



Western Australia

Local Government Act 1995

**Local Government (Functions and General)
Regulations 1996**

Local Government (Functions and General) Regulations 1996

Contents

Part 1 — Preliminary

1.	Citation	1
2.	Commencement	1

Part 1A — Local laws

2A.	Matters about which local laws are not to be made (Act s. 3.5)	2
3.	Prescribed manner of giving notice of purpose and effect of proposed local law (Act s. 3.12(2))	2

Part 2 — Thoroughfares

4.	Persons prescribed to be notified of road closure (Act s. 3.50)	3
5.	Persons prescribed to be notified of certain proposals (Act s. 3.51(1) <i>person having an interest</i>)	3
6.	Transitional provisions about road closures	4

Part 3 — Commercial enterprises by local governments (s. 3.59)

7.	Term used: major regional centre	5
8A.	Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)	5
8.	Exempt land transactions prescribed (Act s. 3.59)	6

9.	Amount prescribed for major trading undertakings; exempt trading undertakings prescribed (Act s. 3.59)	7
10.	Business plans for major trading undertaking and major land transaction, content of	9

Part 4 — Provision of goods and services

Division 1 — Purchasing policies

11A.	Purchasing policies for local governments	10
------	---	----

**Division 2 — Tenders for providing goods or
services (s. 3.57)**

11.	When tenders have to be publicly invited	11
12.	Anti-avoidance provision for r. 11(1)	16
13.	Requirements when local government invites tenders though not required to do so	16
14.	Publicly inviting tenders, requirements for	16
15.	Minimum time to be allowed for submitting tenders	18
16.	Receiving and opening tenders, procedure for	18
17.	Tenders register	19
18.	Rejecting and accepting tenders	20
19.	Tenderers to be notified of outcome	21
20.	Variation of requirements before entry into contract	21
21A.	Varying a contract for the supply of goods or services	22
21.	Limiting who can tender, procedure for	22
22.	Minimum time to be allowed for submitting expressions of interest	23
23.	Rejecting and accepting expressions of interest to be acceptable tenderer	23
24.	People who submitted expression of interest to be notified of outcome	24

Division 3 — Panels of pre-qualified suppliers

24AA.	Terms used	24
24AB.	Local government may establish panels of pre-qualified suppliers	25
24AC.	Requirements before establishing panels of pre-qualified suppliers	25

24AD.	Requirements when inviting persons to apply to join panel of pre-qualified suppliers	26
24AE.	Minimum time to be allowed for submitting application to join panel of pre-qualified suppliers	28
24AF.	Procedure for receiving and opening applications	28
24AG.	Information about panels of pre-qualified suppliers to be included in tenders register	28
24AH.	Rejecting and accepting applications to join panel of pre-qualified suppliers	29
24AI.	Applicants to be notified of outcome	29
24AJ.	Contracts with pre-qualified suppliers	30

Part 4A — Regional price preference

24A.	Application of this Part	31
24B.	Terms used	31
24C.	Regional price preference may be given	32
24D.	Discounts permitted for regional price preferences	32
24E.	Regional price preference policies for local governments	33
24F.	Adoption and notice of regional price preference policy	34
24G.	Adopted regional price preference policy, effect of	35

Part 5 — Owner onus and infringement notices

25.	Notice to put onus on vehicle owner, form of (Act s. 9.13)	36
26.	Infringement notice, form of (Act s. 9.16)	36
27.	Withdrawal of infringement notice, form of (Act s. 9.20)	36

Part 6 — Miscellaneous

29.	Contraventions that may lead to impounding of goods (Act s. 3.37)	37
29A.	Abandoned vehicle wrecks, value etc. prescribed for (Act s. 3.40A(5)(c))	38
29B.	Prescribed non-perishable goods (Act s. 3.47(2b)(ca))	38
30.	Dispositions of property excluded from Act s. 3.58	38
31.	Anti-avoidance provision for Act s. 3.58	41

Contents

32.	Local government permitted to form bodies corporate (Act s. 3.60)	41
32A.	Excluded authorisations (Act s. 9.2)	41
33.	Objections to decisions, form of etc. prescribed (Act s. 9.5)	42
34.	Common seal, unauthorised use of	43
35.	Certain persons protected from liability for wrongdoing (Act s. 9.56(1)(c))	43
35A.	Delegable functions of Minister (Act s. 9.66)	43
35B.	Delegable functions of Departmental CEO (Act s. 9.67)	43
36.	Warrant to enter, form of (Act s. 3.33(1) and 8.8(1))	44

Part 7 — Other transitional provisions

38.	Adopting former model by-laws as local laws (Act s. 3.8(2) and (3))	45
-----	---	----

Schedule 1 — Forms

Notes

Compilation table	52
Uncommenced provisions table	54
Other notes	54

Defined terms

Local Government (Functions and General) Regulations 1996

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Local Government (Functions and General) Regulations 1996*.

2. Commencement

These regulations come into operation on 1 July 1996.

Part 1A — Local laws

[Heading inserted: Gazette 11 Sep 1998 p. 4927.]

2A. **Matters about which local laws are not to be made (Act s. 3.5)**

Local laws are not to be made —

- (a) requiring the payment of fees or charges for the parking of vehicles on any land under the care, control or management of a local government in any part of the district of Cottesloe west of Broome Street; or
- (b) enabling such a requirement to be imposed.

[Regulation 2A inserted: Gazette 11 Sep 1998 p. 4927.]

3. **Prescribed manner of giving notice of purpose and effect of proposed local law (Act s. 3.12(2))**

For the purpose of section 3.12 of the Act, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that —

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

[Regulation 3 inserted: Gazette 31 Mar 2005 p. 1057; amended: Gazette 27 Sep 2011 p. 3846.]

Part 2 — Thoroughfares

4. Persons prescribed to be notified of road closure (Act s. 3.50)

- (1) The persons prescribed for the purposes of section 3.50 of the Act are —
 - (a) any person providing a service by means of pipes, cables, or anything else under, on, or above the land used for the thoroughfare whose access for purposes connected with the provision of that service would be impeded by the proposed closure; and
 - (b) the person having principal responsibility in the locality for ambulance services; and
 - (c) the person having principal responsibility in the locality for fire services; and
 - (d) the occupier of land that will lose its access.
- (2) The land that is prescribed for the purposes of section 3.50 of the Act is land that will lose its access.
- (3) In this regulation —

land that will lose its access means land that abuts the thoroughfare at any point to which access would be precluded as a result of the closure.

5. Persons prescribed to be notified of certain proposals (Act s. 3.51(1) *person having an interest*)

The persons prescribed for the purposes of section 3.51 of the Act are —

- (a) if the land to which that section applies is occupied, the occupier; and
- (b) in relation to fixing or altering the level of, or the alignment of, a public thoroughfare, any person providing a service by means of pipes, cables, or

anything else under, on, or above the land used for the thoroughfare.

6. Transitional provisions about road closures

(1) If, when the Act comes into operation, a thoroughfare —

- (a) has been obstructed by a local government under the former section 331B; or
- (b) has been temporarily closed under the former section 334 on the application of a local government,

the local government is to be regarded as having ordered under section 3.50 that the thoroughfare be closed, either wholly or partially, as required to continue the obstruction or closure in effect as if the Act had not come into operation.

