

LG302

Local Government Act 1995

## **Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021**

SL 2021/16

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations are the *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*.

#### **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 on which the *Local Government Legislation Amendment Act 2019* section 25 comes into operation.

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

**3. Regulations amended**

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

**4. Part 4A inserted**

After regulation 19A insert:

**Part 4A — Codes of conduct for local government employees (Act s. 5.51A(4))**

**Division 1 — Terms used**

**19AA. Terms used**

In this Part —

***activity involving a local government discretion*** means an activity —

- (a) that cannot be undertaken without an authorisation from the local government; or
- (b) by way of a commercial dealing with the local government;

***associated person*** means a person who —

- (a) is undertaking or seeking to undertake an activity involving a local government discretion; or
- (b) it is reasonable to believe, is intending to undertake an activity involving a local government discretion;

***code of conduct*** means a code of conduct under section 5.51A;

***gift*** —

- (a) has the meaning given in section 5.57; but
- (b) does not include —
  - (i) a gift from a relative as defined in section 5.74(1); or
  - (ii) a gift that must be disclosed under the *Local Government (Elections) Regulations 1997* regulation 30B; or
  - (iii) a gift from a statutory authority, government instrumentality or non-profit association for professional training; or

- (iv) a gift from WALGA, the Australian Local Government Association Limited (ABN 31 008 613 876), the Local Government Professionals Australia WA (ABN 91 208 607 072) or the LG Professionals Australia (ABN 85 004 221 818);

***interest*** —

- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
- (b) includes an interest arising from kinship, friendship or membership of an association;

***local government employee*** means a person —

- (a) employed by a local government under section 5.36(1); or
- (b) engaged by a local government under a contract for services;

***prohibited gift***, in relation to a local government employee, means —

- (a) a gift worth the threshold amount or more; or
- (b) a gift that is 1 of 2 or more gifts given to the local government employee by the same person within a period of 1 year that are in total worth the threshold amount or more;

***threshold amount***, for a prohibited gift, means \$300 or a lesser amount determined under regulation 19AF.

## **Division 2 — Content of codes of conduct**

### **19AB. Prohibited gifts**

- (1) In this regulation —  
*local government employee* does not include the CEO.
- (2) A code of conduct must contain a requirement that a local government employee not accept a prohibited gift from an associated person.

### **19AC. Recording, storing, disclosure and use of information relating to gifts**

- (1) In this regulation —  
*local government employee* does not include the CEO.
- (2) A code of conduct must contain requirements relating to the recording, storing, disclosure and use of information relating to gifts that, under a code of conduct, may be accepted by local government employees from associated persons.

**19AD. Conflicts of interest**

- (1) A code of conduct must contain a requirement that a local government employee who has an interest in any matter to be discussed at a council or committee meeting attended by the local government employee disclose the nature of the interest —
  - (a) in a written notice given to the CEO before the meeting; or
  - (b) at the meeting immediately before the matter is discussed.
- (2) A code of conduct must contain a requirement that a local government employee who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the local government employee disclose the nature of any interest the local government employee has in the matter —
  - (a) in a written notice given to the CEO before the meeting; or
  - (b) at the time the advice is given.
- (3) A code of conduct must exclude from a requirement under subregulation (1) or (2) an interest referred to in section 5.60.
- (4) A code of conduct must excuse a local government employee from a requirement under subregulation (1) or (2) if the local government employee fails to disclose the nature of an interest because they did not know and could not reasonably be expected to know —
  - (a) that they had an interest in the matter; or
  - (b) that the matter in which they had an interest would be discussed at the meeting and they disclosed the nature of the interest as soon as possible after the discussion began.
- (5) A code of conduct must require that if, to comply with a requirement under subregulation (1) or (2), a local government employee discloses an interest in a written notice given to the CEO before a meeting, then —
  - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
  - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.

- (6) Subregulation (7) applies if —
  - (a) to comply with a requirement under subregulation (1), the nature of an interest in a matter is disclosed at a meeting; or
  - (b) a disclosure is made as described in subregulation (4)(b) at a meeting; or
  - (c) to comply with a requirement under subregulation (5)(b), notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

**19AE. Other matters codes of conduct must deal with**

- (1) In this regulation —  
*resources of the local government* includes —
  - (a) local government property; and
  - (b) services provided, or paid for, by the local government.
- (2) A code of conduct must contain requirements relating to —
  - (a) the behaviour expected of a local government employee in relation to each of the following —
    - (i) the performance of the local government employee's duties;
    - (ii) dealings with other local government employees and the broader community;
    - (iii) the use and disclosure of information acquired by the local government employee in the performance of their duties;
    - (iv) the use of the resources of the local government;
    - (v) the use of the local government's finances;
  - and
  - (b) how the records of the local government are to be kept; and
  - (c) the reporting by local government employees of suspected breaches of codes of conduct and suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour; and
  - (d) the way in which suspected breaches of the code of conduct and suspected unethical, fraudulent, dishonest, illegal or corrupt

behaviour of a local government employee are to be managed.

### **Division 3 — Other matter in relation to codes of conduct**

#### **19AF. Determination of threshold amount**

- (1) The CEO may determine an amount (which may be nil) for the purposes of the definition of *threshold amount* in regulation 19AA.
- (2) A determination under subregulation (1) must be published on the local government's official website.

#### **5. Regulation 20B amended**

In regulation 20B after paragraph (c) insert:

- (ca) LG Professionals Australia  
(ABN 85 004 221 818);

#### **6. Part 9 deleted**

Delete Part 9.

### **Part 3 — *Local Government (Audit) Regulations 1996* amended**

#### **7. Regulations amended**

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

#### **8. Regulation 13 amended**

In regulation 13 in the Table under the heading "*Local Government Act 1995*" after the item for s. 5.46 insert:

s. 5.51A
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N. HAGLEY, Clerk of the Executive Council.

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