



Local Law No. 13

(On-Site Sewerage Facilities Operation and Servicing) 2012

Reprinted as in force on 17 March 2017

Reprint No. 1

This law is a reprint copy that shows the law as made and amended by all amendments that commenced on or before the date of the reprint.

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Chief Executive Officer



Local Law No. 13 (On-Site Sewerage Facilities Operation and Servicing) 2012

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Logan City Council Local Law No. 13 (On-Site Sewerage Facilities Operation and Servicing) 2012

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 13 (On-Site Sewerage Facilities Operation and Servicing) 2012*.

2 Application and object

- (1) This local law and any subordinate local law made under this local law apply to the whole of the Logan City Council local government area.
- (2) The object of this local law is to regulate the operation and servicing of on-site sewerage facilities so as to protect public health and the environment.

3 Definitions—the dictionary

The dictionary in the Schedule (Dictionary) defines particular words used in this local law.

4 Relationship to other laws

- (1) This local law is in addition to the *Plumbing and Drainage Act 2002*.
- (2) Unless the context otherwise indicates or requires, terms not defined in this local law are to have the meanings assigned to them by the *Plumbing and Drainage Act 2002*.
- (3) This local law does not—
 - (a) regulate the installation of an on-site sewerage facility; or
 - (b) apply to an on-site sewerage facility if the operation of that on-site sewerage facility is licensed in respect of its operation by—
 - (i) the State government; or
 - (ii) the local government pursuant to a Local Government Act (other than a local law).

Example of paragraph (a)—

This would exempt from the operation of this local law the installation of, but not the operation of, an on-site sewerage facility approved under the *Plumbing and Drainage Act 2002*.

Example of paragraph (b)—

This would exempt from the operation of this local law the operation of an on-site sewerage facility that is licensed under the *Environmental Protection Act 1994*.

- (4) The local government must not exercise its powers under part 2 or part 3 of this local law in a manner that is inconsistent with—
- (a) the *Plumbing and Drainage Act 2002*; and
 - (b) the Queensland Plumbing and Wastewater Code; and
 - (c) the conditions of an approval for the installation or operation of an on-site sewerage facility.

Part 2 Operation of on-site sewerage facility

5 Operation of an on-site sewerage facility

The owner and occupier of premises on which an on-site sewerage facility is situated, must ensure that the operation of the on-site sewerage facility—

- (a) does not result in harm to human health or safety or personal injury; and
- (b) does not result in property damage or a loss of amenity; and
- (c) does not result in environmental harm or environmental nuisance; and
- (d) does not result in a nuisance; and
- (e) complies with the prescribed criteria.

Maximum penalty—40 penalty units.

Part 3 Enforcement

6 Penalty infringement notice

If a person commits an offence under this local law, the local government may serve a penalty infringement notice on that person in accordance with the *State Penalties Enforcement Act 1999*.

7 Compliance notice

- (1) An authorised person may give a compliance notice to—
- (a) a person who contravenes this local law; and

- (b) the owner or occupier of the premises on which the on-site sewerage facility is being operated.
- (2) A compliance notice must require the person to whom it is given to perform work or otherwise take specified action which is reasonably necessary to remedy the contravention.
- (3) A compliance notice must specify a time within which the person to whom it is given must perform the work or take the specified action to remedy the contravention.
- (4) The time specified in a compliance notice by which the person to whom it is given must perform work or otherwise take specified action to remedy the contravention must not be less than 28 days after the day on which the notice is given to the person.
- (5) A person who is given a compliance notice must comply with the compliance notice.

Maximum penalty for subsection (5)—165 penalty units.

8 Inspection of an on-site sewerage facility

- (1) An authorised person may inspect an on-site sewerage facility and any premises, equipment, plant or thing involved in the operation of the on-site sewerage facility to find out whether there is compliance with—¹
 - (a) the requirements of this local law; and
 - (b) the prescribed criteria; and
 - (c) the requirements of a compliance notice.
- (2) An authorised person may direct the owner or occupier of premises on which an on-site sewerage facility is situated to produce for inspection—²
 - (a) any records that are required to be kept in respect of the on-site sewerage facility as specified in a subordinate local law and may take copies of or extracts from those records; and
 - (b) any equipment, plant or thing involved in the operation of the on-site sewerage facility.
- (3) An authorised person may measure, weigh, sample, test or otherwise examine anything that may be inspected pursuant to section 8 (Inspection of an on-site sewerage facility) of this local law.³

¹ See the powers contained in Chapter 5, Part 2, Division 1 of the *Local Government Act 2009*.