(2) Subregulation (1) does not apply so as to continue the obstruction or closure beyond the time when it would have continued if the Act had not come into operation, nor so as to continue it beyond 30 June 2002.

(3) The local government may, by local public notice, order that the closure be revoked or that it be varied in such a way as to be less restrictive.

(4) In this regulation —

former section means a section of the *Local Government Act 1960* as in force before the day on which the *Local Government Act 1995* comes into operation ¹.

Part 3 — Commercial enterprises by local governments (s. 3.59)

7. Term used: major regional centre

(1) In this Part —

major regional centre means a local government the district of which —

- (a) is not in the metropolitan area; and
- (b) has more than 20 000 inhabitants.

(2) Section 2.4(6) of the Act applies to determine the number of inhabitants of a district for the purposes of the definition of *major regional centre*.

[Regulation 7 inserted: Gazette 27 Sep 2011 p. 3843-4.]

8A. Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)

(1) The amount prescribed for the purposes of the definition of *major land transaction* in section 3.59(1) of the Act is —

- (a) if the land transaction is entered into by a local government the district of which is in the metropolitan area or a major regional centre, the amount that is the lesser of —
 - (i) \$10 000 000; or
 - (ii) 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year;

or

- (b) if the land transaction is entered into by any other local government, the amount that is the lesser of —
 - (i) \$2 000 000; or

r. 8

- (ii) 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.
- (2) A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if —
 - (a) the total value of —
 - (i) the consideration under the transaction; and
 - (ii) anything done by the local government for achieving the purpose of the transaction, is more, or is worth more, than the amount prescribed under subregulation (1); and
 - (b) the Minister has, in writing, declared the transaction to be an exempt transaction because the Minister is satisfied that the amount by which the total value exceeds the amount prescribed under subregulation (1) is not significant taking into account —
 - (i) the total value of the transaction; or
 - (ii) variations throughout the State in the value of land.

[Regulation 8A inserted: Gazette 27 Sep 2011 p. 3844.]

8. Exempt land transactions prescribed (Act s. 3.59)

- (1) A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if the local government enters into it —
 - (a) without intending to produce profit to itself; and
 - (b) without intending that another person will be sold, or given joint or exclusive use of, all or any of the land involved in the transaction.
- (2) For the purposes of subregulation (1)(b) a person is given joint use of land if the land is to be jointly used for a common

purpose by the local government and that person (whether or not other persons are also given joint use of the land).

- (3) A transaction under which a local government disposes of a leasehold interest in land is an exempt land transaction for the purposes of section 3.59 of the Act if —
- (a) all or any of the consideration to be received by the local government under the transaction is by way of an increase in the value of the land due to improvements that are to be made without cost to the local government; and
 - (b) although the total value referred to in the definition of **major land transaction** in that section is more, or is worth more, than the amount prescribed for the purposes of that definition, it would not be if the consideration were reduced by the amount of the increase in value mentioned in paragraph (a).

[Regulation 8 amended: Gazette 29 Aug 1997 p. 4867-8.]

9. Amount prescribed for major trading undertakings; exempt trading undertakings prescribed (Act s. 3.59)

- (1) The amount prescribed for the purposes of the definition of **major trading undertaking** in section 3.59(1) of the Act is —
- (a) if the trading undertaking is entered into by a local government the district of which is in the metropolitan area or a major regional centre, the amount that is the lesser of —
 - (i) \$5 000 000; or
 - (ii) 10% of the lowest operating expenditure described in subregulation (2);
 - or
 - (b) if the trading undertaking is entered into by any other local government, the amount that is the lesser of —
 - (i) \$2 000 000; or

- (ii) 10% of the lowest operating expenditure described in subregulation (2).
- (2) The lowest operating expenditure referred to in subregulation (1) is the lowest of —
 - (a) the operating expenditure incurred by the local government from its municipal fund in the last completed financial year; and
 - (b) the operating expenditure likely to be incurred by the local government from its municipal fund in the current financial year; and
 - (c) the operating expenditure likely to be incurred by the local government from its municipal fund in the financial year after the current financial year.
- (3) A trading undertaking is an exempt trading undertaking for the purposes of section 3.59 of the Act if —
 - (a) the undertaking —
 - (i) in the last completed financial year, involved; or
 - (ii) in the current financial year or the financial year after the current financial year, is likely to involve,
expenditure by the local government of more than the amount prescribed under subregulation (1); and
 - (b) the Minister has, in writing, declared the transaction to be an exempt transaction because the Minister is satisfied that the amount by which expenditure is, or is likely to be, more than the amount prescribed under subregulation (1) is not significant taking into account —
 - (i) the total value of the undertaking; or

- (ii) variations throughout the State in the value of land.

[Regulation 9 amended: Gazette 31 Mar 2005 p. 1054;
27 Sep 2011 p. 3845.]

10. Business plans for major trading undertaking and major land transaction, content of

- (1) If a local government is required to prepare a business plan because of a major trading undertaking or major land transaction that it is to carry on or enter into jointly with another person —
 - (a) the business plan is to include details of the whole undertaking or transaction, even though the local government is not the only joint venturer; and
 - (b) the business plan is to include details of —
 - (i) the identity of each joint venturer other than the local government; and
 - (ii) the ownership of, and any other interests in, property that is involved in, or acquired in the course of, the joint venture; and
 - (iii) any benefit to which a joint venturer other than the local government may become entitled under or as a result of the joint venture; and
 - (iv) anything to which the local government may become liable under or as a result of the joint venture.
- (2) In subregulation (1) —
 - joint venture** means the major trading undertaking or major land transaction that is to be jointly carried on or entered into;
 - joint venturer** means the local government or another person with whom the local government is to carry on or enter into the joint venture.

Part 4 — Provision of goods and services

[Heading inserted: Gazette 2 Feb 2007 p. 244.]

Division 1 — Purchasing policies

[Heading inserted: Gazette 2 Feb 2007 p. 244.]

11A. Purchasing policies for local governments

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of —
 - (a) the form of quotations acceptable; and
 - (ba) the minimum number of oral quotations and written quotations that must be obtained; and
 - (b) the recording and retention of written information, or documents, in respect of —
 - (i) all quotations received; and
 - (ii) all purchases made.

[(4) deleted]

*[Regulation 11A inserted: Gazette 2 Feb 2007 p. 245;
amended: Gazette 18 Sep 2015 p. 3804; SL 2020/55 r. 4.]*

Division 2 — Tenders for providing goods or services (s. 3.57)

[Heading inserted: Gazette 2 Feb 2007 p. 245.]

11. When tenders have to be publicly invited

(1A) In this regulation —

COVID-19 declaration has the meaning given in the *Emergency Management Act 2005* section 77C(1);

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

(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.

