

Local Government Act 1995

Local Government (Administration) Amendment Regulations 2022

SL 2022/185

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Local Government (Administration) Amendment Regulations 2022*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Local Government (Administration) Regulations 1996*.

4. Regulations 14A and 14B deleted

Delete regulations 14A and 14B.

5. Regulation 14C amended

- (1) In regulation 14C(1) insert in alphabetical order:

Local Government (Administration) Amendment Regulations 2022**r. 5**

natural disaster includes fire, flood, lightning, movement of land and storm;

relevant period, in relation to the proposed meeting referred to in subregulation (3), means the period of 12 months ending on the day on which the proposed meeting is to be held.

- (2) In regulation 14C(1) in the definition of ***meeting*** paragraph (d) delete “government.” and insert:

government;

- (3) Delete regulation 14C(2) and (3) and insert:

- (2) A member of a council or committee may attend a meeting by electronic means —

(a) if —

- (i) a public health emergency or state of emergency exists or a natural disaster has occurred; and
- (ii) because of the public health emergency, state of emergency or natural disaster, the member is unable, or considers it inappropriate, to be present in person at the meeting; and
- (iii) the member is authorised to attend the meeting by electronic means by the mayor, president or council;

or

Local Government (Administration) Amendment Regulations 2022

r. 6

- (b) if the member is otherwise authorised to attend the meeting by electronic means by the mayor, president or council.
- (3) The mayor, president or council cannot authorise a member to attend a meeting (the *proposed meeting*) under subregulation (2)(b) if the member's attendance at the proposed meeting under that authorisation would result in the member attending more than half of the meetings (including the proposed meeting) of the council or committee, in the relevant period, under an authorisation under subregulation (2)(b).
- (4) Subregulation (3) does not apply to a member who is a person with a disability as defined in the *Disability Services Act 1993* section 3.
- (5) In deciding whether to authorise a member to attend a meeting by electronic means under subregulation (2), the mayor, president or council must have regard to whether the location from which the member intends to attend the meeting, and the equipment that the member intends to use to attend the meeting, are suitable for the member to be able to effectively engage in deliberations and communications during the meeting.

Note: The heading to amended regulation 14C is to read:

**Attendance at meetings by electronic means may be authorised
(Act s. 5.25(1)(ba))**

6. Regulation 14CA inserted

After regulation 14C insert:

14CA. Provisions relating to attendance at meetings by electronic means (Act s. 5.25(1)(ba))

- (1) In this regulation —
meeting has the meaning given in regulation 14C(1).

Local Government (Administration) Amendment Regulations 2022**r. 6**

- (2) The electronic means by which a member may attend a meeting under an authorisation under regulation 14C(2) include telephone, video conference or other means of instantaneous communication, as determined by the mayor, president or council.
- (3) A member who attends a meeting under an authorisation under regulation 14C(2) by electronic means determined under subregulation (2) is, whether or not the member is physically in the State, taken to attend and be present at the meeting for the purposes of the Act and these regulations while the member is in contact by those electronic means with each other member present at the meeting.
- (4) Subregulations (5) to (7) apply if —
 - (a) a member has been authorised to attend a meeting by electronic means under regulation 14C(2); and
 - (b) the meeting, or part of the meeting, is to be closed to members of the public under section 5.23(2).
- (5) The member must not attend the meeting or the closed part of the meeting unless, before the meeting, or the part of the meeting, is closed, the member declares that the member can maintain confidentiality during the meeting or the closed part of the meeting (as the case requires).
- (6) If the member makes the declaration under subregulation (5) and subsequently cannot maintain confidentiality, the member must leave the meeting or the closed part of the meeting.
- (7) A member's declaration under subregulation (5) must be recorded in the minutes of the meeting.

Local Government (Administration) Amendment Regulations 2022

r. 7**7. Regulation 14D amended**

- (1) In regulation 14D(1) insert in alphabetical order:

relevant period, in relation to the proposed meeting referred to in subregulation (2A), means the period of 12 months ending on the day on which the proposed meeting is to be held.