² See the powers contained in Chapter 5, Part 2, Division 1 of the *Local Government Act 2009*.

- (4) The owner and occupier of premises on which an on-site sewerage facility is situated must comply with—
- (a) a direction of an authorised person pursuant to subsection (2); and
 - (b) the terms of a periodic inspection, monitoring or management program in respect of the operation of the on-site sewerage facility specified in a subordinate local law.

Maximum penalty for subsection (4)—40 penalty units.

9 Repair of damage

A person who commits an offence under this local law must make good any damage caused directly or indirectly by the commission of the offence.

10 Performance of work

- (1) The local government may perform work required under section 9 if a person has failed to perform work required to be performed by—⁴
- (a) agreement; or
 - (b) a compliance notice issued under this local law;
 - (c) an order of the Court under subsection (3); or
 - (d) any other provision of this local law.
- (2) The local government may perform work required under section 9 if:
- (a) a person has been found guilty of committing an offence under this local law;
 - (b) after reasonable written notice to that person of the requirement to make good any damage caused directly or indirectly by the commission of that offence;
 - (c) that person has not made good any damage caused directly or indirectly by the commission of that offence; and
 - (d) no order under subsection (3) has been made by the Court.
- (3) The Court may order a person found guilty of an offence under this local law to—
- (a) perform work required to be performed by—

³ See the powers contained in Chapter 5, Part 2, Division 1 of the *Local Government Act 2009*.

⁴ The exercise of this power is subject to Chapter 5, Part 2, Division 2 of the *Local Government Act 2009*.

- (i) section 9; or
 - (ii) a compliance notice issued under this local law; or
 - (iii) a provision of this local law; and
- (b) pay to the local government all costs incurred by the local government in performing the work pursuant to subsection (1).

11 Power of entry and cost recovery

- (1) If the work to be carried out by the local government is on land of which the local government is not the owner or occupier, the local government may enter the land to perform the work—⁵
- (a) if the person who has failed to perform the work is the owner or occupier of the land; or
 - (b) if the person who has failed to perform the work is not the owner or occupier of the land.
- (2) If the person who failed to perform the work is the owner of the land, the amount properly and reasonably incurred by the local government to perform the work is recoverable, together with any interest, under Chapter 5, Part 2, Division 2 of the *Local Government Act 2009*.
- (3) If the person who failed to perform the work is not the owner of the land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the person in default under Chapter 5, Part 2, Division 2 of the *Local Government Act 2009*.

Part 4 Administrative Provisions

12 Executive officers must ensure the corporation complies with the local law

- (1) The executive officers of a corporation must ensure the corporation complies with this local law.
- (2) If a corporation commits an offence against a provision of this local law, each of the corporation's executive officers also commit an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this local law is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with the provision.

⁵ See the powers contained in Chapter 5, Part 2, Division 2 of the *Local Government Act 2009*.

- (4) However, it is a defence for an executive officer to prove—
- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence – the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) This section applies so as not to limit or affect in any way the liability of a corporation to be proceeded against and punished for an offence committed by the corporation in contravention of this local law.

13 Liability of third parties

- (1) Any person involved in a contravention of this local law commits an offence.
- Maximum penalty for subsection (1)—the penalty for which any person who committed the contravention would be liable.
- (2) For the purposes of subsection (1), a person involved in a contravention of this local law is any person who—
- (a) has aided, abetted, counselled or procured the contravention; or
 - (b) has induced, whether by a threat or a promise or otherwise, the contravention; or
 - (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
 - (d) has conspired with another person to effect the contravention; or
 - (e) has knowingly benefited from or knowingly was capable of benefiting from the contravention.

14 Attempts to commit offences

- (1) A person who attempts to commit an offence under this local law commits an offence.
- Maximum penalty for subsection (1)—half the maximum penalty for committing the offence.
- (2) The provisions of the *Criminal Code* (relevant to attempts to commit offences) apply to the attempt.

15 Defences

It is a defence to any breach or non-compliance of any provision contained in this local law if a person has a lawful excuse or defence.

Example—

It is a defence to any breach or non-compliance of any provision contained in this local law if a person was not criminally responsible in accordance with Chapter 5 of the *Criminal Code*.

Part 5 Subordinate Local Laws

16 Subordinate local laws

- (1) The local government may, in a subordinate local law, specify—
 - (a) the prescribed criteria with which an on-site sewerage facility must comply pursuant to the Schedule (Dictionary) of this local law; and
 - (b) the records that are required to be kept pursuant to section 8(2)(a) of this local law; and
 - (c) a periodic inspection, monitoring or management program pursuant to section 8(4)(b) of this local law; and
 - (d) such other matters as are provided for in this local law.