(2) Tenders do not have to be publicly invited according to the requirements of this Division if —

(a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or

(aa) the supply of the goods or services is associated with a state of emergency or a COVID-19 declaration; or

(b) the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or

[(ba) deleted]

(c) within the last 6 months —

(i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or

(ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;

or

(d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or

(e) the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or

(ea) the goods or services are to be supplied —

(i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and

(ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;

or

(f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or

(g) the goods to be supplied under the contract are —

(i) petrol or oil; or

(ii) any other liquid, or any gas, used for internal combustion engines;

or

- (h) the following apply —
- (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) a person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362;
- and
- (ii) the consideration under the contract is \$250 000 or less, or worth \$250 000 or less; and
 - (iii) the local government is satisfied that the contract represents value for money;
- or
- (i) the goods or services are to be supplied by an Australian Disability Enterprise; or
 - (ia) the contract is formed by the novation of a contract to which subregulation (1) applies; or
 - (j) the contract is a renewal or extension of the term of a contract (the **original contract**) where —
 - (i) the original contract was entered into after the local government, according to the requirements of this Division, publicly invited tenders for the supply of goods or services; and
 - (ii) the invitation for tenders contained provision for the renewal or extension of a contract entered into with a successful tenderer; and
 - (iii) the original contract contains an option to renew or extend its term; and

(iv) the supplier's tender included a requirement for such an option and specified the consideration payable, or the method by which the consideration is to be calculated, if the option were exercised;

or

- (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 or a COVID-19 declaration applying to the district, or part of the district, of the local government;

or

- (jb) the contract is a renewal or extension of the term of a contract (the *original contract*) for the supply of dental or medical services by a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession or medical profession; or
- (k) the goods or services are to be supplied by a pre-qualified supplier under Division 3.

- (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.
- (4) For the purposes of subregulation (2)(aa) a supply of goods or services is associated with a COVID-19 declaration if —
 - (a) the contract for the supply is entered into while there is in force a COVID-19 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 occurrence of COVID-19, or from the impact or consequences of the occurrence of COVID-19, in the area to which the COVID-19 declaration relates.
- (5) For the purposes of subregulation (2)(jb), it is immaterial that the supplier also supplies services under the original contract that are not dental or medical services.
- (6) Subregulation (2)(jb) does not apply in relation to the renewal or extension of the term of a contract by —
 - (a) the local government of a district in the metropolitan area; or
 - (b) the City of Mandurah.

[Regulation 11 amended: Gazette 29 Apr 1997 p. 2145; 26 Jun 1998 p. 3447; 25 Feb 2000 p. 970-1; 29 Jun 2001 p. 3130; 31 Mar 2005 p. 1054-5; 2 Feb 2007 p. 245-6; 18 Sep 2015 p. 3804-6; SL 2020/35 r. 8; SL 2020/55 r. 5; SL 2022/177 r. 14; SL 2023/47 r. 4.]

12. Anti-avoidance provision for r. 11(1)

- (1) This regulation applies if a local government intends to enter into 2 or more contracts (the *contracts*) in circumstances such that the desire to avoid the requirements of regulation 11(1) is a significant reason for not dealing with the matter in a single contract.
- (2) If this regulation applies, tenders are to be publicly invited according to the requirements of this Division before the local government enters into any of the contracts regardless of the consideration.

[Regulation 12 inserted: Gazette 18 Sep 2015 p. 3806.]

13. Requirements when local government invites tenders though not required to do so

If a local government, although not required by this Division to invite tenders before entering into a contract for another person to supply goods or services, decides to invite tenders, the tenders are to be publicly invited according to the requirements of this Division.

[Regulation 13 amended: Gazette 2 Feb 2007 p. 245-6.]

14. Publicly inviting tenders, requirements for

- (1) When regulation 11(1), 12(2) or 13 requires tenders to be publicly invited, Statewide public notice of the invitation is to be given.
- (2) If the CEO has, under regulation 23(4), prepared a list of acceptable tenderers, instead of giving Statewide public notice the CEO is required to give notice of the invitation to each acceptable tenderer listed.
- (2a) If a local government —
 - (a) is required to invite a tender; or

- (b) not being required to invite a tender, decides to invite a tender,

the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

- (3) The notice, whether under subregulation (1) or (2), is required to include —
 - (a) a brief description of the goods or services required; and
 - (b) particulars identifying a person from whom more detailed information as to tendering may be obtained; and
 - (c) information as to where and how tenders may be submitted; and
 - (d) the date and time after which tenders cannot be submitted.
- (4) In subregulation (3)(b) a reference to detailed information includes a reference to —
 - (a) such information as the local government decides should be disclosed to those interested in submitting a tender; and
 - (b) detailed specifications of the goods or services required; and
 - (c) the criteria for deciding which tender should be accepted; and
 - (d) whether the local government has decided to submit a tender.
 - [(e) deleted]*
- (5) After a notice has been given under subregulation (1) or (2), a local government may vary the information referred to in subregulation (3) by taking reasonable steps to give each person

who has sought copies of the tender documents or each acceptable tenderer, as the case may be, notice of the variation.

[Regulation 14 amended: Gazette 29 Jun 2001 p. 3130; 18 Sep 2015 p. 3806.]

15. Minimum time to be allowed for submitting tenders

- (1) If a notice under regulation 14(1) is given, the date and time referred to in regulation 14(3)(d) has to be at least 14 days after the notice is —
 - (a) published on the local government's official website; and
 - (b) published in at least 3 of the ways prescribed in the *Local Government (Administration) Regulations 1996* regulation 3A(2).
- (2) If a notice under regulation 14(2) is given to a person listed as an acceptable tenderer, the date and time referred to in regulation 14(3)(d) has to be at least 14 days after the notice is given.

[Regulation 15 inserted: Gazette 18 Sep 2015 p. 3806-7; amended: SL 2020/213 r. 35.]

16. Receiving and opening tenders, procedure for

- (1) The CEO is responsible for keeping any tender submitted including a tender submitted by facsimile or other electronic means in safe custody, and for ensuring that it remains confidential.
- (2) Tenders are not to be opened, examined, or assessed until the time after which further tenders cannot be submitted.
- (3) When tenders are opened —
 - (a) there must be present —
 - (i) at least 2 employees of the local government; or

- (ii) one employee of the local government and at least one person authorised by the CEO to open tenders;

and

- (b) members of the public are entitled to be present; and
- (c) details of the tenders (other than the consideration sought in the tender) are to be immediately recorded in a register to be known as the tenders register.

[Regulation 16 amended: Gazette 29 Jun 2001 p. 3131; 31 Mar 2005 p. 1055; 18 Sep 2015 p. 3807.]

17. Tenders register

- (1) The CEO is responsible for keeping the tenders register and making it available for public inspection.
 - (1A) The CEO must publish the tenders register on the local government's official website.
 - (2) The tenders register is to include, for each invitation to tender —
 - (a) a brief description of the goods or services required; and
 - [(b) deleted]*
 - (c) particulars of —
 - (i) any notice by which expressions of interests from prospective tenderers was sought; and
 - (ii) any person who submitted an expression of interest; and
 - (iii) any list of acceptable tenderers that was prepared under regulation 23(4);
- and
- (d) a copy of the notice of the invitation to tender; and
 - (e) the name of each tenderer whose tender has been opened; and

(f) the name of any successful tenderer.

- (3) The tenders register is to include for each invitation to tender the amount of the consideration or a summary of the amount of the consideration sought in the tender accepted by the local government.

[Regulation 17 amended: Gazette 29 Jun 2001 p. 3131; 18 Sep 2015 p. 3807; SL 2020/213 r. 36.]

18. Rejecting and accepting tenders

- (1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.
- (2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.
- (3) If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.
- (4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.
- (4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.
- (5) The local government may decline to accept any tender.
- (6) If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and

the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

- (7) If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

[Regulation 18 amended: Gazette 29 Jun 2001 p. 3131-2; 18 Sep 2015 p. 3807.]

