

LG302

Local Government Act 1995
Local Government (Miscellaneous Provisions) Act 1960

Local Government Regulations Amendment Regulations 2020

SL 2020/35

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Local Government Regulations Amendment Regulations 2020*.

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) the rest of the regulations — on the day after that day.

Part 2 — *Local Government (Financial Management) Regulations 1996* amended**3. Regulations amended**

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

4. Regulation 3 amended

In regulation 3(1) insert in alphabetical order:

state of emergency declaration has the meaning given in the *Emergency Management Act 2005* section 3;

5. Regulation 18 amended

In regulation 18:

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

year; or
- (b) after paragraph (b) insert:
- (c) 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 state of emergency declaration 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 hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates;
 - (iii) the decision and the reasons for it are recorded in the minutes of the meeting at which the decision is made.

6. Regulations 20 and 21 replaced

Delete regulations 20 and 21 and insert:

20. When local public notice not required for exercise of power to borrow (Act s. 6.20(2)(a))

(1) In this regulation —

major variation means a variation in the terms of a loan or other financial accommodation which is —

- (a) a capitalisation of interest accruals; or
- (b) an increase in the term of the loan or other financial accommodation;

re-finance, in relation to a loan or other financial accommodation (the *existing loan*), means to borrow an amount (the *new loan*) which is, at the date of the new loan —

- (a) equal to the principal amount owing on the existing loan; or
- (b) not more than \$5 000 more or less than the principal amount owing on the existing loan,

for the principal purpose of paying out the existing loan or preserving the credit originally provided by the existing loan.

(2) A local government is not required to give local public notice of a proposal to exercise a power to borrow where —

- (a) the power is to be exercised to re-finance a loan or to continue other financial accommodation (whether with the same or another bank or financial institution); and
- (b) the re-financing or continuation is not a major variation.

(3) 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 state of emergency declaration 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 hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates;
- (c) the decision and the reasons for it are recorded in the minutes of the meeting at which the decision is made.

21. When local public notice not required for change of use of borrowed money (Act s. 6.20(4)(b))

A local government is not required to give local public notice of a proposed change of use of money borrowed —

- (a) where the amount to be used for a purpose other than the purpose for which it was borrowed does not exceed \$5 000 in a financial year; or
- (b) where the money borrowed is to be used to meet expenditure authorised by the mayor or president under section 6.8(1)(c); or
- (c) 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 state of emergency declaration 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 hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates;
 - (iii) the decision and the reasons for it are recorded in the minutes of the meeting at which the decision is made.

Part 3 — *Local Government (Functions and General) Regulations 1996* amended

7. Regulations amended

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

8. Regulation 11 amended

- (1) Before regulation 11(1) insert:

- (1A) In this regulation —

state of emergency declaration has the meaning given in the *Emergency Management Act 2005* section 3.

- (2) In regulation 11(1) delete “\$150 000” and insert:

\$250 000

- (3) In regulation 11(2):

- (a) after paragraph (a) insert:

(aa) the supply of the goods or services is associated with a state of emergency; or

- (b) delete paragraph (h)(i) and insert:

(i) the goods or services are to be supplied by —

(I) a person registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited ABN 96 929 977 985; or

(II) Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362;

and

- (c) after paragraph (j) insert:

(ja) the contract is a renewal or extension of the term of a contract (the *original contract*) where —

(i) the original contract is to expire within 3 months; and

(ii) the renewal or extension is for a term of not more than 12 months from the expiry of the original contract; and

(iii) the contract for renewal or extension is entered into at a time when there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;

or

- (4) After regulation 11(2) insert:
- (3) For the purposes of subregulation (2)(aa) a supply of goods or services is associated with a state of emergency if —
- (a) the contract for the supply is entered into while there is in force a state of emergency 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 hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates.

Part 4 — *Local Government (Long Service Leave) Regulations* amended

9. Regulations amended

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

10. Regulation 4 amended

In regulation 4:

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

leave; and

- (b) after paragraph (d) insert:

- (da) any period of absence from duty arising out of or in connection with the employer’s response to —

- (i) a hazard giving rise to a state of emergency declaration under the *Emergency Management Act 2005* section 56; or

- (ii) the impact or consequences of such a hazard;

and

11. Regulation 7 amended

In regulation 7(d) delete “not more than 3” and insert:

2 or more

12. Regulation 7A inserted

After regulation 7 insert:

7A. Taking advance leave

- (1) In this regulation —
accrual period, in respect of a worker’s entitlement to long service leave, means the period of 10 years of continuous service giving rise to the entitlement under regulation 6(2);
advance leave means a period of long service leave taken by a worker before the worker has completed the whole of the accrual period in respect of that leave.
- (2) A worker may take advance leave by agreement with the employer if —
 - (a) the worker has not completed the whole of the accrual period in respect of an entitlement to long service leave, but has completed at least 7 years of continuous service of the accrual period; and
 - (b) when the advance leave is granted there is in force a state of emergency declaration under the *Emergency Management Act 2005* section 56 applying to the district, or part of the district, of the employer.
- (3) The period of advance leave that a worker takes under subregulation (2) must not exceed one and three-tenths weeks’ leave for each year of continuous service of the accrual period that the worker has completed.
- (4) A worker who takes advance leave does not begin to accrue a new entitlement to a further period of long service leave until after completing the whole of the accrual period in respect of the advance leave and becoming entitled to the balance of the entitlement not taken as advance leave.

M. INGLIS, Clerk of the Executive Council.
