy to commit crime  
                         circumstance—the maximum penalty for the crime  
                         in question is less than 7 years imprisonment

**Electoral Act**

- 307A(1) Offence about prohibited donations  
307C(1) False or misleading information relating to determinations  
427(2) Obligation to repay particular political donations

**Local Government Electoral Act**

- 171 Assisting illegal payments  
186 Influencing voting by violence or intimidation  
189 Voting if not entitled  
194A(1) Offence about prohibited donations  
194C(1) False or misleading information relating to determinations  
212(2) Obligation to repay particular political donations

**10 Before clause 21**

Page 32, after line 11—

*insert—*

**Division 1 Preliminary**

**11 After clause 21**

Page 32, after line 13—

*insert—*

**Division 2 Amendments commencing on assent**

### **21A Amendment of s 122 (Removing a councillor)**

- (1) Section 122(1)—

*insert—*

- (d) the Minister reasonably believes it is otherwise in the public interest that a councillor be suspended or dismissed.

- (2) Section 122(2)(c), before ‘—suspend’—

*insert—*

or dissolve the local government

### **21B Amendment of s 123 (Dissolving a local government)**

- (1) Section 123, heading, ‘Dissolving’—

*omit, insert—*

#### **Suspending or dissolving**

- (2) Section 123(1)—

*insert—*

- (d) the Minister reasonably believes it is otherwise in the public interest that every councillor be suspended or dismissed.

- (3) Section 123—

*insert—*

- (1A) If the proposal in the Minister’s notice under section 120 was to suspend every councillor for a stated period, the Minister may recommend that the Governor in Council—

- (a) suspend every councillor for a period that is no longer than the stated period;  
and

- (b) appoint an interim administrator to act in place of the councillors until the stated period ends.
- (4) Section 123(2), ‘The’—  
*omit, insert—*  
Also, the
- (5) Section 123(4), ‘The regulation’—  
*omit, insert—*  
A regulation dissolving a local government
- (6) Section 123(1A) to (5)—  
*renumber* as section 123(2) to (6).

**12 Clause 22 (Amendment of s 153 (Disqualification for certain offences))**

Page 32, lines 16 to 18—

*omit, insert—*

- (1) Section 153(1)(c), ‘bribery’—  
*omit, insert—*  
serious integrity
- (2) Section 153(4) and (5)—  
*omit, insert—*
- (4) A ***serious integrity offence*** is an offence against—
  - (a) a provision of a law mentioned in schedule 1, part 1 if, for a circumstance stated for the offence (if any), the stated circumstance applies to the offence; or
  - (b) a provision of a law of another State or the Commonwealth that corresponds to a provision mentioned in paragraph (a).

- (5) An *integrity offence* is an offence against a provision of a law mentioned in schedule 1, part 2 if, for a circumstance stated for the offence (if any), the stated circumstance applies to the offence.
- (3) Section 153(6), after ‘convicted of’—  
*insert—*  
any of the following offences (each a *disqualifying offence*)
- (4) Section 153(6)(c)—  
*omit, insert—*  
(c) a serious integrity offence; or

### 13 After clause 22

Page 32, after line 18—

*insert—*

#### **22A Amendment of s 158 (Acting as councillor without authority)**

Section 158—

*insert—*

- (c) the person is suspended as a councillor.

#### **22B Insertion of new s 158A**

Chapter 6, part 2, division 1—

*insert—*

#### **158A Councillor must give notice of disqualification**

- (1) This section applies if a councillor becomes aware the councillor is not qualified to be a councillor under this division.
- (2) The councillor must immediately give a notice that complies with subsection (3) to

each of the following, unless the councillor has a reasonable excuse—

- (a) the Minister;
- (b) if the councillor is not the mayor of the local government—the mayor;
- (c) the chief executive officer of the local government.

Maximum penalty—100 penalty units.

- (3) For subsection (2), the notice must state—
  - (a) details about why the councillor is not qualified to be a councillor under this division; and
  - (b) the day the councillor became disqualified.

## 14 After clause 25

Page 43, after line 7—

*insert—*

### **25A Insertion of new ch 6, pt 2, divs 7 and 8**

Chapter 6, part 2—

*insert—*

## **Division 7 Automatic suspension of councillors**

### **182A Automatic suspension for certain offences**

- (1) A person is automatically suspended as a councillor when the person is charged with a disqualifying offence.
- (2) Subsection (3) applies if, when a person is appointed or elected as a councillor, a proceeding for a disqualifying offence

against the person has been started but has not ended.

- (3) The person is automatically suspended as a councillor when the person's term as councillor starts.