19. Tenderers to be notified of outcome

The CEO is to give each tenderer notice in writing containing particulars of the successful tender or advising that no tender was accepted.

[Regulation 19 amended: Gazette 29 Jun 2001 p. 3132.]

20. Variation of requirements before entry into contract

- (1) If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.
- (2) If —
- (a) the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or

- (b) the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,

that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.

- (3) In subregulation (1) —

minor variation means a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.

21A. Varying a contract for the supply of goods or services

If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless —

- (a) the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or
- (b) the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j), (ja) or (jb).

[Regulation 21A inserted: Gazette 18 Sep 2015 p. 3807; amended: SL 2023/47 r. 5.]

21. Limiting who can tender, procedure for

- (1) If a local government decides to make a preliminary selection from amongst prospective tenderers, it may seek expressions of interest with respect to the supply of the goods or services.

[(2) deleted]

- (3) If a local government decides to seek expressions of interest before inviting tenders, Statewide public notice that expressions of interest are sought is to be given.

- (4) The notice is required to include —
- (a) a brief description of the goods or services required; and
 - (b) particulars identifying a person from whom more detailed information may be obtained; and
 - (c) information as to where and how expressions of interest may be submitted; and
 - (d) the date and time after which expressions of interest cannot be submitted.

[Regulation 21 amended: Gazette 18 Sep 2015 p. 3808.]

22. Minimum time to be allowed for submitting expressions of interest

The time specified in the notice as the time after which expressions of interest cannot be submitted has to be at least 14 days after the notice is —

- (a) published on the local government's official website; and
- (b) published in at least 3 of the ways prescribed in the *Local Government (Administration) Regulations 1996* regulation 3A(2).

[Regulation 22 amended: SL 2020/213 r. 37

23. Rejecting and accepting expressions of interest to be acceptable tenderer

- (1) An expression of interest is required to be rejected unless it is submitted at a place, and within the time, specified in the notice.
- (2) An expression of interest that is submitted at a place, and within the time, specified in the notice but that fails to comply with any other requirement specified in the notice may be rejected without considering its merits.
- (3) Expressions of interest that have not been rejected under subregulation (1) or (2) are to be considered by the local

government and it is to decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.

- (4) The CEO is to list each of those persons as an acceptable tenderer.

[Regulation 23 amended: Gazette 29 Jun 2001 p. 3132.]

24. People who submitted expression of interest to be notified of outcome

The CEO is to give each person who submitted an expression of interest notice in writing —

- (a) containing particulars of the persons the CEO has listed under regulation 23(4) as acceptable tenderers; or
- (b) advising that the local government has decided not to invite tenders because no expression of interest that it considered was from a person who it thinks would be capable of satisfactorily supplying the goods or services; or
- (c) informing the person of any other outcome if neither paragraph (a) nor (b) is appropriate.

[Regulation 24 amended: Gazette 29 Jun 2001 p. 3133.]

Division 3 — Panels of pre-qualified suppliers

[Heading inserted: Gazette 18 Sep 2015 p. 3808.]

24AA. Terms used

In this Division —

panel of pre-qualified suppliers means a panel of pre-qualified suppliers of goods or services established in accordance with this Division;

pre-qualified supplier, of particular goods or services, means a person who is part of a panel of pre-qualified suppliers for the supply of those goods or services.

[Regulation 24AA inserted: Gazette 18 Sep 2015 p. 3808.]

24AB. Local government may establish panels of pre-qualified suppliers

A local government may establish a panel of pre-qualified suppliers to supply particular goods or services to the local government in accordance with this Division.

[Regulation 24AB inserted: Gazette 18 Sep 2015 p. 3808.]

24AC. Requirements before establishing panels of pre-qualified suppliers

- (1) A local government must not establish a panel of pre-qualified suppliers unless —
 - (a) it has a written policy that makes provision in respect of the matters set out in subregulation (2); and
 - (b) the local government is satisfied that there is, or will be, a continuing need for the particular goods or services to be supplied by pre-qualified suppliers.
- (2) The matters referred to in subregulation (1)(a) are —
 - (a) how the local government will procure goods or services from pre-qualified suppliers, including any process for obtaining quotations from them; and
 - (b) how the local government will ensure that each pre-qualified supplier on a panel of pre-qualified suppliers will be invited to quote for the supply of the goods or services that the pre-qualified suppliers will be expected to supply; and
 - (c) how the local government will ensure clear, consistent and regular communication between the local government and pre-qualified suppliers; and

- (d) any factors that the local government will take into account when distributing work among pre-qualified suppliers; and
- (e) the recording and retention of written information, or documents, in respect of —
 - (i) all quotations received from pre-qualified suppliers; and
 - (ii) all purchases made from pre-qualified suppliers.

[Regulation 24AC inserted: Gazette 18 Sep 2015 p. 3808-9.]

24AD. Requirements when inviting persons to apply to join panel of pre-qualified suppliers

- (1) If a local government decides to establish a panel of pre-qualified suppliers of particular goods or services, persons are to be publicly invited to apply to join the panel.
- (2) Statewide public notice of the invitation to apply to join a panel of pre-qualified suppliers is to be given.
- (3) The local government must, before applications to join a panel of pre-qualified suppliers for particular goods or services are publicly invited, determine in writing the criteria for deciding which applications should be accepted.
- (4) A notice under subregulation (2) is to include —
 - (a) a brief description of the goods or services that persons on the panel of pre-qualified suppliers will be expected to supply; and
 - (b) particulars identifying a person from whom more detailed information about the proposed panel of pre-qualified suppliers of particular goods or services may be obtained; and
 - (c) information as to where and how applications to join the panel of pre-qualified suppliers may be submitted; and

- (d) the date and time after which applications to join the panel of pre-qualified suppliers cannot be submitted.
- (5) In subregulation (4)(b) a reference to detailed information about a proposed panel of pre-qualified suppliers of particular goods or services includes a reference to —
- (a) the local government's written policy referred to in regulation 24AC(1)(a); and
 - (b) such information as the local government decides should be disclosed to those interested in applying to join the panel; and
 - (c) detailed specifications of the goods or services that pre-qualified suppliers on the panel will be expected to supply; and
 - (d) the criteria for deciding which applications to join the panel should be accepted; and
 - (e) an explanation of how the panel will operate; and
 - (f) whether or not the local government intends to purchase the goods or services exclusively from pre-qualified suppliers on the panel; and
 - (g) a statement to the effect that there is no guarantee that the local government will purchase goods or services from pre-qualified suppliers on the panel; and
 - (h) the period for which the panel will be established; and
 - (i) the number of pre-qualified suppliers the local government intends to put on the panel.
- (6) After a notice has been given under subregulation (2), a local government may vary the information referred to in subregulations (4) and (5) by taking reasonable steps to give each person who has sought detailed information about the proposed panel or each person who has submitted an application, as the case may be, notice of the variation.

[Regulation 24AD inserted: Gazette 18 Sep 2015 p. 3809-10.]