Schedule Dictionary

section 3

approval means a consent, permit, licence, authorisation, registration, membership or approval under a Local Government Act or a local law and includes all the conditions of a consent, permit, licence, authorisation, registration, membership or approval.

authorised person means a person appointed by the local government pursuant to *Local Law No. 2 (Administration) 2010* to exercise the powers of an authorised person under this local law.⁶

building has the meaning given in the *Building Act 1975*.

compliance notice means a written notice given pursuant to section 7 (Compliance notice) of this local law.

corporation means a corporation as defined in the *Corporations Act 2001* (Cth) and includes an association as defined in the *Associations Incorporation Act 1981*.

Court means the court of law which has jurisdiction to deal with offences under this local law.

environmental harm has the meaning given in the *Environmental Protection Act 1994*.

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

land has the meaning given in the *Sustainable Planning Act 2009*.

Local Government Act has the meaning given in the *Local Government Act 2009* and includes approvals granted pursuant to Local Government Acts.

local government area has the meaning given in the *Local Government Act 2009*.

local law includes any subordinate local laws and all approvals granted pursuant to this local law.

⁶ Section 21 (Appointment) of *Local Law No. 2 (Administration) 2010* provides for the local government to appoint a person to a position provided for under a local law and authorises a person appointed by the local government to a position provided for under a local law to exercise the powers attaching to that position under the local law unless otherwise stated in the appointment.

nuisance includes anything that—

- (a) disturbs or inconveniences people in the vicinity of the on-site sewerage facility; or
- (b) detracts from the use or enjoyment of land adjoining or in the vicinity of the on-site sewerage facility.

occupier has the meaning given in the *Plumbing and Drainage Act 2002*.

on-site sewerage facility—

- (a) has the meaning given in the *Plumbing and Drainage Act 2002*; and
- (b) does not include an on-site sewerage facility that consists of or that includes sewage treatment works, the operation of which is an environmentally relevant activity under the *Environment Protection Act 1994*.

owner has the meaning given in the *Plumbing and Drainage Act 2002*.

penalty infringement notice means an infringement notice under Part 3 of the *State Penalties Enforcement Act 1999*.

perform work includes take action to comply with a Local Government Act and includes work required to be performed pursuant to a compliance notice.

plant means any tree, bush, shrub, grass, fungi, algae or other thing terrestrial or aquatic including all natural parts of it or things naturally produced of, by or from it.

premises means a lot as defined in the *Sustainable Planning Act 2009*, and includes a lot that has a building situated on it, or that is wholly or partly contained in, or that wholly or partly contains, a building.

prescribed criteria means the criteria specified in a subordinate local law with which the operation of an on-site sewerage facility must comply.

Queensland Plumbing and Wastewater Code has the meaning given in the *Standard Plumbing and Drainage Regulation 2003*.

Endnotes

1 Index to Endnotes

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2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the 14 March 2017.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation
amd	= amended
ch	= chapter
def	= definition
div	= division
hdg	= heading
ins	= inserted
om	= omitted
p	= page
pt	= part
renum	= renumbered
rep	= repealed
s	= section
sch	= schedule
sdiv	= subdivision

4 Table of reprints

A reprint is issued upon the commencement of an amending instrument. A reprint is given the date of commencement of the amending instrument.

Table of reprints of this local law

Reprint No.	Amendments included	Reprint date
1	<i>Amending Local Law No. 1 (Miscellaneous Local Laws) 2017</i>	14 March 2017

5 List of legislation

Original Local Law

Local Law No. 13 (On-site Sewerage Facilities Operation and Servicing) 2012
date of gazettal 23 November 2012

Amending Local Laws

Amending Local Law No. 1 (Miscellaneous Local Laws) 2017
date of gazettal 14 March 2017

Original Subordinate Local Law

Subordinate Local Law No. 13.1 (On-site Sewerage Facilities Operation and Servicing) 2012
date of public notice 23 November 2012

Amending Subordinate Local Laws

Amending Subordinate Law No. 1 (Miscellaneous Local Laws) 2017
date of public notice 14 March 2017

6 List of annotations

PART 1—PRELIMINARY

Application and object

s 2 amd Amending Local Law No. 1 (Miscellaneous
Local Laws) 2017 s 38

SCHEDULE—DICTIONARY

om def *transferring area A* Amending Local Law No. 1 (Miscellaneous
Local Laws) 2017 s 39

om def *transferring area D* Amending Local Law No. 1 (Miscellaneous
Local Laws) 2017 s 36