



Western Australia

Local Government Act 1995

## **Local Government (Audit) Regulations 1996**



## Local Government (Audit) Regulations 1996

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**Defined terms**

## Local Government (Audit) Regulations 1996

### 1. Citation

These regulations may be cited as the *Local Government (Audit) Regulations 1996*.

### 2. Commencement

These regulations come into operation on 1 July 1996.

### 3. Terms used

In these regulations, unless the contrary intention appears —  
*audit committee* means an audit committee established under section 7.1A;

*compliance audit* means an audit of compliance with the statutory requirements prescribed by regulation 13;

*section* means section of the Act.

[Regulation 3 amended: Gazette 23 Apr 1999 p. 1722;  
31 Mar 2005 p. 1042; 26 Jun 2018 p. 2384.]

### 4. Prescribed amount of debt which disqualifies person as auditor (Act s. 7.4(2)(b))

The amount prescribed for the purposes of section 7.4(2)(b) is \$5 000.

### 5. Prescribed entity, employment or membership of which disqualifies person as auditor (Act s. 7.4(2)(c))

The prescribed entities for the purposes of section 7.4(2)(c) are, in relation to a local government —

- (a) a regional local government in which the local government is a participant; and
- (b) an incorporated association which the local government has formed or taken part in forming under the *Associations Incorporation Act 2015*.

[Regulation 5 amended: Gazette 30 Dec 2016 p. 5969.]

**6. Prescribed class of persons, membership of which disqualifies person as auditor (Act s. 7.4(2)(d))**

- (1) The prescribed classes of persons for the purposes of section 7.4(2)(d) are —
  - (a) persons who are disqualified for membership of a council under section 2.22; and
  - (b) persons who are insolvents under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; and
  - (c) persons who are closely associated with a relevant person.
- (2) For the purposes of subregulation (1)(c) a person is to be treated as being closely associated with a relevant person if the person —
  - (a) is in partnership with the relevant person; or
  - (b) is an employer of the relevant person; or
  - (c) is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
  - (d) is a body corporate —
    - (i) of which the relevant person is a director, secretary or executive officer; or
    - (ii) in which the relevant person holds shares having a total value exceeding —
      - (I) the amount prescribed for the purposes of section 5.62; or

- (II) the percentage of the total value of the issued share capital of the company prescribed for the purposes of section 5.62,

whichever is less;

or

- (e) is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
- (f) has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

- (3) In this regulation —

**relevant person** in relation to a local government, means a member of the council of the local government or an employee of the local government;

**value** has the meaning given by section 5.62(2).

[Regulation 6 amended: Gazette 28 Sep 2001 p. 5357-8; 30 Jun 2003 p. 2615; 31 Mar 2005 p. 1042.]

## 7. Agreements with auditors, contents of

An agreement between a local government and an auditor is to include —

- (a) the objectives of the audit; and
- (b) the scope of the audit; and
- (c) a plan for the audit; and
- (d) details of the remuneration and expenses to be paid to the auditor; and
- (e) the method to be used by the local government to communicate with, and supply information to, the auditor.

**8. Departmental CEO to be notified of termination of audit agreement**

- (1) Where an agreement between a local government and an auditor is terminated —
- (a) the local government is to, within a period of 30 days from the termination, give to the Departmental CEO —
    - (i) notice of the termination; and
    - (ii) the reasons for the termination;and
  - (b) the auditor is to, within a period of 30 days from the termination, advise the Departmental CEO of the termination.
- (2) Notwithstanding any provision of an agreement between a local government and an auditor to the contrary, an auditor is to be given notice in writing of the termination of his or her appointment.

*[Regulation 8 amended: Gazette 26 Jun 2018 p. 2384-5.]*

**9. Performance of audit**

- (1) In this regulation —
- Australian Accounting Standards* means the standards made and amended from time to time by the Australian Accounting Standards Board continued under the *Australian Securities and Investments Commission Act 2001* (Commonwealth) section 261.
- (2) An auditor must carry out an audit in accordance with the Australian Auditing Standards made or formulated and amended from time to time by the Auditing and Assurance Standards Board established by the *Australian Securities and Investments Commission Act 2001* (Commonwealth) section 227A.

