

Ipswich

City Council

Draft

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

Contents

Part 1 Preliminary

1	Short title.....	4
2	Commencement.....	4
3	Local laws amended.....	4

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

4	Amendment of s 2 (Objects).....	4
5	Amendment of s 3 (Definitions – the Dictionary)	4
6	Amendment of s 4 (Relationship to other laws).....	5
7	Insertion of new s 4A.....	6
8	Amendment of s 5 (Requirement for a licence).....	6
9	Insertion of new s 5A.....	7
10	Amendment of s 6 (Application for a licence).....	8
11	Insertion of new s 6A.....	9
12	Amendment of s 7 (Deciding application for a licence).....	10
13	Amendment of s 8 (Term of a licence).....	11
14	Amendment of s 9 (Conditions of a licence).....	11
15	Amendment of s 10 (Power to change the conditions of a licence).....	12
16	Amendment of s 11 (Amendment, renewal or transfer of a licence).....	13
17	Amendment of s 12 (Cancellation or suspension of a licence).....	14
18	Insertion of new s 12A.....	16
19	Amendment of s 13 (General compliance provision).....	17
20	Amendment of s 14 (Compliance notice).....	17
21	Omission of s 15 (Procedure for immediate suspension of licence).....	18
22	Amendment of s 16 (Inspection of a licence regulated activity).....	18
23	Amendment of s 17 (Performance of work).....	19
24	Amendment of s 18 (Power of entry and cost recovery).....	20

25	Amendment of s 24 (Subordinate local laws).....	20
26	Amendment of sch 1 (Dictionary).....	22
27	Amendment of sch 2 (Licence regulated activities).....	24

Draft

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 ‘–’ 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, subsection (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;

- (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 –

10A 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

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) –

renumber as subsection (2)

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

omit, insert –

subsection (2)

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

Section 15 –

omit.

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

- (1) Section 16, heading –

omit, insert –

16 Inspection of activities

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

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

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, subsection (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 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

26 Amendment of sch 1 (Dictionary)

- (1) Schedule 1 –

insert –

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 'Cancellation' –

insert –

or suspension

- (7) Schedule 1, definition *licence regulated activity*, subsection (b) –

omit, insert –

licence regulated activity see section 4A.

- (8) Schedule 1, definition *operation*, 'or, in any activity'

omit.

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

omit, insert –

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

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

omit, insert –

premises see the *Planning Act 2016*, schedule 2

27 Amendment of sch 2 (Licence regulated activities)

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

insert –

pet daycare

- (2) 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.

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

insert –

but does not include pet daycare.

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

omit, insert –

1994

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

insert –

1994

- (6) 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

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

omit, insert –

1994

- (8) 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

- (9) 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 or Roads) 2013*.

- (10) 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

- (11) Schedule 2, Part 2, definition entertainment venue –

omit, insert –

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

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

insert –

but does not include pet daycare.

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

omit, insert –

a device

- (14) Schedule 2, Part 2, definition *temporary entertainment event*, '*Sustainable Planning Act*

2009 –

omit, insert –

Planning Act 2016