



Western Australia

Local Government Act 1995

## **Local Government (COVID-19 Response) Order 2020**

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# Local Government (COVID-19 Response) Order 2020

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**Defined terms**

## Local Government (COVID-19 Response) Order 2020

### 1. Citation

This order is the *Local Government (COVID-19 Response) Order 2020*.

### 2. Commencement

This order comes into operation on the day on which it is published in the *Gazette*.

### 3. Terms used

(1) In this order, unless the contrary intention appears —

**2019/20 financial year** means the financial year ending on 30 June 2020;

**2020/21 annual budget**, in relation to a local government, means the annual budget adopted by the local government under section 6.2 for the 2020/21 financial year;

**2020/21 financial year** means the financial year ending on 30 June 2021;

**cessation day** means the day on which the state of emergency declaration made under the *Emergency Management Act 2005* section 56 on 15 March 2020 in relation to the COVID-19 pandemic is revoked or otherwise ceases to have effect;

**commencement day** means the day on which this order comes into operation;

**COVID emergency period** means the period beginning on commencement day and ending on cessation day;

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***excluded person*** means a person who —

- (a) is a residential ratepayer or small business ratepayer of a local government; and
- (b) is considered by the local government to be suffering financial hardship as a consequence of the COVID-19 pandemic;

***proposed differential general rate***, in relation to a local government, means a differential general rate that is to be imposed by the local government in the 2020/21 financial year;

***proposed minimum payment***, in relation to a local government, means a minimum payment that is to be imposed by the local government in the 2020/21 financial year;

***residential ratepayer***, in relation to a local government, means a person who under section 6.44 is liable to pay a rate or service charge that is imposed by the local government on land on the basis that the land is used for residential purposes;

***section*** means a section of the Act;

***small business*** has the meaning given in the *Small Business Development Corporation Act 1983* section 3(1);

***small business ratepayer***, in relation to a local government, means a person who under section 6.44 is liable to pay a rate or service charge that is imposed by the local government on land used by the person for the purposes of carrying out a small business owned or operated by the person.

- (2) A term has the same meaning in this order as it has in section 6.1.

**4. Section 5.27 modified (electors' general meetings)**

- (1) Section 5.27 is modified as set out in this clause in relation to a general meeting of the electors of a district that —
  - (a) under section 5.27 is required to be held in the 2019/20 financial year; and
  - (b) on commencement day has not been held.
- (2) The requirements in section 5.27(1) and (2) do not apply to the general meeting and are replaced with the requirements in subclauses (3) and (4).
- (3) The general meeting is not to be held during the COVID emergency period.
- (4) The general meeting is to be held on a day selected by the local government but not more than 56 days after cessation day.

**5. Section 5.28 modified (electors' special meetings)**

- (1) Section 5.28 is modified as set out in this clause in relation to a special meeting of the electors of a district that under section 5.28(4) is required or permitted to be held during the COVID emergency period.
- (2) The requirements in section 5.28(4) do not apply to the special meeting and are replaced with the requirements in subclauses (3) and (4).
- (3) The special meeting is not to be held during the COVID emergency period.
- (4) The special meeting is to be held on a day selected by the mayor or president but not more than 35 days after cessation day.

**6. Section 5.94 modified (public can inspect certain local government information)**

- (1) Section 5.94 is modified as set out in this clause.

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- (2) If the office of a local government is closed as a consequence of the COVID-19 pandemic, the entitlement under section 5.94 of a person to attend the office to inspect a document and the requirements in that section are replaced with the entitlement and requirements in subclause (3).
- (3) A person may request that a local government provide the person with a copy of a document referred to in section 5.94 and, unless it would be contrary to section 5.95, the local government is to, free of charge, and whether or not the document is current at the time of the request —
  - (a) if the document is published on the local government's official website — inform the person of the website address where the document is published; or
  - (b) email a copy of the document to an email address provided by the person; or
  - (c) mail a copy of the document to a postal address provided by the person.

**7. Section 6.2 modified (local government to prepare annual budget)**

- (1) Section 6.2(2) is modified as set out in this clause in relation to the preparation of the 2020/21 annual budget of a local government.
- (2) The reference to the contents of the plan for the future of the district made in accordance with section 5.56 is replaced with a reference to the consequences of the COVID-19 pandemic.

**8. Section 6.13 modified (interest on money owing to local governments)**

- (1) Section 6.13 is modified as set out in this clause in relation to a resolution of a local government under section 6.13(1) that is to be included in its 2020/21 annual budget.



- (2) The resolution —
  - (a) cannot require a person who is considered by the local government to be suffering financial hardship as a consequence of the COVID-19 pandemic to pay interest; and
  - (b) is to specify that the requirement to pay interest does not apply to a person who is considered by the local government to be suffering financial hardship as a consequence of the COVID-19 pandemic.
- (3) The rate of interest that may be set by the local government under section 6.13 in its 2020/21 annual budget is not to exceed 8%.
- (4) Subclause (3) applies despite the *Local Government (Financial Management) Regulations 1996* regulation 19A.