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- (3) An auditor must carry out the work necessary to form an opinion whether the annual financial report —
- (a) is based on proper accounts and records; and
  - (b) fairly represents the results of the operations of the local government for the financial year and the financial position of the local government at 30 June in accordance with —
    - (i) the Act; and
    - (ii) the Australian Accounting Standards (to the extent that they are not inconsistent with the Act).

*[Regulation 9 inserted: Gazette 26 Jun 2018 p. 2385.]*

**9A. CEO to provide documents to Auditor General carrying out financial audit**

- (1) In this regulation —  
***audit document*** means —
- (a) the strategic community plan as defined in the *Local Government (Administration) Regulations 1996* regulation 19BA; or
  - (b) the corporate business plan as defined in the *Local Government (Administration) Regulations 1996* regulation 19BA; or
  - (c) another plan or informing strategy specified by the Auditor General; or
  - (d) another document specified by the Auditor General.
- (2) The CEO must provide a copy of an audit document to the Auditor General within 14 days after the Auditor General requests it for the purposes of a financial audit under Part 7 Division 3A of the Act.

*[Regulation 9A inserted: Gazette 26 Jun 2018 p. 2385-6.]*

**10. Report by auditor**

- (1) An auditor's report is to be forwarded to the persons specified in section 7.9(1) within 30 days of completing the audit.
- (2) The report is to give the auditor's opinion on —
  - (a) the financial position of the local government; and
  - (b) the results of the operations of the local government.
- (3) The report is to include —
  - (a) any material matters that in the opinion of the auditor indicate significant adverse trends in the financial position or the financial management practices of the local government; and
  - (b) any matters indicating non-compliance with Part 6 of the Act, the *Local Government (Financial Management) Regulations 1996* or applicable financial controls in any other written law; and
  - (c) details of whether information and explanations were obtained by the auditor; and
  - (d) a report on the conduct of the audit; and
  - (e) the opinion of the auditor as to whether or not the following financial ratios included in the annual financial report are supported by verifiable information and reasonable assumptions —
    - (i) the asset consumption ratio; and
    - (ii) the asset renewal funding ratio.

- (4A) In subregulation (3)(e) —

***asset consumption ratio*** has the meaning given in the *Local Government (Financial Management) Regulations 1996* regulation 50(2);

***asset renewal funding ratio*** has the meaning given in the *Local Government (Financial Management) Regulations 1996* regulation 50(2).

- (4) Where it is considered by the auditor to be appropriate to do so, the auditor is to prepare a management report to accompany the auditor's report and to forward a copy of the management report to the persons specified in section 7.9(1) with the auditor's report.

*[Regulation 10 amended: Gazette 21 Jun 2013 p. 2449-50.]*

**11. Hours and fees, auditor to give Minister statement of**

An auditor is to provide to the Minister with the auditor's report a detailed statement of —

- (a) the hours worked on the audit; and
- (b) the remuneration and expenses due to the auditor by the local government.

**12. Auditor's conflict of interest, auditor to report**

An auditor is to report a possible conflict of interest to the Minister as soon as possible after the auditor becomes aware of the possible conflict of interest.

**13. Prescribed statutory requirements for which compliance audit needed (Act s. 7.13(1)(i))**

For the purposes of section 7.13(1)(i) the statutory requirements set forth in the Table to this regulation are prescribed.

**Table**

<i>Local Government Act 1995</i>		
s. 3.57	s. 3.58(3) and (4)	s. 3.59(2), (4) and (5)
s. 5.16	s. 5.17	s. 5.18
s. 5.36(4)	s. 5.37(2) and (3)	s. 5.42
s. 5.43	s. 5.44(2)	s. 5.45(1)(b)