24AE. Minimum time to be allowed for submitting application to join panel of pre-qualified suppliers

If notice under regulation 24AD(2) is given, the date and time referred to in regulation 24AD(4)(d) has to be at least 14 days after the notice is —

- (a) published on the local government's official website; and
- (b) published in at least 3 of the ways prescribed in the *Local Government (Administration) Regulations 1996* regulation 3A(2).

[Regulation 24AE inserted: Gazette 18 Sep 2015 p. 3810; amended: SL 2020/213 r. 38.]

24AF. Procedure for receiving and opening applications

Regulation 16 applies to the receiving and opening of applications to join a panel of pre-qualified suppliers as if a reference in that regulation to a tender were a reference to an application to join a panel of pre-qualified suppliers.

[Regulation 24AF inserted: Gazette 18 Sep 2015 p. 3810.]

24AG. Information about panels of pre-qualified suppliers to be included in tenders register

- (1) The tenders register kept under these regulations must include, for each invitation to apply to join a panel of pre-qualified suppliers —
 - (a) a brief description of the goods or services persons on the panel will be expected to supply; and
 - (b) a copy of the notice of the invitation to apply to join the panel; and
 - (c) the name of each applicant whose application has been opened; and
 - (d) the name of any successful applicant.

- (2) The tenders register is to include for each invitation to apply to join a panel of pre-qualified suppliers the pricing schedule, or a summary of the amount of the consideration sought, in the applications accepted by the local government.

[Regulation 24AG inserted: Gazette 18 Sep 2015 p. 3811.]

24AH. Rejecting and accepting applications to join panel of pre-qualified suppliers

- (1) An application to join a panel of pre-qualified suppliers (an **application**) is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for applications to join the panel.
- (2) An application that is submitted at a place, and within the time, specified in the invitation but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the application.
- (3) Applications that have not been rejected under subregulation (1) or (2) are to be assessed by the local government by means of a written evaluation of the extent to which each application satisfies the criteria for deciding which applications to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.
- (4) To assist the local government in deciding whether an application would be advantageous to it to accept, the person who submitted the application may be requested to clarify the information provided in it.
- (5) The local government may decline to accept any application.

[Regulation 24AH inserted: Gazette 18 Sep 2015 p. 3811.]

24AI. Applicants to be notified of outcome

After the local government has decided under regulation 24AH which applications (if any) it will accept, the CEO is to give

each person who submitted an application notice in writing advising —

- (a) that the person's application was accepted and that the person is, for the period specified in the notice, to be part of a panel of pre-qualified suppliers of the particular goods or services; or
- (b) that the person's application was not accepted.

[Regulation 24AI inserted: Gazette 18 Sep 2015 p. 3812.]

24AJ. Contracts with pre-qualified suppliers

- (1) The local government may enter into a contract, or contracts, for the supply of goods or services with a pre-qualified supplier who is part of a panel of pre-qualified suppliers for the supply of those particular goods or services.
- (2) A contract referred to in subregulation (1) must not —
 - (a) be for a term exceeding 12 months; or
 - (b) contain an option to renew or extend its term.

[Regulation 24AJ inserted: Gazette 18 Sep 2015 p. 3812.]

Part 4A — Regional price preference

[Heading inserted: Gazette 25 Feb 2000 p. 971.]

24A. Application of this Part

The provisions of Part 4 may be varied in accordance with this Part, if the local government is located outside the metropolitan area and intends to give a regional price preference in accordance with this Part.

[Regulation 24A inserted: Gazette 25 Feb 2000 p. 971.]

24B. Terms used

(1) In this Part —

regional price preference, in relation to a tender submitted by a regional tenderer, involves assessing the tender as if the proposed tender price were discounted in accordance with regulation 24D;

regional tenderer means a supplier of goods or services who satisfies the criteria in subregulation (2).

(2) A supplier of goods or services who submits a tender is regarded as being a regional tenderer for the purposes of this Part if —

- (a) that supplier has been operating a business continuously out of premises in the appropriate region for at least 6 months before the time after which further tenders cannot be submitted; or
- (b) some or all of the goods or services are to be supplied from regional sources.

[Regulation 24B inserted: Gazette 25 Feb 2000 p. 971.]

r. 24C

24C. Regional price preference may be given

A local government located outside the metropolitan area may give a regional price preference to a regional tenderer in accordance with this Part.

[Regulation 24C inserted: Gazette 25 Feb 2000 p. 971.]

24D. Discounts permitted for regional price preferences

- (1) A preference may be given to a regional tenderer by assessing the tender from that regional tenderer as if the price bids were reduced by —
 - (a) up to 10% — where the contract is for goods or services, up to a maximum price reduction of \$50 000; or
 - (b) up to 5% — where the contract is for construction (building) services, up to a maximum price reduction of \$50 000; or
 - (c) up to 10% — where the contract is for goods or services (including construction (building) services), up to a maximum price reduction of \$500 000, if the local government is seeking tenders for the provision of those goods or services for the first time, due to those goods or services having been, until then, undertaken by the local government.
- (2) Although goods or services that form a part of a tender submitted by a tenderer (who is a regional tenderer by virtue of regulation 24B(2)(b)) may be —
 - (a) wholly supplied from regional sources; or
 - (b) partly supplied from regional sources, and partly supplied from non-regional sources,

only those goods or services identified in the tender as being from regional sources may be included in the discounted calculations that form a part of the assessments of a tender when a regional price preference policy is in operation.

- (3) Despite subregulation (1), price is only one of the factors to be assessed when the local government is to decide which of the tenders it thinks would be most advantageous to that local government to accept under regulation 18(4).

[Regulation 24D inserted: Gazette 25 Feb 2000 p. 972.]

24E. Regional price preference policies for local governments

- (1) Where a local government intends to give a regional price preference in relation to a process, the local government is to —
- (a) prepare a proposed regional price preference policy (if no policy has yet been adopted for that kind of contract); and
 - (b) give Statewide public notice of the intention to have a regional price preference policy and include in that notice —
 - (i) the region to which the policy is to relate; and
 - (ii) details of where a complete copy of the proposed policy may be obtained; and
 - (iii) a statement inviting submissions commenting on the proposed policy, together with a closing date of not less than 4 weeks for those submissions;
- and
- (c) make a copy of the proposed regional price preference policy available for public inspection in accordance with the notice; and
 - (d) publish the proposed regional price preference policy on the local government's official website.
- (2) A regional price preference policy may be expressed to be —
- (a) for different regions in respect of different parts of the contract, or the various contracts, comprising the basis of the tender;

r. 24F

- (b) for different goods or services within a single contract or various contracts;
- (c) for different price preferences in respect of the different goods or services, or the different regions, that are the subject of a tender or tenders (subject to the limits imposed by regulation 24D),

or for any combination of those factors.

- (3) A region specified under this Part —
 - (a) must be (or include) the entire district of the local government; and
 - (b) cannot include a part of the metropolitan area.
- (4) A policy cannot be adopted by a local government until the local government has considered all submissions that are received in relation to the proposed policy and, if that consideration results in significant changes to the proposed policy, then the local government must again give Statewide public notice of the altered proposed regional price preference policy.

[Regulation 24E inserted: Gazette 25 Feb 2000 p. 972-3; amended: Gazette 31 Mar 2005 p. 1055; SL 2020/213 r. 39.]

