

Local Government Act 1995

**Local Government (Constitution) Amendment
Regulations 2005**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Local Government (Constitution) Amendment Regulations 2005*.

2. Commencement

These regulations come into operation on 7 May 2005.

3. The regulations amended

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

[* *Published in Gazette 26 June 1998, p. 3449-74.*]

4. Regulation 10A inserted

After regulation 10 the following regulation is inserted in Part 3 —

“

10A. Definition of “election”

In this Part —

“**election**” means an election under Schedule 2.3;

“**records of the election**” includes —

- (a) each marked ballot paper returned to the CEO under regulation 11D(2);
- (b) each ballot paper marked by the CEO on behalf of a councillor under regulation 11E; and
- (c) each ballot papers endorsed “spoilt” under regulation 11C.

”.

5. Regulations 11A to 11G inserted

After regulation 11 the following regulations are inserted —

“

11A. Election of mayor, president, deputy mayor or deputy president by council (Sch. 2.3)

- (1) The CEO is to cause sufficient numbers of ballot papers to be printed for the purposes of the election.

- (2) The CEO is to cause the ballot papers to be printed so that the names of the candidates appear on the ballot paper —
 - (a) in alphabetical order; or
 - (b) in such order as is determined using a method selected by the CEO which is fair to all of the candidates.
- (3) The ballot papers are to be in the form of Forms 10 and 11 of the *Local Government (Elections) Regulations 1997*, modified as is necessary for the purposes of the election.
- (4) A councillor is to cast his or her vote by marking the ballot paper by placing a tick in the box opposite the name of the candidate whom the councillor wishes to be elected.

11B. Ballot papers to be authentic (Sch. 2.3 cls. 4 and 8)

Before giving a person a ballot paper under this Part the CEO is to initial the back of it or make sure that it is authenticated in some other way.

11C. Spoilt ballot papers (Sch. 2.3 cls. 4 and 8)

If the CEO is satisfied that a ballot paper given to a councillor has been spoilt by accident or mistake, the CEO is to —

- (a) give the person a replacement ballot paper; and
- (b) endorse “spoilt” on the spoilt ballot paper.

11D. Marking and dealing with the ballot paper (Sch. 2.3 cls. 4 and 8)

- (1) Subject to regulation 11E, a councillor who receives a ballot paper under this Part is to mark the ballot paper in such a manner that it cannot be seen by anyone else.
- (2) The councillors are to return the marked ballot paper to the CEO.

11E. Assistance to be given to councillors who cannot otherwise vote (Sch. 2.3 cls. 4 and 8)

- (1) If a councillor who receives a ballot paper under this Part cannot vote without assistance because of impairment of sight or any other impairment or condition affecting the councillor’s ability to read or to write, the councillor may request the CEO to mark on the ballot paper the vote that the councillor wishes to cast.

- (2) If a request is made under subregulation (1) the CEO, or another local government employee authorised for that purpose by the CEO, is to mark the ballot paper to record the vote that the councillor wishes to cast.

**11F. Declaration and notice of result of election —
(Sch. 2.3 cls. 4 and 8)**

- (1) The person conducting the election is to declare the result of the election to the councillors at the meeting at which the election was held.
- (2) The declaration is to include —
 - (a) the names of the candidates; and
 - (b) the name and term of office of the candidate declared elected.
- (3) The declaration may include the number of votes received by each candidate.
- (4) The person conducting the election is also to give local public notice of the result of the election in the form of Form 19 of the *Local Government (Elections) Regulations 1997*, modified as is necessary for the purposes of this regulation.

11G. Records of election to be retained (Sch. 2.3 cls. 4 and 8)

- (1) As soon as practicable after the result of the election is declared the CEO is to —
 - (a) put the records of the election in one or more parcels;
 - (b) secure each parcel; and
 - (c) endorse each parcel by signing and dating it.
- (2) The CEO is to keep the parcels in safe custody and retain them for a period of at least 4 years after the declaration of the result of the election.
- (3) If, after the period mentioned in subregulation (2), the parcels are to be destroyed, the destruction is to be carried out by or under the supervision of the CEO in the presence of at least 2 employees.

”.

By Command of the Governor,

G. M. PIKE, Clerk of the Executive Council.
