

Local government legislation— information on the Queensland Civil and Administrative Tribunal (QCAT)

The Queensland Civil and Administrative Tribunal (QCAT) commenced on 1 December 2009. QCAT has jurisdiction to hear a variety of matters including an internal review decision of a local government under the *Animal Management (Cats and Dogs) Act 2008* and decisions under the *Local Government Act 1993* in relation to levee banks and changes to the land record.

These local government decisions must include, or be accompanied by, a written notice (QCAT notice) for the decision, which complies with the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act) section 157(2).

The QCAT notice must state the decision, the reasons for the decision, that the person has a right to have the decision reviewed by the tribunal, how, the period within which the person may apply for the review, and any right the person has to have the operation of the decision stayed under the QCAT Act section 22.

The person notified of the decision may apply to the local government for a written statement of the reasons for the decision under the QCAT Act section 158. The request to the local government must be in writing, whether by letter, facsimile or email and made within 14 days after the person was notified of the local government's decision.

The local government must give the person the statement within a reasonable period of not more than 28 days after the request is made for more information regarding reasons for the decision.

The person has 28 days to apply to QCAT from the day the reasons are given by the local government or 28 days from when the person asked for the reasons, whichever is earliest. A copy of the local government's decision must be lodged with the application to QCAT.

Animal Management (Cats and Dogs) Act 2008

From 1 December 2009, the QCAT legislation transferred jurisdiction from the Magistrates Court to QCAT under the *Animal Management (Cats and Dogs) Act 2008* to review an internal review decision of the local government or a permanent identification device (PID) review decision of the chief executive of the Department of Infrastructure and Planning.

Under the *Animal Management (Cats and Dogs) Act 2008* a review by QCAT is defined as an **external review**, a review decision by the relevant local government is defined as



an **internal review decision** and a review decision by the chief executive of the Department of Infrastructure and Planning in relation to the regulation of authorised implanters or a Permanent Identification Device (PID) registry licence is defined as a **PID review decision**.

Under chapter 8 part 1 a person who is given, or is entitled to be given a review notice for a decision (a PID review decision or internal review decision), may apply for an external review of the decision under the QCAT Act. A review notice must include or be accompanied by a written notice complying with the QCAT Act section 157(2).

Attached are the updated Department of Infrastructure and Planning's Regulated Dog flowcharts 2 (Internal review process) and 3 (External review process).

Local Government Act 1993

Levee banks

From 1 December 2009, the QCAT legislation transferred jurisdiction from an appeal tribunal to QCAT to review a local government's decision in relation to levee banks.

If permission for a levee bank is refused by the local government, or is subject to conditions, the written notice given by the local government to the applicant under section 939 of the *Local Government Act 1993* must be accompanied by a QCAT information notice for the decision, which complies with the QCAT Act section 157(2).

Land record

From 1 December 2009, the QCAT legislation transferred jurisdiction from the Magistrates Court to QCAT to review a local government's decision to amend the land record.

If an amendment to the local government land record changes a rate that is, or may be levied on land, the chief executive officer of the local government must immediately give a QCAT information notice under section 996 of the *Local Government Act 1993* for the amendment to the owner of the land. The QCAT information notice must comply with the QCAT Act section 157(2).

Anti-discrimination and equality and employment opportunity

From 1 December 2009, the anti-discrimination and equality and employment opportunity (EEO) provisions of the *Local Government Regulation 2005* were transferred to the *Local Government Act 1993* to confer original jurisdiction on QCAT to investigate local government EEO obligations. The transfer is also a consequence of the appeal jurisdiction of the Anti-Discrimination Tribunal to deal with local government discrimination matters being transferred to QCAT.

Under the *Local Government Act 1993* section 1137J, the chief executive of the Department of Infrastructure and Planning may refer certain local government EEO matters to QCAT under the QCAT Act. QCAT has the jurisdiction to investigate and give a report, with or without recommendations, to the chief executive officer of the local government and the chief executive of the Department of Infrastructure and Planning. A local government must comply with a recommendation given in a QCAT report.

Local Government Act 2009

The *Local Government Act 2009* provides for the conferral of original jurisdiction on QCAT to investigate and report on local government EEO matters and enables a regulation to be made to govern operational and administrative EEO matters.



Attached is QCAT Form 23 (Application to review a decision).
For further information on QCAT please visit www.tribunalsreview.qld.gov.au

Any further enquiries regarding these matters should be addressed to the Department of Infrastructure and Planning, PO Box 15009 City East Qld 4002, telephone +617 3404 3302, e-mail igenquiries@dip.qld.gov.au

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