

Ipswich

City Council

Local Law (Amending) Local Law No. 3 (Commercial
Licensing) 2019

Contents

Part 1 Preliminary-----	3
1 Short title	3
2 Commencement	3
3 Local laws amended	3
Part 2 Amendment of Local Law No. 3 (Commercial Licensing) 2013 -----	3
4 Amendment of s 2 (Objects)	3
5 Amendment of s 3 (Definitions – the Dictionary)	3
6 Amendment of s 4 (Relationship to other laws)	4
7 Insertion of new s 4A	5
8 Amendment of s 5 (Requirement for a licence)	5
9 Insertion of new s 5A	6
10 Amendment of s 6 (Application for a licence)	7
11 Insertion of new s 6A	8
12 Amendment of s 7 (Deciding application for a licence)	9
13 Amendment of s 8 (Term of a licence)	10
14 Amendment of s 9 (Conditions of a licence)	11
15 Amendment of s 10 (Power to change the conditions of a licence)	11
16 Amendment of s 11 (Amendment, renewal or transfer of a licence)	12
17 Amendment of s 12 (Cancellation or suspension of a licence)	13
18 Insertion of new s 12A	15
19 Amendment of s 13 (General compliance provision)	16
20 Amendment of s 14 (Compliance notice)	17
21 Omission of s 15 (Procedure for immediate suspension of licence)	17
22 Amendment of s 16 (Inspection of a licence regulated activity)	17
23 Amendment of s 17 (Performance of work)	18
24 Amendment of s 18 (Power of entry and cost recovery)	19
25 Omission of s 20 (Owners and Occupiers must ensure compliance with the local law)	19
26 Amendment of s 24 (Subordinate local laws)	20
26A Amendment of s 25 (Repeals)	21
27 Amendment of sch 1 (Dictionary)	22
28 Amendment of sch 2 (Licence regulated activities)	24

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law (Amending) Local Law No. 3 (Commercial Licensing) 2019*.

2 Commencement

This local law commences on the date notice of the making of the local law is published in the gazette.

3 Local laws amended

This local law amends *Local Law No. 3 (Commercial Licensing) 2013*.

Part 2 Amendment of Local Law No. 3 (Commercial Licensing) 2013

4 Amendment of s 2 (Objects)

(1) Section 2(a), subsection (ii), ‘; or’ –

omit, insert –

; and

(2) Section 2(a), subsection (iii) –

omit.

5 Amendment of s 3 (Definitions – the Dictionary)

(1) Section 3(1), ‘the Schedule’ –

omit, insert –

Schedule 1

- (2) Section 3(2), after 'this local law' –

insert –

.

6 Amendment of s 4 (Relationship to other laws)

- (1) Section 4, before subsection (1) –

insert –

(1) This local law is to be read with *Local Law No. 1 (Administration) 2013*.

- (2) Section 4(2), 'with all Acts' –

omit, insert –

with any Acts

- (3) Section 4(2), subsection (b), '*Fire and Rescue Service Act 1990*' –

omit, insert –

Fire and Emergency Services Act 1990

- (4) Section 4(2), subsection (c), '*Land Protection (Pest and Stock Route Management) Act 2002*' –

omit, insert –

Stock Route Management Act 2002

- (5) Section 4(2), subsection (h), '*Sustainable Planning Act 2009*' –

omit, insert –

Planning Act 2016

(6) Section 4, subsections (1) and (2) –

renumber as subsections (2) and (3), respectively

7 Insertion of new s 4A

After Part 2, heading –

insert –

4A What is a licence regulated activity

(1) A ***licence regulated activity*** means –

- (a) an activity which is prescribed as a licence regulated activity in schedule 2 of this local law; or
- (b) an activity which would ordinarily be prohibited by a local law unless authorised by a licence, but for which a local law or subordinate local law prescribes that a licence is not required.

8 Amendment of s 5 (Requirement for a licence)

(1) Section 5, heading –

omit, insert –

5 Offence to operate licence regulated activity without a licence

(2) Section 5(2), from '(a)' to '(b)' –

omit.

- (3) Section 5, subsection (3), '(Requirement for a licence)' –

omit, insert –

(Offence to operate licence regulated activity without a licence)

- (4) Section 5, subsections (4) to (6) –

omit.