### **182B When a person is charged with disqualifying offence and proceeding is started**

For this division and division 8—

- (a) a person is charged with a disqualifying offence when—
- (i) a police officer arrests and charges the person for the offence; or
  - (ii) the person is served with a notice to appear for the offence; or
  - (iii) the person is served with a complaint for the offence under the *Justices Act 1886*; or
  - (iv) a charge for the offence is made against the person in a proceeding without a complaint under the *Justices Act 1886*; or
  - (v) an ex officio indictment against the person for the offence is presented to the Supreme Court or the District Court; and
- (b) a proceeding for a disqualifying offence is started against a person when the person is charged with the offence.

### **182C Obligation to give notice if charged with disqualifying offence**

- (1) This section applies if—



- (a) a councillor is charged with a disqualifying offence; or
  - (b) a proceeding for a disqualifying offence has been started, but has not ended, against a councillor when the councillor is appointed or elected.
- (2) The councillor must immediately give a notice that complies with subsection (3) to each of the following, unless the councillor has a reasonable excuse—
- (a) the Minister;
  - (b) if the councillor is not the mayor of the local government—the mayor;
  - (c) the chief executive officer of the local government.
- Maximum penalty—100 penalty units.
- (3) For subsection (2), the notice must state—
- (a) the provision of the law against which the councillor is charged; and
  - (b) the day the councillor was charged.

### **182D Effect of councillor's suspension**

- (1) This section applies while a councillor is suspended as a councillor.
- (2) The councillor must not act as a councillor.
- (3) If the councillor is the mayor or deputy mayor, the councillor is also suspended as mayor or deputy mayor.
- (4) The councillor's obligations under division 5 are not affected.
- (5) The Minister's power to exercise a power in relation to the councillor under chapter 5, part 1, division 3 is not affected.

(6) The councillor is entitled to be paid remuneration as a councillor.

(7) In this section—

*remuneration*, as a councillor, does not include an amount payable to a councillor for performing a particular responsibility, including, for example, attending a meeting of the local government or any of its committees.

### **182E When suspension of councillor ends**

If a councillor is suspended under section 182A, the suspension ends when the earliest of the following happens—

(a) for each disqualifying offence to which the suspension relates—

(i) if the councillor is convicted of the offence and appeals the conviction—the conviction is set aside or quashed on appeal; or

(ii) if the councillor is convicted of the offence and does not appeal the conviction—the time within which an appeal must by law be started ends; or

(iii) the proceeding for the offence otherwise ends;

*Note—*

If the councillor is convicted of a disqualifying offence, the councillor's office becomes vacant. See section 162.

(b) the councillor's term ends under section 160;

(c) the councillor's office becomes vacant under section 162.

## **Division 8      Criminal history information**

### **182F Criminal history report**

- (1) This section applies if the Minister—
  - (a) receives a notice from a councillor—
    - (i) under section 158A in relation to the conviction of the councillor for a disqualifying offence; or
    - (ii) under section 182C; or
  - (b) reasonably suspects a councillor has been charged with, or convicted of, a disqualifying offence.
- (2) The Minister may ask the police commissioner for a written report about the criminal history of the councillor that includes a brief description of the circumstances of a conviction or charge mentioned in the criminal history.
- (3) The police commissioner must comply with the request.
- (4) However, the duty to comply applies only to information in the police commissioner's possession or to which the police commissioner has access.
- (5) In this section—

***criminal history***, of a councillor, includes—

  - (a) a spent conviction; and
  - (b) every charge made against the councillor for an offence, in Queensland or elsewhere.

## **182G Confidentiality of criminal history information**

- (1) This section applies to a person who possesses criminal history information because the person—
  - (a) is or was an officer, employee or agent of the department; or
  - (b) is or was a councillor, officer, employee or agent of a local government.
- (2) The person must not, directly or indirectly, disclose criminal history information to any other person unless the disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

- (3) The person is permitted to disclose the criminal history information to another person—
  - (a) to the extent necessary to perform the person's functions under this Act; or
  - (b) if the disclosure is authorised under an Act; or
  - (c) if the disclosure is otherwise required or permitted by law; or
  - (d) if the person to whom the information relates consents to the disclosure; or
  - (e) if the disclosure is in a form that does not identify the person to whom the information relates; or
  - (f) if the information is, or has been, lawfully accessible to the public.
- (4) The person must ensure a document containing criminal history information is destroyed as soon as practicable after it is no longer needed for the purpose for which it is

given.