- (2) In regulation 14D(1) in the definition of *meeting* paragraph (d) delete “government.” and insert:

government;

- (3) In regulation 14D(2):

- (a) delete paragraph (a)(ii) and insert:

- (ii) the mayor, president or council considers it appropriate for the meeting to be held by electronic means because of the public health emergency or state of emergency and having regard to the matters in subregulation (2B);

- (b) in paragraph (b)(ii) delete “means.” and insert:

means;

- (c) after paragraph (b) insert:

or

- (c) if the council otherwise authorises the meeting to be held by electronic means.

Local Government (Administration) Amendment Regulations 2022**r. 7**

(4) After regulation 14D(2) insert:

- (2A) The council cannot authorise a meeting (the *proposed meeting*) to be held under subregulation (2)(c) if holding the proposed meeting under that authorisation would result in more than half of the meetings (including the proposed meeting) of the council or committee, in the relevant period, being held under an authorisation under subregulation (2)(c).
- (2B) In considering whether it is appropriate for a meeting to be held by electronic means under subregulation (2)(a) or deciding whether to authorise a meeting to be held by electronic means under subregulation (2)(b) or (c), the mayor, president or council must have regard to whether the location from which each member of the council or committee intends to attend the meeting, and the equipment that each member intends to use to attend the meeting, are suitable for the member to be able to effectively engage in deliberations and communications during the meeting.

(5) After regulation 14D(4) insert:

- (5) Subregulations (6) to (8) apply if —
 - (a) a meeting is to be held by electronic means under this regulation; and
 - (b) the meeting, or part of the meeting, is to be closed to members of the public under section 5.23(2).

Local Government (Administration) Amendment Regulations 2022

r. 8

- (6) A member of the council or committee must not attend the meeting or the closed part of the meeting unless, before the meeting, or the part of the meeting, is closed, the member declares that the member can maintain confidentiality during the meeting or the closed part of the meeting (as the case requires).
- (7) If a member makes the declaration under subregulation (6) and subsequently cannot maintain confidentiality, the member must leave the meeting or the closed part of the meeting.
- (8) A member's declaration under subregulation (6) must be recorded in the minutes of the meeting.

Note: The heading to amended regulation 14D is to read:

Meetings held by electronic means (Act s. 5.25(1)(ba))

8. Regulation 14E amended

- (1) In regulation 14E(1) insert in alphabetical order:

Band 3 or 4 council or committee means the council of, or a committee established by, a Band 3 or 4 local government;

Band 3 or 4 local government means a local government that is allocated to Band 3 or Band 4 under Schedule 1 of the *Local Government Chief Executive Officers and Elected Members Determination No. 1 of 2022* published in the *Gazette* on 11 April 2022;

- (2) Delete regulation 14E(3) and insert:
- (3) If a council or a committee holds an electronic meeting, a member of the council or committee who attends the meeting by electronic means determined under

Local Government (Administration) Amendment Regulations 2022**r. 8**

regulation 14D(3) is, whether or not the member is physically in the State, taken to attend and be present at the meeting for the purposes of the Act and these regulations while the member is in contact by those electronic means with each other member present at the meeting.

- (3A) If a council or a committee holds an electronic meeting, the meeting is open to members of the public under section 5.23(1) if —
- (a) in the case of a Band 3 or 4 council or committee — the requirement to publish the unconfirmed minutes of the meeting under regulation 13(1)(a) is complied with within the applicable time period set out in regulation 13(2) or (3); or
 - (b) in any case — the council or committee publicly broadcasts the meeting on a website or the meeting or a broadcast of the meeting is otherwise accessible to the public.

- (3) Delete regulation 14E(4)(b) and insert:

- (b) the council or committee determines at the meeting —
 - (i) in the case of a meeting held by electronic means under regulation 14D(2)(a) or (b) — that, given the public health emergency, state of emergency or direction issued under the *Public Health Act 2016* or the *Emergency Management Act 2005*, it is not appropriate to respond to the question at the meeting; or

Local Government (Administration) Amendment Regulations 2022

r. 9

- (ii) in any case — to respond to the question at the meeting in accordance with the procedure determined by the council or committee.