**9. Section 6.33 modified (differential general rates)**

- (1) In this clause —

**relevant rate**, of a local government, means a proposed differential general rate of the local government that under section 6.33(3) cannot be imposed without the approval of the Minister.
- (2) Section 6.33(3) is modified as set out in this clause in relation to a relevant rate of a local government if —
  - (a) as a consequence of the COVID-19 pandemic, the local government resolves (whether before or after commencement day) that no proposed differential general rate of the local government will exceed the corresponding differential general rate that was imposed by the local government in the 2019/20 financial year; and
  - (b) the local government obtained the Minister's approval under section 6.33(3) to impose in the 2019/20 financial

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year a differential general rate corresponding to the relevant rate.

- (3) The local government is not required to obtain the approval of the Minister under section 6.33(3) to impose the relevant rate.

**10. Section 6.34 modified (limit on revenue or income from general rates)**

- (1) Section 6.34(b) is modified as set out in this clause in relation to the 2020/21 annual budget of a local government.
- (2) The reference to 90% is replaced with a reference to 80%.

**11. Section 6.35 modified (minimum payment)**

- (1) In this clause —  
*relevant minimum payment*, of a local government, means a proposed minimum payment of the local government that under section 6.35(5) cannot be imposed without the approval of the Minister.
- (2) Section 6.35(5) is modified as set out in this clause in relation to a relevant minimum payment of a local government if —
- (a) as a consequence of the COVID-19 pandemic, the local government resolves (whether before or after commencement day) that —
- (i) no proposed differential general rate of the local government will exceed the corresponding differential general rate that was imposed by the local government in the 2019/20 financial year; and
- (ii) no proposed minimum payment of the local government will exceed the corresponding minimum payment that was imposed by the local government in the 2019/20 financial year;
- and

- (b) the local government obtained the Minister's approval under section 6.35(5) to impose in the 2019/20 financial year a minimum payment corresponding to the relevant minimum payment.
- (3) The local government is not required to obtain the approval of the Minister under section 6.35(5) to impose the relevant minimum payment.

**12. Section 6.36 modified (local government to give notice of certain rates)**

- (1) Section 6.36 is modified as set out in this clause in relation to a local government if, as a consequence of the COVID-19 pandemic, the local government resolves (whether before or after commencement day) that —
  - (a) no proposed differential general rate of the local government will exceed the corresponding differential general rate that was imposed by the local government in the 2019/20 financial year; and
  - (b) no proposed minimum payment of the local government of the kind referred to in section 6.36(1) will exceed the corresponding minimum payment that was imposed by the local government in the 2019/20 financial year.
- (2) The requirements in section 6.36(1) to (4) do not apply to the local government and are replaced with the requirements in subclauses (3) and (4).
- (3) The local government must publish on the local government's official website details of each proposed differential general rate and each proposed minimum payment of the local government.
- (4) The details referred to in subclause (3) must be published by the local government within 10 days after the later of the following —
  - (a) the day on which the local government makes the resolution referred to in subclause (1);

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(b) commencement day.

**13. Section 6.45 modified (options for payment of rates or service charges)**

- (1) In this clause —  
*financial hardship policy*, in relation to a local government, means a policy addressing the manner in which the local government will deal with financial hardship that may be suffered by ratepayers and other persons who are required to make payments to the local government.
- (2) Section 6.45 is modified as set out in this clause in relation to payment by instalments of a rate or service charge imposed by a local government in the 2020/21 financial year.
- (3) The local government cannot impose an additional charge (including an amount by way of interest) under section 6.45(3) in respect of payment by instalments made by an excluded person.
- (4) If the local government has not adopted a financial hardship policy, the maximum rate of interest that may be imposed by the local government under section 6.45(3) is 3%.
- (5) Subclause (4) applies despite the *Local Government (Financial Management) Regulations 1996* regulation 68.

**14. Section 6.51 modified (accrual of interest on overdue rates or service charges)**

- (1) Section 6.51 is modified as set out in this clause in relation to a resolution made under section 6.51(1) by a local government at the time of imposing a rate or service charge for the 2020/21 financial year.
- (2) The resolution —
  - (a) cannot impose interest in respect of a rate or service charge payable by an excluded person; and

- (b) is to specify that the imposition of interest does not apply in respect of a rate or service charge payable by an excluded person.
- (3) The rate of interest that may be set by the local government under section 6.51 is not to exceed 8%.
- (4) Subclause (3) applies despite the *Local Government (Financial Management) Regulations 1996* regulation 70.

**15. Section 9.51 modified (giving documents to local government)**

- (1) Section 9.51 is modified as set out in this clause.
- (2) In addition to the methods in section 9.51(a) and (b), a document may be given to a local government by sending it by email to the local government at its email address.

## Notes

This is the *Local Government (COVID-19 Response) Order 2020*. For provisions that have come into operation see the compilation table.

## Compilation table

<b>Citation</b>	<b>Published</b>	<b>Commencement</b>
<i>Local Government (COVID-19 Response) Order 2020</i>	SL 2020/57 8 May 2020	8 May 2020 (see cl. 2)

## 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>
2019/20 financial year.....	3(1)
2020/21 annual budget.....	3(1)
2020/21 financial year.....	3(1)
cessation day .....	3(1)
commencement day .....	3(1)
COVID emergency period .....	3(1)
excluded person .....	3(1)
financial hardship policy.....	13(1)
proposed differential general rate .....	3(1)
proposed minimum payment.....	3(1)
relevant minimum payment .....	11(1)
relevant rate.....	9(1)
residential ratepayer .....	3(1)
section .....	3(1)
small business .....	3(1)
small business ratepayer .....	3(1)