(5) In this section—

*criminal history information* means the information contained in—

- (a) a report given to the Minister under section 182F; or
- (b) a notice given to the Minister, a councillor or the chief executive officer of a local government—
  - (i) under section 158A in relation to the conviction of a councillor for a disqualifying offence; or
  - (ii) under section 182C.

## **25B Insertion of new ch 9, pt 13**

Chapter 9—

*insert—*

### **Part 13**

### **Transitional provisions for Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018**

#### **325 Disqualifying offence committed before commencement**

Chapter 6, part 2, as in force after the commencement, applies in relation to a

disqualifying offence, whether the act or omission constituting the offence was committed before or after the commencement.

### **326 Existing charge for disqualifying offence**

- (1) This section applies if a proceeding for a disqualifying offence against a councillor had started before the commencement but has not ended.
- (2) The councillor is automatically suspended as a councillor on the commencement.
- (3) Chapter 6, part 2, division 7 applies in relation to the councillor as if the councillor was suspended under section 182A.
- (4) Immediately after the commencement, the councillor must give a notice that complies with subsection (5) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor of the local government—the mayor;
  - (c) the chief executive officer of the local government.Maximum penalty—100 penalty units.
- (5) For subsection (4), the notice must state—
  - (a) the provision of the law against which the councillor was charged; and
  - (b) the day the councillor was charged.
- (6) The information contained in the notice is taken to be criminal history information for section 182G.

### **327 Existing conviction for new disqualifying offence**

- (1) This section applies if—
  - (a) before the commencement, a councillor was convicted of an offence that is a new disqualifying offence; and
  - (b) on the commencement, the disqualifying period for the offence would not have ended.
- (2) The councillor automatically stops being a councillor on the commencement.
- (3) Immediately after the commencement, the councillor must give a notice that complies with subsection (4) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor of the local government—the mayor;
  - (c) the chief executive officer of the local government.

Maximum penalty—100 penalty units.

- (4) For subsection (3), the notice must state—
  - (a) the provision of the law against which the councillor was convicted; and
  - (b) the day the councillor was convicted.
- (5) Section 153(7) applies in relation to the offence.
- (6) The information contained in the notice is taken to be criminal history information for section 182G.
- (7) In this section—

***conviction*** includes a spent conviction.

*disqualifying period*, for a new disqualifying offence, means the period stated in section 153(1) during which a person convicted of the offence can not be a councillor.

*new disqualifying offence* means an offence that, under section 153—

- (a) is a disqualifying offence after the commencement; but
- (b) was not a disqualifying offence before the commencement.

## **25C Insertion of new sch 1**

After section 327, as inserted by this Act—

*insert—*

# **Schedule 1    Serious integrity offences and integrity offences**

section 153

## **Part 1            Serious integrity offences**

### **Criminal Code**

54A(1)	Demands with menaces upon agencies of government
57(1)	False evidence before Parliament
60(1)	Bribery of member of Parliament
87(1) or (1A)	Official corruption



92A(1) or (2)	Misconduct in relation to public office
98B(1)	False or misleading information
98C(1) or (2)	Bribery
98D(1) or (2)	Forging or uttering electoral or referendum paper
110	Stuffing ballot boxes
112(1)	False or misleading information
119B(1)	Retaliation against or intimidation of judicial officer, juror, witness etc.
122(1)	Corruption of jurors
123(1)	Perjury
126(1)	Fabricating evidence
127(1)	Corruption of witnesses
129	Damaging evidence with intent
131(1)	Conspiracy to bring false accusation
132(1)	Conspiring to defeat justice
133(1)	Compounding an indictable offence circumstance—the penalty in subsection (2) applies to the offence
140(1)	Attempting to pervert justice
193(1)	False verified statements
398(1)	Punishment of stealing circumstance—a circumstance of aggravation with a maximum penalty of 7 years or more imprisonment applies to the offence

- 399                    Fraudulent concealment of particular documents  
circumstance—paragraph (b) of the penalty applies  
to the offence
- 408C(1)            Fraud  
circumstance—a circumstance of aggravation  
mentioned in subsection (2), (2A) or (2B) applies to  
the offence
- 408E(1)            Computer hacking and misuse  
circumstance—a circumstance of aggravation  
mentioned in subsection (3) applies to the offence
- 415(1)             Extortion
- 430                  Fraudulent falsification of records
- 433(1)             Receiving tainted property
- 442B                Receipt or solicitation of secret commission by an  
agent
- 442BA              Gift or offer of secret commission to an agent
- 442D                False or misleading receipt or account
- 442E                Secret commission for advice given
- 442EA              Offer or solicitation of secret commission in return  
for advice given or to be given
- 442F                Secret commission to trustee in return for  
substituted appointment
- 442G                Liability of director etc. acting without authority
- 488(1)             Forgery and uttering  
circumstance—paragraph (a) or (b) of the penalty  
applies to the offence
- 541(1)             Conspiracy to commit crime  
circumstance—a maximum penalty of 7 years  
imprisonment or more applies to the offence