24F. Adoption and notice of regional price preference policy

- (1) A policy cannot be adopted by a local government until at least 4 weeks after the publication of the Statewide notice of the proposed policy.
- (2) An adopted policy must state —
 - (a) the region or regions within which each aspect of it is to be applied; and
 - (b) the types and nature of businesses that may be considered for each type of preference; and

- (c) whether the policy applies to —
- (i) different regions in respect of different parts of the contract, or the various contracts, comprising the basis of the tender;
 - (ii) different goods or services within a single contract or various contracts;
 - (iii) different price preferences in respect of the different goods or services, or the different regions, that are the subject of a tender or tenders,
- or to any combination of those factors.
- (3) An adopted policy cannot be applied until the local government gives Statewide notice that it has adopted that policy.
- (4) The local government is to ensure that a copy of an adopted regional price preference policy is —
- (a) included with any specifications for tenders to which the policy applies; and
 - (b) published on the local government's official website.

[Regulation 24F inserted: Gazette 25 Feb 2000 p. 973-4; amended: Gazette 31 Mar 2005 p. 1055; SL 2020/213 r. 40.]

24G. Adopted regional price preference policy, effect of

A local government that has adopted a regional price preference policy in relation to a certain type of contract may choose not to apply that policy to a particular tender in the future for a contract of that type but, unless it does so, the policy is to apply to all like tenders.

[Regulation 24G inserted: Gazette 25 Feb 2000 p. 974.]

[Part 4B (r. 24H-24I) deleted: Gazette 27 Sep 2011 p. 3846.]

Part 5 — Owner onus and infringement notices

25. Notice to put onus on vehicle owner, form of (Act s. 9.13)

The form of a notice that may be given under section 9.13 of the Act to the owner of a vehicle that is involved in an offence against a regulation is the form set out in Form 1 in Schedule 1.

26. Infringement notice, form of (Act s. 9.16)

- (1) The form of an infringement notice that may be given under section 9.16 of the Act for a prescribed offence against a regulation is the form set out in Form 2 in Schedule 1.
- (2) Subregulation (1) applies whether the offence is made a prescribed offence by regulations or by a local law.

27. Withdrawal of infringement notice, form of (Act s. 9.20)

- (1) The form of the notice that may be given under section 9.20 of the Act to withdraw an infringement notice for a prescribed offence against a regulation is the form set out in Form 3 in Schedule 1.
- (2) Subregulation (1) applies whether the offence is made a prescribed offence by regulations or by a local law.

[28. *Omitted under the Reprints Act 1984 s. 7(4)(g).*]

Part 6 — Miscellaneous

29. Contraventions that may lead to impounding of goods (Act s. 3.37)

- (1) A contravention of a regulation or local law made under the Act can lead to the impounding of goods involved in the contravention if —
- (a) it occurs in a public place; and
 - (b) either —
 - (i) the presence of the goods —
 - (I) presents a hazard to public safety; or
 - (II) obstructs the lawful use of any place;
 - or
 - (ii) where the regulation or local law prohibits or regulates the placement of the goods, the goods are located in a place contrary to that regulation or local law.
- (1a) A contravention of a regulation or local law made under the Act can lead to the impounding of goods that are animals (if they are involved in the contravention) whether or not the contravention takes place in a private or a public place.
- (2) In subregulation (1) or (1a) —
public place includes a place that is on private property that the public are allowed to use.
- [Regulation 29 amended: Gazette 29 Apr 1997 p. 2145;
25 Feb 2000 p. 974.]*

r. 29A

29A. Abandoned vehicle wrecks, value etc. prescribed for (Act s. 3.40A(5)(c))

For the purposes of the definition of *abandoned vehicle wreck* in section 3.40A(5)(c) of the Act —

- (a) the prescribed value is \$500; and
- (b) the prescribed manner in which that value is to be calculated is that the value is to be based on the local private sale value of a vehicle of the same, or a similar, model, year and condition.

[Regulation 29A inserted: Gazette 31 Mar 2005 p. 1058; amended: Gazette 27 Sep 2011 p. 3846; 18 Sep 2015 p. 3812.]

29B. Prescribed non-perishable goods (Act s. 3.47(2b)(ca))

For the purposes of section 3.47(2b)(ca) of the Act, shopping trolleys are prescribed non-perishable goods.

[Regulation 29B inserted: Gazette 20 Nov 2009 p. 4660.]

30. Dispositions of property excluded from Act s. 3.58

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if —
 - (a) the land is disposed of to an owner of adjoining land (in this paragraph called the *transferee*) and —
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;

or

- (b) the land is disposed of to a body, whether incorporated or not —
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

or

- (c) the land is disposed of to —
 - (i) the Crown in right of the State or the Commonwealth; or
 - (ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or
 - (iii) another local government or a regional local government;

or

- (d) it is the leasing of land to an employee of the local government for use as the employee's residence; or
- (e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land; or
- (f) it is the leasing of land to a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession or medical profession to be used for carrying on the person's dental practice or medical practice; or
- (g) it is the leasing of residential property to a person.

- (2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —
- (a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or
 - (b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or
 - (c) the subject of Statewide public notice under section 3.59(4) of the Act, and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including —
 - (i) the names of all other parties concerned; and
 - (ii) the consideration to be received by the local government for the disposition; and
 - (iii) the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.
- (2b) Details of a disposition of property under subregulation (2a) must, for a period of 1 year beginning on the day of the initial auction or tender —
- (a) be made available for public inspection; and
 - (b) be published on the local government’s official website.
- (3) A disposition of property other than land is an exempt disposition if —
- (a) its market value is less than \$20 000; or
 - (b) the entire consideration received by the local government for the disposition is used to purchase other

property, and where the total consideration for the other property is not more, or worth more, than \$75 000.

[Regulation 30 amended: Gazette 25 Feb 2000 p. 974-5; 28 Apr 2000 p. 2041; 31 Mar 2005 p. 1055-6; 27 Sep 2011 p. 3846; 18 Sep 2015 p. 3812; SL 2020/213 r. 41; SL 2023/47 r. 6.]

31. Anti-avoidance provision for Act s. 3.58

If a local government disposes of property by means of 2 or more dispositions in circumstances such that the desire to exclude the application of section 3.58 of the Act is a significant reason for not dealing with the matter in a single disposition, the dispositions are not exempt dispositions.

32. Local government permitted to form bodies corporate (Act s. 3.60)

- (1) A local government may form or take part in forming an association that is to be incorporated under the *Associations Incorporation Act 2015* and may do things for the purpose of the incorporation of the association under that Act.
- (2) A local government may form or take part in forming a body corporate established under —
 - (a) the *Strata Titles Act 1985* section 14(1); or
 - (b) the *Community Titles Act 2018* section 17(1).

[Regulation 32 amended: Gazette 4 Dec 1998 p. 6500; 30 Dec 2016 p. 5970; 31 Dec 2019 p. 4649; SL 2021/75 r. 4.]

