



Western Australia

Local Government Act 1995

Local Government (Audit) Regulations 1996

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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*¹.

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;

Australian Accounting Standards means the “Statements of Accounting Standards” issued by the Australian Accounting Research Foundation;

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

section means section of the Act.

[Regulation 3 amended in Gazette 23 Apr 1999 p. 1722;
31 Mar 2005 p. 1042.]

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 in 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 in 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. Termination of audit agreement, Executive Director to be notified

- (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 Executive Director —
 - (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 Executive Director 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.

9. Performance of audit

- (1) An audit is to be carried out in accordance with the “Auditing Standards” and “Auditing Guidance Statements” adopted from time to time by the Australian Society of Certified Practising Accountants and The Institute of Chartered Accountants in Australia.
- (2) An auditor is to carry out such work as is necessary to form an opinion as to whether —
 - (a) the accounts are properly kept; and
 - (b) the annual financial report —
 - (i) is prepared in accordance with the financial records; and

- (ii) represents fairly the results of the operations of the local government and the financial position of the local government at 30 June in accordance with the Australian Accounting Standards and the Act.

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 in 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

| Local Government Act 1995 | | |
|----------------------------------|--------------------|-----------------|
| 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. 5.67 | s. 5.68(2) |
| s. 5.70 | s. 5.73 | s. 5.75 |
| s. 5.76 | s. 5.77 | s. 5.88 |
| s. 5.103 | 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 |
| <i>Local Government (Administration) Regulations 1996</i> | | |
| r. 18A | r. 18C | r. 18E |
| r. 18F | r. 18G | r. 19 |
| r. 22 | r. 23 | r. 28 |
| r. 34B | r. 34C | |
| <i>Local Government (Audit) Regulations 1996</i> | | |
| r. 7 | r. 10 | |
| <i>Local Government (Elections) Regulations 1997</i> | | |
| r. 30G | | |
| <i>Local Government (Functions and General) Regulations 1996</i> | | |
| r. 7 | r. 9 | r. 10 |
| r. 11A | r. 11 | r. 12 |

r. 14

| | | |
|---|-------------------------|--------------------|
| 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 |
| Local Government (Rules of Conduct) Regulations 2007 | | |
| r. 11 | | |

[Regulation 13 inserted in Gazette 23 Apr 1999 p. 1722-4; amended in 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.]

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 in Gazette 23 Apr 1999 p. 1724-5; amended in Gazette 30 Dec 2011 p. 5580-1.]

15. Compliance audit return, certified copy of etc. to be given to Executive Director

- (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 Executive Director 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 in Gazette 23 Apr 1999 p. 1725.]

16. Audit committee, functions of

An audit committee —

- (a) is to provide guidance and assistance to the local government —
 - (i) as to the carrying out of its functions in relation to audits carried out under Part 7 of the Act; and
 - (ii) as to the development of a process to be used to select and appoint a person to be an auditor;
- and

r. 17

- (b) may provide guidance and assistance to the local government as to —
 - (i) matters to be audited; and
 - (ii) the scope of audits; and
 - (iii) its functions under Part 6 of the Act; and
 - (iv) the carrying out of its functions relating to other audits and other matters related to financial management; and
- (c) is 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.

[Regulation 16 inserted in Gazette 31 Mar 2005 p. 1043; amended in Gazette 8 Feb 2013 p. 867.]

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 at least once every 2 calendar years.
- (3) The CEO is to report to the audit committee the results of that review.

[Regulation 17 inserted in Gazette 8 Feb 2013 p. 868.]

Notes

¹ This is a compilation of the *Local Government (Audit) Regulations 1996* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

| Citation | Gazettal | 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) |
| Reprint 1: The Local Government (Audit) Regulations 1996 as at 10 Oct 2003 (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)) |
| Reprint 2: The Local Government (Audit) Regulations 1996 as at 14 Oct 2011 (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)) |
| <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)); |

Local Government (Audit) Regulations 1996

| Citation | Gazettal | Commencement |
|---|---------------------------|---|
| | | 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)) |

Defined terms

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

The list is not part of the law.]

| Defined term | Provision(s) |
|--------------------------------------|---------------------|
| asset consumption ratio..... | 10(4A) |
| asset renewal funding ratio | 10(4A) |
| audit committee..... | 3 |
| Australian Accounting Standards..... | 3 |
| CEO's report..... | 16 |
| certified..... | 15(2) |
| compliance audit..... | 3 |
| relevant person..... | 6(3) |
| section..... | 3 |
| value..... | 6(3) |