9. Regulation 29 amended

Delete regulation 29(1)(bb).

10. Regulation 31 amended

In regulation 31(1):

- (a) in paragraph (b) delete “member.” and insert:

member; and

- (b) after paragraph (b) insert:

- (c) child care and travel costs incurred by a council member in completing the training required by section 5.126(1).

Note: The heading to amended regulation 31 is to read:

Expenses to be reimbursed (Act s. 5.98(2)(a))

11. Regulation 36 amended

In regulation 36(1):

- (a) in paragraph (a) delete “either” and insert:

any

Local Government (Administration) Amendment Regulations 2022**r. 11**

(b) after paragraph (a)(ii) insert:

- (iii) the course titled *LGA50220 Diploma of Local Government - Elected Member*;
- (iv) the course titled *LGASS00007 Elected Member*;

Note: The heading to regulation 32 is to read:

**Expenses that may be approved for reimbursement
(Act s. 5.98(2)(b))**

N. HAGLEY, Clerk of the Executive Council.

Local Government Act 1995

Local Government Regulations Amendment Regulations 2022

SL 2022/177

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Local Government Regulations Amendment Regulations 2022*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) Part 2 (other than Division 3), Part 3 (other than Division 3), Part 4 (other than Division 3) and Part 5 (other than Division 3) — on the day on which the *Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022* section 7 comes into operation;
- (c) the rest of the regulations — on the day on which the *Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022* section 30 comes into operation.

Part 2 — *Local Government (Administration) Regulations 1996* amended

Division 1 — Regulations amended

3. Regulations amended

This Part amends the *Local Government (Administration) Regulations 1996*.

Division 2 — Amendment relating to *Emergency Management Act 2005 Part 6A*

4. Regulation 3AA inserted

At the end of Part 1 insert:

3AA. References to state of emergency

If a COVID-19 declaration is in force under the *Emergency Management Act 2005 Part 6A* —

- (a) for the purposes of regulations 14C, 14D and 14E, a state of emergency is taken to exist in the area to which the declaration applies; and
- (b) a reference in regulation 14C, 14D or 14E to a state of emergency (other than a reference to a state of emergency existing) is taken to include a reference to the occurrence of COVID-19 in the area to which the declaration applies.

Division 3 — Amendment relating to deletion of *Emergency Management Act 2005 Part 6A*

5. Regulation 3AA deleted

Delete regulation 3AA.

Part 3 — *Local Government (Financial Management) Regulations 1996* amended

Division 1 — Regulations amended

6. Regulations amended

This Part amends the *Local Government (Financial Management) Regulations 1996*.

Division 2 — Amendments relating to *Emergency Management Act 2005 Part 6A*

7. Regulation 18 amended

In regulation 18:

- (a) in paragraph (c)(iii) delete “made.” and insert:

made;

(b) after paragraph (c) insert:

or

- (d) where each of the following conditions is satisfied —
- (i) a decision to change the use of the money is made while there is in force a COVID-19 declaration under the *Emergency Management Act 2005* Part 6A applying to the district, or part of the district, of the local government;
 - (ii) the local government considers that the change of use is required to address a need arising from the occurrence of COVID-19, or from the impact or consequences of the occurrence of COVID-19, in the area to which the COVID-19 declaration applies;
 - (iii) the decision and the reasons for it are recorded in the minutes of the meeting at which the decision is made.

8. Regulation 20 amended

After regulation 20(3) insert:

- (4) A local government is not required to give local public notice of a proposal to exercise a power to borrow where each of the following conditions is satisfied —
- (a) a decision to exercise the power is made while there is in force a COVID-19 declaration under the *Emergency Management Act 2005* Part 6A applying to the district, or part of the district, of the local government;
 - (b) the local government considers that the borrowing is required to address a need arising from the occurrence of COVID-19, or from the impact or consequences of the occurrence of

- COVID-19, in the area to which the COVID-19 declaration applies;
- (c) the decision and the reasons for it are recorded in the minutes of the meeting at which the decision is made.