9 Insertion of new s 5A

After section 5 –

insert –

5A Minimum standards for licence regulated activity

- (1) The local government may, by subordinate local law, prescribe minimum standards that must be complied with in carrying out a licence regulated activity.
- (2) The local government may, by subordinate local law, require that a licence regulated activity or an exempt licence regulated activity cannot be carried out unless—
 - (a) minimum standards for the regulated activity prescribed in a subordinate local law are complied with; or
 - (b) if minimum standards cannot be complied with, the written approval of the local government has been obtained.

- (3) If the local government prescribes minimum standards for the conduct of a licence regulated activity or exempt licence regulated activity, a person must not—
- (a) operate the licence regulated activity or exempt licence regulated activity (as the case may be) on premises within the local government area unless—
- (i) the relevant minimum standards are complied with; or
- (ii) the person has obtained the written approval of the local government under section 5A(2)(b), or
- (b) change the manner of operation of a licence regulated activity on premises within the local government area unless –
- (i) the relevant minimum standards are complied with; or
- (ii) the person has obtained the written approval of the local government under section 5A(2)(b).

Maximum penalty for subsection (3)—50 penalty units

10 Amendment of s 6 (Application for a licence)

- (1) Section 6(1)(c), subsection (iii) –

omit, insert –

- (iii) in respect of any separate approval relating to the proposal that is required under another law –

- (A) proof that the applicant holds any separate approval relating to the proposal; or
- (B) proof that an application has been made for any separate approval relating to the proposal and advice on the status of that application; or
- (C) advice on when an application for any separate approval relating to the proposal will be made; and

(2) Section 6(3), subsection (b), before 'licence' –

insert –

a

(3) Section 6, subsections (4) and (5) –

omit.

(4) Section 6, subsection (6) –

renumber as subsection (4)

11 Insertion of new s 6A

After section 6 –

insert –

6A Request for further information

- (1) The local government may, by written notice, request the applicant to provide further information or clarification of information, documents or materials included in the application.
- (2) The notice under subsection (1) must state—
 - (a) the grounds on which the request is made; and
 - (b) an outline of the facts and circumstances forming the basis for the grounds; and
 - (c) a detailed description of the information requested; and
 - (d) the date, not less than 10 business days after the applicant receives the notice, by which the applicant must provide the information.
- (3) If the applicant does not provide the further information by the stated date—
 - (a) the application lapses; and
 - (b) the local government must give the applicant written notice stating that—
 - (i) under this section the application lapses; and
 - (ii) the applicant may make a new application.
- (4) However, the local government may extend the period for the applicant to provide the further information.

12 Amendment of s 7 (Deciding application for a licence)

- (1) Section 7(1), subsection (a), before 'consider' –

insert –

subject to section 6(3) of this local law,

(2) Section 7(1), subsection (b) –

omit, insert –

(b) after carrying out assessment of the application –

(i) approve the application;

(ii) approve the application subject to conditions; or

(iii) refuse the application.

(3) Section 7(2), subsection (c), 'environmental harm or' –

omit.

(4) Section 7(2), subsection (i), footnote 3, 'the Schedule' –

omit, insert –

Schedule 1

13 Amendment of s 8 (Term of a licence)

Section 8, subsection (1) –

omit, insert –

(1) Unless sooner cancelled or suspended, a licence remains in force from the date of issue until the thirtieth day of the following June unless otherwise specified in the licence or a subordinate local law.

14 Amendment of s 9 (Conditions of a licence)

Section 9, subsection (2) –

omit, insert –

- (2) However, the conditions must—
 - (a) be reasonably necessary to ensure that the operation and management of the proposal will be adequate to protect public health, safety and amenity; and
 - (b) be consistent with the purpose of any relevant local law or subordinate local law; and
 - (c) require the approval holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the proposal under an Act within 3 days of the relevant approval being suspended or cancelled.

15 Amendment of s 10 (Power to change the conditions of a licence)

- (1) Section 10(1), subsection (b), 'urgently' –

omit.

- (2) Section 10(1)(b), subsection (iii) –

omit.