***Crime and Corruption Act 2001***

198(1) Contempt of person conducting commission hearing

***Criminal Proceeds Confiscation Act 2002***

250(1) Money laundering

**Electoral Act**

307B(1) Schemes to circumvent prohibition on particular political donations

**Local Government Electoral Act**

169(1) False or misleading information

170(1) or  
(2) Bribery

175(1) or  
(2) Forged electoral papers

194B(1) Schemes to circumvent prohibition on particular political donations

## **Part 2 Integrity offences**

**This Act**

171(1) Use of information by councillors

171A(2)  
or (3) Prohibited conduct by councillor in possession of inside information

171B(2)	Obligation of councillor to correct register of interests circumstance—paragraph (a) of the penalty applies to the offence
175C(2)	Councillor’s material personal interest at a meeting
175E(2) or (5)	Councillor’s conflict of interest at a meeting
175H	Offence to take retaliatory action
175I(2) or (3)	Offence for councillor with material personal interest or conflict of interest to influence others
234(1)	False or misleading information

**Criminal Code**

54(1)	Interference with Governor or Ministers
55(1)	Interference with the Legislature
58(1)	Witness refusing to attend, answer question or produce a thing before Legislative Assembly or authorised committee
78(1) or (2)	Interfering with political liberty
85	Disclosure of official secrets
98E(1)	Influencing voting
98F	Providing money for illegal payments
98G	Voting if not entitled
99(1), (2), (3), (4) or (5)	Voting if not entitled
100(1) or (2)	Hindering or interfering with voting conduct

101(1) or (2)	Bribery
102	Publishing false information about a candidate
113(2), (3), (4) or (5)	Interfering with secrecy at elections
128	Deceiving witnesses
130	Preventing witnesses from attending
133(1)	Compounding an indictable offence circumstance—the penalty in subsection (3) applies to the offence
194(1)	False declarations
204(1)	Disobedience to statute law
398(1)	Punishment of stealing circumstance—no circumstance of aggravation applies to the offence
399	Fraudulent concealment of particular documents circumstance—paragraph (a) of the penalty applies to the offence
408C	Fraud circumstance—the circumstance of aggravation mentioned in subsection (2), (2A) or (2B) does not apply to the offence
408D(1) or (1A)	Obtaining or dealing with identification information
408E	Computer hacking and misuse circumstance—no circumstance of aggravation, or the circumstance of aggravation mentioned in subsection (2), applies to the offence

- 414 Demanding property with menaces with intent to steal
- 488(1) Forgery and uttering  
circumstance—paragraph (c) of the penalty applies to the offence
- 541(1) Conspiracy to commit crime  
circumstance—the maximum penalty for the crime in question is less than 7 years imprisonment

**Electoral Act**

- 307A(1) Offence about prohibited donations
- 307C(1) False or misleading information relating to determinations
- 427(2) Obligation to repay particular political donations

**Local Government Electoral Act**

- 171 Assisting illegal payments
- 186 Influencing voting by violence or intimidation
- 189 Voting if not entitled
- 194A(1) Offence about prohibited donations
- 194C(1) False or misleading information relating to determinations
- 212(2) Obligation to repay particular political donations

**15 Clause 26 (Amendment of sch 4 (Dictionary))**

Page 43, after line 10—

*insert—*

*disqualifying offence* see section 153(6).

**16 After clause 26**

Page 43, after line 20—

*insert—*

**Division 3 Amendments commencing  
on proclamation**

**26A Amendment of s 150L (What is *misconduct*)**

Section 150L(1)(c)(iv), ‘173(4) or (5)’—

*omit, insert—*

175G

**26B Amendment of s 150AY (Functions of  
investigators)**

Section 150AY(b), second dot point, ‘or  
172(5)’—

*omit, insert—*

175C(2), 175E(2) or (5), 175H or 175I(2) or  
(3)

**26C Amendment of s 175G (Duty to report another  
councillor’s material personal interest or  
conflict of interest at a meeting)**

Section 175G(2), note, ‘176(3)(d) and 180’—

*omit, insert—*

150L(1)(c)(iv), 150AQ and 150AR

**17 Clause 33 (Insertion of new s 201A)**

Page 57, line 7, ‘electoral’—

*omit, insert—*

election

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