s. 5.46	s. 5.51A	s. 5.67
s. 5.68(2)	s. 5.69(5)	s. 5.70
s. 5.71B(5) and (7)	s. 5.73	s. 5.75
s. 5.76	s. 5.77	s. 5.88
s. 5.89A	s. 5.104	s. 5.120
s. 5.121	s. 7.1A	s. 7.1B
s. 7.3	s. 7.6(3)	s. 7.9(1)
s. 7.12A		
<b><i>Local Government (Administration) Regulations 1996</i></b>		
r. 18A	r. 18C	r. 18E
r. 18F	r. 18G	r. 19
r. 19C	r. 19DA	r. 22
r. 23	r. 28	r. 34B
r. 34C		
<b><i>Local Government (Audit) Regulations 1996</i></b>		
r. 7	r. 10	
<b><i>Local Government (Elections) Regulations 1997</i></b>		
r. 30G		
<b><i>Local Government (Functions and General) Regulations 1996</i></b>		
r. 7	r. 9	r. 10
r. 11A	r. 11	r. 12

r. 14(1), (3) and (5)	r. 15	r. 16
r. 17	r. 18(1) and (4)	r. 19
r. 21	r. 22	r. 23
r. 24	r. 24AD(2), (4) and (6)	r. 24AE
r. 24AF	r. 24AG	r. 24AH(1) and (3)
r. 24AI	r. 24E	r. 24F

*[Regulation 13 inserted: Gazette 23 Apr 1999 p. 1722-4; amended: Gazette 1 Jun 2004 p. 1917; 31 Mar 2005 p. 1042-3; 30 Sep 2005 p. 4418-20; 21 Dec 2010 p. 6758-61; 30 Dec 2011 p. 5579-80; 18 Sep 2015 p. 3813; 26 Jun 2018 p. 2386; Gazette 18 Oct 2019 p. 3683; SL 2021/15 r. 6; SL 2021/16 r. 8.]*

#### **14. Compliance audits by local governments**

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.
- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.
- (3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —
  - (a) presented to the council at a meeting of the council; and
  - (b) adopted by the council; and
  - (c) recorded in the minutes of the meeting at which it is adopted.

*[Regulation 14 inserted: Gazette 23 Apr 1999 p. 1724-5;  
amended: Gazette 30 Dec 2011 p. 5580-1.]*

**15. Certified copy of compliance audit return and other documents to be given to Departmental CEO**

- (1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —
- (a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and
  - (b) any additional information explaining or qualifying the compliance audit,

is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.

- (2) In this regulation —
- certified** in relation to a compliance audit return means signed by —
- (a) the mayor or president; and
  - (b) the CEO.

*[Regulation 15 inserted: Gazette 23 Apr 1999 p. 1725;  
amended: Gazette 26 Jun 2018 p. 2386.]*

**16. Functions of audit committee**

An audit committee has the following functions —

- (a) to guide and assist the local government in carrying out —
  - (i) its functions under Part 6 of the Act; and
  - (ii) its functions relating to other audits and other matters related to financial management;
- (b) to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;

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- (c) to review a report given to it by the CEO under regulation 17(3) (the *CEO's report*) and is to —
    - (i) report to the council the results of that review; and
    - (ii) give a copy of the CEO's report to the council;
  - (d) to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —
    - (i) regulation 17(1); and
    - (ii) the *Local Government (Financial Management) Regulations 1996* regulation 5(2)(c);
  - (e) to support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government;
  - (f) to oversee the implementation of any action that the local government —
    - (i) is required to take by section 7.12A(3); and
    - (ii) has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and
    - (iii) has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and
    - (iv) has accepted should be taken following receipt of a report of a review conducted under the *Local Government (Financial Management) Regulations 1996* regulation 5(2)(c);
  - (g) to perform any other function conferred on the audit committee by these regulations or another written law.

[Regulation 16 inserted: Gazette 26 Jun 2018 p. 2386-7.]

## 17. CEO to review certain systems and procedures

- (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —
  - (a) risk management; and

- (b) internal control; and
  - (c) legislative compliance.
- (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.
- (3) The CEO is to report to the audit committee the results of that review.