32A. Excluded authorisations (Act s. 9.2)

- (1) The following are excluded from being authorisations for the purposes of the definition of *authorisation* in section 9.2 of the Act —
 - (a) an authority to carry out private works on local government property;

- (b) an authority allowing the use of local government land or premises, or the use of local government goods or equipment.
- (2) Despite subregulation (1), an authority set out in paragraph (a) or (b) of that subregulation is to be regarded as an *authorisation* under section 9.2 of the Act if —
- (a) a local law, or regulation that is to operate as if it were a local law, states that a decision in relation to that authority is one to which Division 9 of the Act applies and that a person specified in it is an affected person for the purposes of that Division; or
 - (b) a person has —
 - (i) by virtue of that authority, a reasonable expectation of the enjoyment (or the continued enjoyment) of a right or interest conferred by that authority; or
 - (ii) by virtue of the usual circumstances surrounding the grant of an authority of that type, a reasonable expectation of successfully applying for the right or interest conferred by that authority.

[Regulation 32A inserted: Gazette 25 Feb 2000 p. 975-6; amended: Gazette 27 Sep 2011 p. 3846-7.]

33. Objections to decisions, form of etc. prescribed (Act s. 9.5)

- (1) The form in which an objection may be made under section 9.5 of the Act is the form set out in Form 4 in Schedule 1.
- (2) The manner in which the objection may, within the time permitted by section 9.5 of the Act, be lodged with the local government is by giving a copy of it to the CEO.

34. Common seal, unauthorised use of

A person who affixes the common seal, or a replica of the common seal, of a local government to any document except as authorised by the local government commits an offence.

Penalty: a fine of \$1 000.

[Regulation 34 inserted: Gazette 27 Sep 2011 p. 3846.]

35. Certain persons protected from liability for wrongdoing (Act s. 9.56(1)(c))

The functions in the performance of which a person appointed or engaged by a local government is a protected person under section 9.56(1)(c) of the Act are —

- (a) any function expressly provided for in a written law that the person was appointed or engaged to perform; and
- (b) any function that the person is authorised to perform on behalf of the local government.

35A. Delegable functions of Minister (Act s. 9.66)

The Minister's functions under the provisions of the Act that are listed in the Table to this regulation are delegable functions.

Table

s. 2.25(2)	s. 6.2(1)	s. 6.35(5)
s. 5.7(1) and (2)	s. 6.4(3)	s. 6.74
s. 5.69	s. 6.28(1)	s. 7.5
s. 5.69A	s. 6.33(3)	

[Regulation 35A inserted: Gazette 28 Jun 2002 p. 3082; amended: Gazette 27 Sep 2011 p. 3846.]

35B. Delegable functions of Departmental CEO (Act s. 9.67)

The Departmental CEO's functions under the provisions of the Act that are listed in the Table are delegable functions.

Table

s. 5.108(1)	s. 5.112(1), (2), (3) and (4)
s. 5.116(1), (2), (3) and (5)	s. 5.117(4) and (5)
s. 5.118(2)	s. 8.2(1)
s. 8.3(1), (2) and (4)	s. 8.4(4)
s. 8.13(4)	s. 8.14(1) and (2)
s. 8.36(1)	s. 8.41(2)
s. 8.43(2)	Sch. 9.3 cl. 51(3) and (7)

[Regulation 35B inserted: Gazette 8 Dec 2017 p. 5845.]

36. Warrant to enter, form of (Act s. 3.33(1) and 8.8(1))

The form in which a warrant may be granted under section 3.33(1) or 8.8(1) of the Act is the form set out in Form 6 in Schedule 1.

Part 7 — Other transitional provisions

[37. *Omitted under the Reprints Act 1984 s. 7(4)(e).*]

38. Adopting former model by-laws as local laws (Act s. 3.8(2) and (3))

- (1) Unless a model local law dealing with the same subject matter has been published under section 3.9 of the Act, the text of a former draft model by-law may be adopted by a local law made under this Act.
- (2) Section 3.8(2) and (3) of the Act apply to the adoption of the text of a former draft model by-law.
- (3) In the text adopted, a description of, or reference to, a provision of the text is to be read as if it had been modified to accord with the adoption of the text by a local law.
- (4) In this regulation —
former draft model by-law means a draft model by-law published under section 258 of the *Local Government Act 1960* as in force before 1 July 1996.

Schedule 1 — Forms

Form 1

[reg. 25]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

Date/...../.....

City/Town/Shire of.....

To: ⁽¹⁾

of: ⁽²⁾

It is alleged that on /..... /..... at ⁽³⁾

at ⁽⁴⁾ your vehicle ⁽⁵⁾

was involved in the commission of the following offence —

.....

.....

.....

contrary to regulation of the ⁽⁶⁾

You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless —

(a) within 28 days after being served with this notice —

(i) you inform the chief executive officer, or another authorised officer, of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or

(ii) you satisfy the chief executive officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed;

or

(b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

Name and title of authorised person giving the notice.....

Signature

- (1) Name of owner or "owner of (*vehicle identification*)"
- (2) Address of owner (not required if owner not named)
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Vehicle identification
- (6) Name of the regulations

Form 2

[reg. 26(1)]

Local Government Act 1995
Local Government (Functions and General) Regulations 1996

INFRINGEMENT NOTICE

Serial No

Date/...../.....

City/Town/Shire of.....

To: ⁽¹⁾

of: ⁽²⁾

It is alleged that on/...../..... at ⁽³⁾

at ⁽⁴⁾

you committed the following offence —

.....

.....

.....

contrary to regulation of the ⁽⁵⁾

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person at ⁽⁶⁾ within a period of 28 days after the giving of this notice.

Name and title of authorised person giving the notice.....

Signature

- (1) Name of alleged offender [“owner of (*vehicle identification*)” suffices if notice given with a notice under section 9.13 of the Act]
- (2) Address of alleged offender [not required if notice given with a notice under section 9.13 of the Act]
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Name of the regulations
- (6) Place where modified penalty may be paid

Form 3

[reg. 27(1)]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No

Date/...../.....

City/Town/Shire of

To: ⁽¹⁾

of: ⁽²⁾

Infringement Notice No. dated/...../..... for the alleged offence of

.....

.....

has been withdrawn.

The modified penalty of \$

- * has been paid and a refund is enclosed.
- * has not been paid and should not be paid.
- * Delete as appropriate

Name and title of authorised person giving this notice.....

Signature

- (1) Name of alleged offender to whom infringement notice was given
- (2) Address of alleged offender

Form 4

[reg. 33(1)]

Local Government Act 1995
Local Government (Functions and General) Regulations 1996

OBJECTION UNDER SECTION 9.5 OF THE ACT

To the ⁽¹⁾
I, ⁽²⁾
of ⁽³⁾
.....
hereby object to the ⁽⁴⁾
.....
to ⁽⁵⁾
.....
.....

The grounds of my objection are as follows:
⁽⁶⁾
.....
.....
.....

In support of my objection I attach the following:
⁽⁷⁾
.....
.....

Dated the day of 20.....
⁽⁸⁾

Person objecting

- (1) name of local government
- (2) full name of person objecting
- (3) postal address of person objecting
- (4) identify decision to which objection is made
- (5) give details of decision
- (6) give details of grounds of objection
- (7) plans, specifications, letters, notices, or other documents (if appropriate)
- (8) signature of person objecting

[Form 5 deleted: Gazette 30 Dec 2004 p. 7016.]