- (3) Section 10(1)(b), subsection (iv) –

renumber as subsection (iii)

- (4) Section 10, after subsection (1) –

insert –

(1A) Section 10(1) (Power to change the conditions of a licence) of this local law does not limit the power a local government may have apart from this section to amend a condition of a licence.¹

(5) Section 10, subsection (4), after 'licence' –

insert –

or a later day stated in the notice

16 Amendment of s 11 (Amendment, renewal or transfer of a licence)

(1) Section 11, subsection (1), after 'make' –

insert –

an

(2) Section 11(1), subsection (a), after 'licence' –

insert –

including the conditions of the licence

(3) Section 11(2)(d), subsection (ii), before 'the written consent' –

insert –

if the applicant for the transfer or the transferee is not the owner,

(4) Section 11, subsection (5) –

omit, insert –

¹ See section 9 of *Local Law No. 1 (Administration) 2013*.

- (5) If an application to renew a licence is made to the local government, the licence remains in force until –
- (a) the application is granted;
 - (b) if the application is refused and the applicant applies for a review under Part 6 of *Local Law No. 1 (Administration) 2013* – the date the applicant is given notice of the review decision; or
 - (c) if the application is refused and the applicant has not applied for a review of the decision under Part 6 of *Local Law No. 1 (Administration) 2013* – 14 days after the applicant is given an information notice.

17 Amendment of s 12 (Cancellation or suspension of a licence)

- (1) Section 12(1), subsection (b), 'urgently' –

omit.

- (2) Section 12(1)(b), subsection (iii) –

omit.

- (3) Section 12(1)(b), subsection (iv) –

renumber as subsection (iii)

- (4) Section 12(1), subsection (f), '.' –

omit, insert –

; or

- (5) Section 12(1), after subsection (f) –

insert –

- (g) another approval or licence required to operate the activity under another law has been suspended or cancelled.

- (6) Section 12(2), subsection (a), before 'give the holder' –

insert –

before taking the proposed action,

- (7) Section 12(2)(a), subsection (i) –

omit, insert –

- (i) the proposed action and the reasons for the proposed action; and

- (8) Section 12(2)(a), after subsection (i) –

insert –

- (ii) if the local government proposes to suspend the licence – the proposed period of suspension; and

- (9) Section 12(2)(a), subsection (ii) and (iii) –

renumber as subsections (iii) and (iv), respectively.

- (10) Section 12(3), subsection (b), after 'cancel' –

insert –

or suspend

- (11) Section 12, subsection (4), 'effected' –

omit, insert –

affected

- (12) Section 12, subsection (6), after 'licence regulated activity' –

insert –

from the date the cancellation or suspension takes effect under subsection (5)

18 Insertion of new s 12A

After section 12 –

insert –

12A Procedure for immediate suspension of a licence

- (1) Despite section 12 (Cancellation or suspension of a licence), the local government may immediately suspend a licence if the local government believes that continuation of the activity by the licence holder poses—
 - (a) an urgent and serious threat to public health or safety; or
 - (b) an urgent and serious risk of property damage or loss of amenity.
- (2) The suspension—
 - (a) can be effected only by the local government giving a notice to the licence holder about the decision to immediately suspend the licence, together with a notice about proposed action under section 12(2); and

- (b) operates immediately the notices are given to the licence holder; and
- (c) continues to operate until the earliest of the following happens—
 - (i) the local government cancels the suspension;
 - (ii) the local government gives the licence holder notice under section 12(3) of its decision after it has considered all submissions made within the stated time;
 - (iii) 10 business days have passed since the expiry of the stated time for the making of written submissions;
 - (iv) 10 business days have passed since the licence holder notifies the local government that it has made its final written submissions.

19 Amendment of s 13 (General compliance provision)

- (1) Section 13(2), subsection (c) –
omit.
- (2) Section 13(2), subsections (d) and (e) –
renumber as subsections (c) and (d), respectively
- (3) Section 13(2), subsection (f) to (h) –
renumber as subsections (a) to (c), respectively

20 Amendment of s 14 (Compliance notice)

- (1) Section 14, subsection (1) –

omit, insert –

- (1) The local government may give a compliance notice to a person in relation to a contravention of this local law.²

- (2) Section 14, subsection (2) –

omit.