*[Regulation 17 inserted: Gazette 8 Feb 2013 p. 868;  
amended: Gazette 26 Jun 2018 p. 2387.]*

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## Notes

This is a compilation of the *Local Government (Audit) Regulations 1996* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

### Compilation table

Citation	Published	Commencement
<i>Local Government (Audit) Regulations 1996</i>	24 Jun 1996 p. 2827-32	1 Jul 1996 (see r. 2)
<i>Local Government (Audit) Amendment Regulations 1999</i>	23 Apr 1999 p. 1722-5	23 Apr 1999
<i>Corporations (Consequential Amendments) Regulations 2001 Pt. 8</i>	28 Sep 2001 p. 5353-8	15 Jul 2001 (see r. 2 and Cwlth Gazette 13 Jul 2001 No. S285)
<i>Equality of Status Subsidiary Legislation Amendment Regulations 2003 Pt. 24</i>	30 Jun 2003 p. 2581-638	1 Jul 2003 (see r. 2 and Gazette 30 Jun 2003 p. 2579)
<b>Reprint 1: The Local Government (Audit) Regulations 1996 as at 10 Oct 2003</b> (includes amendments listed above)		
<i>Local Government (Audit) Amendment Regulations 2004</i>	1 Jun 2004 p. 1917	1 Jun 2004
<i>Local Government (Audit) Amendment Regulations 2005</i>	31 Mar 2005 p. 1042-3	7 May 2005 (see r. 2)
<i>Local Government (Audit) Amendment Regulations (No. 2) 2005</i>	30 Sep 2005 p. 4418-20	30 Sep 2005
<i>Local Government (Audit) Amendment Regulations 2010</i>	21 Dec 2010 p. 6758-61	r. 1 and 2: 21 Dec 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 22 Dec 2010 (see r. 2(b))
<b>Reprint 2: The Local Government (Audit) Regulations 1996 as at 14 Oct 2011</b> (includes amendments listed above)		
<i>Local Government (Audit) Amendment Regulations 2011</i>	30 Dec 2011 p. 5579-81	r. 1 and 2: 30 Dec 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 31 Dec 2011 (see r. 2(b))
<i>Local Government (Audit) Amendment Regulations 2013</i>	8 Feb 2013 p. 867-8	r. 1 and 2: 8 Feb 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Feb 2013 (see r. 2(b))

**Local Government (Audit) Regulations 1996**  
**Notes**                      Compilation table

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<b>Citation</b>	<b>Published</b>	<b>Commencement</b>
<i>Local Government (Audit) Amendment Regulations (No. 2) 2013</i>	21 Jun 2013 p. 2449-50	r. 1 and 2: 21 Jun 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 22 Jun 2013 (see r. 2(b))
<i>Local Government (Functions and General) Amendment Regulations 2015 Pt. 3</i>	18 Sep 2015 p. 3804-13	1 Oct 2015 (see r. 2(b))
<i>Local Government Regulations Amendment (Associations Incorporation) Regulations 2016 Pt. 2</i>	30 Dec 2016 p. 5969-70	31 Dec 2016 (see r. 2(b))
<i>Local Government Regulations Amendment (Auditing) Regulations 2018 Pt. 2</i>	26 Jun 2018 p. 2384-9	27 Jun 2018 (see r. 2(c))
<i>Local Government Regulations Amendment (Gifts) Regulations 2019 Pt. 3</i>	18 Oct 2019 p. 3679-84	19 Oct 2019 (see r. 2(b) and <i>Gazette</i> 18 Oct 2019 p. 3673)
<i>Local Government (Model Code of Conduct) Regulations 2021 r. 6</i>	SL 2021/15 2 Feb 2021	3 Feb 2021 (see r. 2(b) and SL 2021/13 cl. 2)
<i>Local Government Amendment (Employee Code of Conduct) Regulations 2021 Pt. 3</i>	SL 2021/16 2 Feb 2021	3 Feb 2021 (see r. 2(b) and SL 2021/13 cl. 2)

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## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
asset consumption ratio.....	10(4A)
asset renewal funding ratio .....	10(4A)
audit committee.....	3
audit document.....	9A(1)
Australian Accounting Standards.....	9(1)
CEO's report.....	16
certified .....	15(2)
compliance audit .....	3
relevant person .....	6(3)
section .....	3
value.....	6(3)