Form 6

[reg. 36]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

WARRANT TO ENTER

I, ⁽¹⁾
of ⁽²⁾
in the State of Western Australia, Justice of the Peace, being satisfied that the
entry is reasonably required but —
⁽³⁾ (a) entry has been refused or is opposed or prevented;
⁽³⁾ (b) entry cannot be obtained; or
⁽³⁾ (c) notice cannot be given under section ⁽³⁾ 3.32 / 8.6(3)(b) of the Act
without unreasonable difficulty or without unreasonably delaying
entry,
hereby authorise ⁽⁴⁾⁽³⁾ by its employees,
together with ⁽⁵⁾
or any police officer to enter ⁽⁶⁾
for the purpose of ⁽⁷⁾
using such force as is necessary.

Signed
Justice of the Peace

Dated

- (1) name of Justice of the Peace
- (2) address of Justice of the Peace
- (3) delete if not applicable
- (4) name of local government or authorised person to whom warrant is issued
- (5) name or description of any person authorised to assist in executing the warrant
- (6) address or description of land, premises, or thing to be entered
- (7) purpose for which entry may be made

Notes

This is a compilation of the *Local Government (Functions and General) 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. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Citation	Published	Commencement
<i>Local Government (Functions and General) Regulations 1996</i>	24 Jun 1996 p. 2771-97	1 Jul 1996 (see r. 2)
<i>Local Government (Functions and General) Amendment Regulations 1997</i>	29 Apr 1997 p. 2144-5	29 Apr 1997
<i>Local Government (Functions and General) Amendment Regulations (No. 2) 1997</i>	29 Aug 1997 p. 4867-8	29 Aug 1997
<i>Local Government (Functions and General) Amendment Regulations 1998</i>	26 Jun 1998 p. 3447	26 Jun 1998
<i>Local Government (Functions and General) Amendment Regulations (No. 2) 1998</i>	11 Sep 1998 p. 4926-7	11 Sep 1998
<i>Local Government (Functions and General) Amendment Regulations (No. 3) 1998</i>	4 Dec 1998 p. 6500	4 Dec 1998
<i>Local Government (Functions and General) Amendment Regulations 2000</i>	25 Feb 2000 p. 970-6	25 Feb 2000
<i>Local Government (Functions and General) Amendment Regulations (No. 2) 2000</i>	28 Apr 2000 p. 2039-41	28 Apr 2000
Reprint of the <i>Local Government (Functions and General) Regulations 1996</i> as at 8 Sep 2000 (includes amendments listed above)		
<i>Local Government (Functions and General) Amendment Regulations 2001</i> ²	29 Jun 2001 p. 3129-33	29 Jun 2001

Citation	Published	Commencement
<i>Local Government (Functions and General) Amendment Regulations 2002</i>	28 Jun 2002 p. 3081-2	28 Jun 2002
<i>Local Government (Functions and General) Amendment Regulations (No. 2) 2004</i>	30 Dec 2004 p. 7016	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Local Government (Functions and General) Amendment Regulations 2005</i>	31 Mar 2005 p. 1054-6	1 Apr 2005 (see r. 2 and <i>Gazette</i> 31 Mar 2005 p. 1029)
<i>Local Government (Functions and General) Amendment Regulations (No. 2) 2005</i>	31 Mar 2005 p. 1057-8	7 May 2005 (see r. 2)
Reprint 2: The Local Government (Functions and General) Regulations 1996 as at 20 Jan 2006 (includes amendments listed above)		
<i>Local Government (Functions and General) Amendment Regulations 2007</i>	2 Feb 2007 p. 244-6	30 Mar 2007 (see r. 2)
<i>Local Government (Functions and General) Amendment Regulations 2009</i>	20 Nov 2009 p. 4659-60	r. 1 and 2: 20 Nov 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Nov 2009 (see r. 2(b) and <i>Gazette</i> 20 Nov 2009 p. 4649)
<i>Local Government (Functions and General) Amendment Regulations 2011</i>	27 Sep 2011 p. 3843-7	r. 1 and 2: 27 Sep 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 28 Sep 2011 (see r. 2(b))
Reprint 3: The Local Government (Functions and General) Regulations 1996 as at 16 Mar 2012 (includes amendments listed above)		
<i>Local Government (Functions and General) Amendment Regulations 2015 Pt. 2</i>	18 Sep 2015 p. 3804-13	1 Oct 2015 (see r. 2(b))
<i>Local Government Regulations Amendment (Associations Incorporation) Regulations 2016 Pt. 3</i>	30 Dec 2016 p. 5969-70	31 Dec 2016 (see r. 2(b))
<i>Local Government (Functions and General) Amendment Regulations 2017</i>	8 Dec 2017 p. 5844-5	r. 1 and 2: 8 Dec 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Dec 2017 (see r. 2(b))

Local Government (Functions and General) Regulations 1996

Notes

Uncommenced provisions table

Citation	Published	Commencement
<i>Local Government (Functions and General) Amendment Regulations 2019</i>	31 Dec 2019 p. 4649	r. 1 and 2: 31 Dec 2019 (see r. 2(a)); Regulations other than r. 1 and 2: 1 May 2020 (see r. 2(b) and SL 2020/39 cl. 2)
<i>Local Government Regulations Amendment Regulations 2020 Pt. 3</i>	SL 2020/35 9 Apr 2020	10 Apr 2020 (see r. 2(b))
<i>Local Government (Functions and General) Amendment Regulations 2020</i>	SL 2020/55 8 May 2020	r. 1 and 2: 8 May 2020 (see r. 2(a)); Regulations other than r. 1 and 2: 9 May 2020 (see r. 2(b))
<i>Local Government Regulations Amendment Regulations (No. 2) 2020 Pt. 8</i>	SL 2020/213 6 Nov 2020	7 Nov 2020 (see r. 2(b) and SL 2020/212 cl. 2)
<i>Local Government (Functions and General) Amendment Regulations 2021</i>	SL 2021/75 18 Jun 2021	r. 1 and 2: 18 Jun 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Jun 2021 (see r. 2(b) and SL 2021/69 cl. 2)
<i>Local Government Regulations Amendment Regulations 2022 Pt. 4 (other than Div. 3)</i>	SL 2022/177 2 Nov 2022	3 Nov 2022 (see r. 2(b) and SL 2022/175 cl. 2)
<i>Local Government (Functions and General) Amendment Regulations 2023</i>	SL 2023/47 19 May 2023	r. 1 and 2: 19 May 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 20 May 2023 (see r. 2(b))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Subsidiary legislation as made on the WA Legislation website*.

Citation	Published	Commencement
<i>Local Government Regulations Amendment Regulations 2022 Pt. 4 Div. 3</i>	SL 2022/177 2 Nov 2022	3 Nov 2024 (see r. 2(c) and SL 2022/175 cl. 2)

Other notes

¹ The *Local Government Act 1995* came into operation on 1 July 1996.

- ² The *Local Government (Functions and General) Amendment Regulations 2001* r. 11 is a transitional provision that is of no further effect.

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)
application.....	24AH(1)
contracts	12(1)
COVID-19 declaration.....	11(1A)
former draft model by-law	38(4)
former section	6(4)
joint venture	9(2)
joint venturer.....	9(2)
land that will lose its access	4(3)
major regional centre	7(1)
minor variation.....	20(3)
original contract	11(2)
panel of pre-qualified suppliers.....	24AA
pre-qualified supplier	24AA
public place	29(2)
regional price preference.....	24B(1)
regional tenderer	24B(1)
state of emergency declaration.....	11(1A)
transferee.....	30(2)