- (3) Section 14, subsection (3), 'subsection (3)' –

omit, insert –

subsection (2)

- (4) Section 14, subsection (3) –

renumber as subsection (2)

21 Omission of s 15 (Procedure for immediate suspension of licence)

Section 15 –

omit, insert –

15 Section not used

22 Amendment of s 16 (Inspection of a licence regulated activity)

- (1) Section 16, heading –

² See section 30 of *Local Law No. 1 (Administration) 2013*.

omit, insert –

16 Inspection of activities

- (2) Section 16, subsection (1), after 'operation of a licence regulated activity' –

insert –

or an exempt licence regulated activity

- (3) Section 16, subsection (3), '(Inspection of a licence regulated activity)' –

omit, insert –

(Inspection of activities)

- (4) Section 16(4), subsection (a), '(Inspection of a licence regulated activity)' –

omit, insert –

(Inspection of activities)

23 Amendment of s 17 (Performance of work)

- (1) Section 17, subsection (1), after 'the offence' –

insert –

, including by repairing the damage or restoring any damaged structure, object
or thing to its original standard

- (2) Section 17, subsection (2), after 'may perform the work' –

insert footnote –

See section 31 of *Local Law No. 1 (Administration) 2013*.

- (3) Section 17, subsection (2), after 'performed by' –

omit, insert –

–

- (a) section 17(1) (Performance of work) of this local law; or
- (b) a compliance notice issued under this local law.

- (4) Section 17, subsections (3) and (4) –

omit.

- (5) Section 17, subsection (5) –

renumber as subsection (3)

24 Amendment of s 18 (Power of entry and cost recovery)

Section 18, subsections (2) and (3) –

omit, insert –

- (2) The local government may recover the cost of action taken under this section as a debt from the person responsible for the activity.

25 Omission of s 20 (Owners and Occupiers must ensure compliance with the local law)

Section 20 –

omit, insert –

20 Section not used

26 Amendment of s 24 (Subordinate local laws)

- (1) Section 24, subsection (a), 'the Schedule' –

omit, insert –

Schedule 1

- (2) Section 24, subsection (b), 'the Schedule' –

omit, insert –

Schedule 1

- (3) Section 24, subsection (c), 'the Schedule' –

omit, insert –

Schedule 1

- (4) Section 24, subsection (d), '5(4) (Requirement for a licence)' –

omit, insert –

5A (Minimum standards for licence regulated activity)

- (5) Section 24, subsection (e), 'the Schedule' –

omit, insert –

Schedule 1

- (6) Section 24, subsection (f), 'the Schedule' –

omit, insert –

Schedule 1

- (7) Section 24, subsection (g), '(Requirement for a licence)' –

omit, insert –

(Offence to operate licence regulated activity without a licence)

- (8) Section 24, subsection (i), '6(6)(c)' –

omit, insert –

6(4)(c)

- (9) Section 24, subsection (k) –

omit.

- (10) Section 24, subsection (n), '(Inspection of a licence regulated activity)' –

omit, insert –

(Inspection of activities)

- (11) Section 24, subsection (o), ';' and' –

omit, insert –

.

- (12) Section 24, subsections (l) to (o) –

renumber as subsections (k) to (n), respectively

26A Amendment of s 25 (Repeals)

Section 25 –

omit, insert –

The following Local Laws are repealed —

- (a) *Local Law no.13 (Cemeteries) 2005*, gazetted 18 February 2005;
- (b) *Local Law No. 19 (Swimming Pools) 1999*, gazetted 13 August 1999;
- (c) *Local Law No. 20 (Commercial Use of Roads) 1999*, gazetted 30 April 1999;
- (d) *Local Law No. 30 (Camping Grounds) 1999*, gazetted 14 January 2000;
- (e) *Local Law No. 31 (Caravan Parks) 1999*, gazette 14 January 2000; and
- (f) *Local Law No. 50 (Control of Advertisements)*, gazetted 12 April 1996.

27 Amendment of sch 1 (Dictionary)

- (1) Schedule 1 –

insert–

election sign means –

- (a) a device advertising a political candidate or candidates, or a purported political candidate or candidates, a registered political party, or a campaign for a Commonwealth, State or Local Government election; or
- (b) a device advertising a case for or against a question or bill that is to be submitted to electors at a referendum or other poll that is administered by the State or Commonwealth electoral commission.

Planning Act means the *Planning Act 2016* (Qld) and includes the predecessor legislation to that Act.

- (2) Schedule 1, definition *environmental harm* –

omit.