9. Regulation 21 amended

In regulation 21:

- (a) in paragraph (c)(iii) delete “made.” and insert:

made;

- (b) after paragraph (c) insert:

or

- (d) where each of the following conditions is satisfied —
 - (i) a decision to change the use of the money is made while there is in force a COVID-19 declaration under the *Emergency Management Act 2005* Part 6A applying to the district, or part of the district, of the local government;
 - (ii) the local government considers that the change of use is required to address a need arising from the occurrence of COVID-19, or from the impact or consequences of the occurrence of COVID-19, in the area to which the COVID-19 declaration applies;
 - (iii) the decision and the reasons for it are recorded in the minutes of the meeting at which the decision is made.

Division 3 — Amendments relating to deletion of *Emergency Management Act 2005* Part 6A

10. Regulation 18 amended

In regulation 18:

- (a) in paragraph (c)(iii) delete “made;” and insert:

made.

- (b) after paragraph (c) delete “or”;

- (c) delete paragraph (d).

11. Regulation 20 amended

Delete regulation 20(4).

12. Regulation 21 amended

- (1) In regulation 21:

- (a) in paragraph (c)(iii) delete “made;” and insert:

made.

- (b) after paragraph (c) delete “or”;

- (c) delete paragraph (d).

**Part 4 — *Local Government (Functions and General)*
Regulations 1996 amended**

Division 1 — Regulations amended

13. Regulations amended

This Part amends the *Local Government (Functions and General) Regulations 1996*.

Division 2 — Amendments relating to *Emergency Management Act 2005* Part 6A

14. Regulation 11 amended

- (1) In regulation 11(1A) insert in alphabetical order:

COVID-19 declaration has the meaning given in the
Emergency Management Act 2005 section 77C(1);

- (2) In regulation 11(2):

- (a) in paragraph (aa) delete “emergency; or” and insert:

emergency or a COVID-19 declaration; or

- (b) in paragraph (ja)(iii) after “declaration” insert:

or a COVID-19 declaration

- (3) After regulation 11(3) insert:

- (4) For the purposes of subregulation (2)(aa) a supply of goods or services is associated with a COVID-19 declaration if —

- (a) the contract for the supply is entered into while there is in force a COVID-19 declaration applying to the district, or part of the district, of the local government; and
- (b) the local government considers that the goods or services are required for the purposes of addressing a need arising from the occurrence of COVID-19, or from the impact or consequences of the occurrence of COVID-19, in the area to which the COVID-19 declaration relates.

Division 3 — Amendments relating to deletion of *Emergency Management Act 2005 Part 6A*

15. Regulation 11 amended

- (1) In regulation 11(1A) delete the definition of ***COVID-19 declaration***.
- (2) In regulation 11(2):
 - (a) in paragraph (aa) delete “emergency or a COVID-19 declaration; or” and insert:

emergency; or
 - (b) in paragraph (ja)(iii) delete “or a COVID-19 declaration”.
- (3) Delete regulation 11(4).

**Part 5 — *Local Government (Long Service Leave)*
Regulations amended**

Division 1 — Regulations amended

16. Regulations amended

This Part amends the *Local Government (Long Service Leave) Regulations*.

Division 2 — Amendments relating to *Emergency Management Act 2005 Part 6A*

17. Regulation 4 amended

After regulation 4(da) insert:

- (db) any period of absence from duty arising out of or in connection with the employer's response to the occurrence of COVID-19, or the impact or consequences of the occurrence of COVID-19, in an area to which a COVID-19 declaration in force under the *Emergency Management Act 2005 Part 6A* applies; and

18. Regulation 7A amended

In regulation 7A(2)(b) delete “section 56” and insert:

section 56, or a COVID-19 declaration under section 77C of that Act,

Division 3 — Amendments relating to deletion of *Emergency Management Act 2005 Part 6A*

19. Regulation 4 amended

Delete regulation 4(db).

20. Regulation 7A amended

In regulation 7A(2)(b) delete “section 56, or a COVID-19 declaration under section 77C of that Act,” and insert:

section 56

V. MOLAN, Clerk of the Executive Council.
