

LG302\*

Local Government Act 1995

## **Local Government (Constitution) Amendment Regulations 2007**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Local Government (Constitution) Amendment Regulations 2007*.

## 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* (“**Gazettal day**”);
- (b) regulations 3 and 10 — on the day after Gazettal day;
- (c) regulation 12 — on the day on which the *Local Government (Official Conduct) Amendment Act 2007* section 11 comes into operation;
- (d) the rest of the regulations — on the day on which the *Local Government Amendment Act 2007* (other than sections 1 and 2) comes into operation.

## 3. The regulations amended

The amendments in these regulations are to the *Local Government (Constitution) Regulations 1998*.

## 4. Regulation 10A amended

- (1) Regulation 10A is amended in the definition of “election” by inserting after “Schedule 2.3” —  
“ to the Act ”.
- (2) Regulation 10A is amended in the definition of “records of the election” as follows:
  - (a) in paragraph (b) by deleting “councillor” and inserting instead —  
“ council member ”;
  - (b) after paragraph (c) by deleting the full stop and inserting —  
“  
; and
  - (d) if 3 or more candidates were named on the ballot paper, a record of the manual count that shows how the number of votes obtained or received by each candidate was ascertained or, if an electronic counting system was used for the election —
    - (i) a paper copy of the electronic record of preferences indicated on ballot papers that was used as data by the system to ascertain the number of votes obtained or received by each candidate; and
    - (ii) a paper copy of the electronic count that shows how the number of votes obtained or received by each candidate was ascertained.

”;

- (c) after paragraph (a) by inserting —  
“ and ”.

**5. Regulation 11A amended**

- (1) Regulation 11A(3) is amended by deleting “Forms 10 and 11” and inserting instead —  
“ Form 10 ”.
- (2) Regulation 11A(4) is repealed and the following subregulations are inserted instead —  
“
- (4) A council member is to cast his or her vote by marking the ballot paper as follows —
- (a) if only 2 candidates are named on the ballot paper — by writing the numeral “1” in the box opposite the name of the candidate whom the council member wishes to be elected;
- (b) if 3 or more candidates are named on the ballot paper — by writing the numeral “1” in the box opposite the name of the candidate for whom the council member votes as his or her first preference, the numeral “2” in the box opposite the name of the candidate for whom the council member votes as his or her second preference, and so on, until the council member has numbered every box to indicate the order of his or her preference for all the candidates.
- (5) If preferences are indicated for all but one of the candidates, that candidate is taken to rank lowest in the order of the council member’s preference for the candidates.

”.

**6. Regulation 11EA inserted**

After regulation 11E the following regulation is inserted —

“

**11EA. Counting of votes in accordance with Schedule 4.1 (Sch. 2.3 cl. 4, 5, 8 and 9)**

Regulations made under Schedule 4.1 to the Act regarding the drawing of lots apply in respect of the election in so far as they are capable of being so applied.

”.

**7. Regulation 11F amended**

- (1) After regulation 11F(2)(a) the following is inserted —

“

- (aa) if 3 or more candidates were named on the ballot paper, the order of election or exclusion of each candidate; and

”.

- (2) Regulation 11F(3) is repealed and the following subregulation is inserted instead —

“

- (3) The declaration may include —

- (a) if only 2 candidates were named on the ballot paper, the number of votes received by each candidate;
- (b) if 3 or more candidates were named on the ballot paper, any of the following —
- (i) the number of first preference votes received by each candidate;
- (ii) the votes obtained or received by each candidate at election or exclusion.

”.

**8. Regulation 11FA inserted**

After regulation 11F the following regulation is inserted —

“

**11FA. Report to Minister (Sch. 2.3 cl. 4 and 8)**

- (1) Within 14 days after the declaration of the result of the election, the person conducting the election is to provide the Minister with a report as to the result of the election.
- (2) The report is to be in the form of Form 20 of the *Local Government (Elections) Regulations 1997*, modified as is necessary for the purposes of this regulation.

”.

**9. Regulation 11H inserted**

After regulation 11G the following regulation is inserted —

“

**11H. Notice of effect of Court's decision (Sch. 2.3 cl. 12)**

If a Court of Disputed Returns makes a declaration under regulation 85(1)(a), (b) or (c) of the *Local Government (Elections) Regulations 1997*, as applied under clause 12(2) of Schedule 2.3 to the Act, the CEO is, as soon as practicable —

- (a) to give local public notice in a form that conveys the effect of the declaration; and

- (b) to provide to the Minister a report in a form that conveys the effect of the declaration.

”.

**10. Regulation 12 amended**

Regulation 12 is amended as follows:

- (a) in paragraph (a)(i) by deleting “2 years” and inserting instead —  
“ one year ”;
- (b) in paragraph (b)(i) by deleting “\$10 000” and inserting instead —  
“ \$5 000 ”.

**11. Regulation 14 amended**

Regulation 14(1)(a) and (b) are amended by inserting after “Schedule 9.3” —

“ to the Act ”.

**12. Schedule 1 amended**

Schedule 1 is amended by deleting Forms 7 and 8 and inserting the following forms instead —

“

**Form 7. Declaration by elected member of council [r. 13(1)(c)]**

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by elected member**

I, .....

of<sup>1</sup> .....

having been elected to the office of<sup>2</sup> mayor/deputy mayor/president/deputy president/councillor of the<sup>3</sup> .....

declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

Declared at ..... on .....

by .....

Before me: .....

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<sup>1</sup> Insert your residential address.  
<sup>2</sup> Delete those that do not apply.  
<sup>3</sup> Insert the name of the local government.

**Form 8. Declaration by commissioner [r. 13(1)(d)]**

Local Government Act 1995  
 Local Government (Constitution) Regulations 1998  
**Declaration by commissioner**

I, .....,  
 of<sup>1</sup> .....,  
 having been appointed to the office of commissioner  
 of the<sup>2</sup> .....,  
 declare that I take the office upon myself and will duly, faithfully, honestly, and with  
 integrity, fulfil the duties of the office according to the best of my judgment and ability.

Declared at ..... on .....  
 by .....  
 Before me: .....

<sup>1</sup> Insert your residential address.

<sup>2</sup> Insert the name of the local government.

**13. Miscellaneous amendments**

Each provision listed in column 1 of the Table to this regulation is amended by deleting the text set out in column 2, and inserting instead the text set out in column 3, opposite that provision.

**Table**

<b>Column 1 Provision</b>	<b>Column 2 Delete</b>	<b>Column 3 Insert</b>
r. 11C	councillor	council member
r. 11D(1)	councillor	council member
r. 11D(2)	councillors	council members
r. 11E(1) (3 places)	councillor	council member
r. 11E(1)	councillor's	council member's
r. 11E(2)	councillor	council member
r. 11F(1)	councillors	council members

Note: The heading to regulation 11E is to be altered by deleting "councillors" and inserting instead "**council members**".

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.