- (3) Schedule 1, definition *environmental nuisance* –

omit.
- (4) Schedule 1, definition *footpath*, after ‘or has’ –

insert –

as
- (5) Schedule 1, definition *land*, ‘*Sustainable Planning Act 2009*’ –

omit, insert –

Planning Act 2016
- (6) Schedule 1, definition *licence*, subsection (b), after ‘cancelled’ –

insert –

or suspended
- (7) Schedule 1, definition *licence*, subsection (b), after ‘Cancellation’ –

insert –

or suspension
- (8) Schedule 1, definition *licence regulated activity* –

omit, insert –

licence regulated activity see section 4A.
- (9) Schedule 1, definition *operation*, ‘or, in any activity’

omit.

- (10) Schedule 1, definition *planning scheme* –

omit, insert –

planning scheme means the planning scheme made or amended from time-to-time under the *Planning Act*.

- (11) Schedule 1, definition *premises* –

omit, insert –

premises see the *Planning Act 2016*, schedule 2.

28 Amendment of sch 2 (Licence regulated activities)

- (1) Schedule 2, Part 1, after 'pet shop' –

insert –

pet daycare

- (2) Schedule 2, Part 1, 'cemetery' –

omit.

- (3) Schedule 2, Part 1, after 'cattery' –

insert –

cemetery

- (3A) Schedule 2, Part 1, 'election sign' –

omit.

- (4) Schedule 2, Part 2 –

insert –

pet daycare means a service undertaken on a commercial basis, involving the temporary minding of pet animals at a premises, of no more than 10 animals at a time, but does not include overnight care, a veterinary clinic use or a service that solely relates to animal grooming.

- (5) Schedule 2, Part 2, definition *cattery*, after 'basis' –

insert –

but does not include pet daycare.

- (6) Schedule 2, Part 2, definition *cemetery* –

omit.

- (7) Schedule 2, Part 2, after definition *cattery* –

insert –

cemetery means premises for which approval has been granted by the local government under the planning scheme or otherwise for the burial or disposal of human remains other than premises owned, operated or held in trust by the local government.

- (8) Schedule 2, Part 2, definition *commercial activity on a local government controlled area or road*, subsection (f), '1994' –

omit, insert –

1994

- (9) Schedule 2, Part 2, definition *commercial activity on a local government controlled area or road*, subsection (g), after '*Land Act*' –

insert –

1994

- (10) Schedule 2, Part 2, definition *commercial activity on a local government controlled area or road*, subsection (g), 'road or area' –

omit, insert –

area or road

- (11) Schedule 2, Part 2, definition *commercial activity on a local government controlled area or road*, subsection (h), '1994' –

omit, insert –

1994

- (12) Schedule 2, Part 2, definition *commercial activity on a local government controlled area or road*, subsection (i), '*Sustainable Planning Act 2009*' –

omit, insert –

Planning Act 2016

- (13) Schedule 2, Part 2, definition *commercial activity on a local government controlled area or road*, subsection (j), from '*Local Law No. 7*' –

omit, insert –

this local law, *Local Law No. 4 (Permits) 2013* or *Local Law No. 7 (Local Government Controlled Areas and Roads) 2013*;

- (14) Schedule 2, Part 2, definition *commercial activity on a local government controlled area or road*, subsection (k), '.' –

omit, insert –

; or

- (15) Schedule 2, Part 2, definition *commercial activity on a local government controlled area or road*, after subsection (k) –

insert –

- (l) the hiring of bicycles, scooters or other personal mobility devices or rideables whether electric or not.

- (15A) Schedule 2, Part 2, definition *election sign* –

omit.

- (16) Schedule 2, Part 2, definition *entertainment venue* –

omit, insert –

entertainment venue means those venues identified in a subordinate local law.

- (17) Schedule 2, Part 2, definition *kennel*, after 'basis' –

insert –

but does not include pet daycare.

- (18) Schedule 2, Part 2, definition *temporary advertising device*, subsection (a), before 'device for' –

insert –

a

- (19) Schedule 2, Part 2, definition *temporary advertising device*, subsection (b), 'or a device' –

omit, insert –

a device

- (20) Schedule 2, Part 2, definition *temporary entertainment event*, `Sustainable Planning Act 2009 –

omit, insert –

Planning Act 2016