

Local laws and anti-competitive provisions

Fact Sheet

What is an anti-competitive provision?

An anti-competitive provision in a local law is a provision which creates a barrier to entry to a market or to competition within a market. For example:

- a barrier to entry to a market would include where a local government requires a business owner to obtain a licence under a local law to operate
- a barrier to competition within a market would include where a local government may limit the number of businesses that operate or prohibit businesses from operating under a local law.

Legislative requirements in relation to anti-competitive provisions

Section 38 of the *Local Government Act 2009* and section 41 of the *City of Brisbane Act 2010* provide that a local government must not make a local law that contains an anti-competitive provision unless it has complied with the procedures prescribed by regulation for the review of anti-competitive provisions.

This requirement applies to model local laws, local laws developed independently by a local government and subordinate local laws if it is identified they contain possible anti-competitive provisions.

A local law that is made contrary to this requirement has no effect.

The procedure prescribed by regulation is contained in the [National Competition Policy - Guidelines for conducting reviews on anti-competitive provisions in local laws](#).

Exception

Only an interim local law that contains an anti-competitive provision is excluded from these requirements.