

LOCAL GOVERNMENT REGULATIONS AMENDMENT (CONSEQUENTIAL) REGULATIONS 2020 – EXPLANATORY NOTES

These regulations will bring into effect all of the remaining parts of the *Local Government Legislation Amendment Act 2019*, apart from the best practice standards for CEO recruitment, performance review and termination, and the new Code of Conduct which are both being drafted. (New subsection 5.88(2A) relating to publication of the financial interest register will not be enacted.)

In particular, the following sections will take effect:

Section in Amendment Act	Section in LG Act	Topic
5	1.7 and 1.8	Local and statewide public notice
13	4.39	Close of enrolments (statewide public notice)
14	4.47	Call for nominations (statewide public notice)
16	4.52	Exhibition of candidates' details (on local government website)
17	4.64	Election notice (statewide public notice)
20	5.29	Convening electors' meetings (local public notice)
24	5.50	Additional payments to employees (local public notice and publication on website)
57	5.120	Complaints officer
64	9.10	Appointment of authorised person
65	9.13	Onus of proof (authorised person)
66	9.15	Terms (authorised person)
68	9.49A	Execution of documents
74(1) and (2)	Schedule 9.3	Transitional provisions to 1995 Act (senior employee definition removed) Transitional provisions for the Amendment Act (authorised person)
Part 4	<ul style="list-style-type: none"> • Caravan Parks and Camping Grounds Act 1995 • Cat Act 2011 • Cemeteries Act 1986 • Control of Vehicles (Off-road Areas) Act 1978 • Dog Act 1976 	Authorised person

For more information on these provisions refer to the Explanatory Memorandum available at

<https://www.parliament.wa.gov.au/parliament/bills.nsf/BillProgressPopup?openForm&ParentUNID=F2640B0D1523FA7C482583BC0020D468>.

Regulation	Amends	Explanation	Theme
Regulation 4	<i>Caravan Parks & Camping Grounds Regulations 1997</i> , Regulation 6	Regulation 6 is being amended to implement a more streamlined and uniform method of appointing an authorised person across multiple pieces of legislation. All appointments will now be made under section 9.10(2) of the <i>Local Government Act 1995</i> . The CEO will appoint a person as an “authorised person” for the purpose of exercising functions conferred under the relevant piece of legislation and identity cards will be standardised.	Reducing Red Tape Introducing Administrative Efficiencies
Regulation 5	Form 5	In addition to authorised officers appointed by the local government, the Department has the power to appoint an authorised officer under section 17(1)(a) of the <i>Caravan Parks and Camping Grounds Act 1995</i> . The 'Identity Card' in Form 5 is being modified so that it is only applicable to authorised officers appointed by the Department.	Reducing Red Tape Introducing Administrative Efficiencies
Regulations 7-10	<i>Control of Vehicles (Off-road Areas) Regulations 1979</i> , Regulation 14, 36,37 and First Schedule	All references to authorised officer are replaced by a reference to authorised person . This aligns the terminology across multiple pieces of legislation in the local government portfolio.	Introducing Administrative Efficiencies
Regulation 10	First Schedule	In addition, Form 4 is being amended to make it clear that it is not the authorised person who has the power to withdraw an infringement notice but a person authorised by the local government. (A person who issues an infringement cannot withdraw it.) Form 5 will no longer be used by local governments for the appointment of authorised persons, this having been replaced by appointment under section 9.10(2) of the <i>Local Government Act 1995</i> , thus ensuring consistency across multiple pieces of legislation. Form 5 'Certificate of appointment of Authorised Person' has been modified so it will only be used by the Minister for Local Government using the Minister's power to appoint an authorised person. The form has also been modified to require a photograph.	Reducing Red Tape Introducing Administrative Efficiencies
Regulation 12	<i>Dog Regulations 2013</i> , Regulation 35	Restatement of existing regulation 35(6) in plain English to enhance clarity. An authorised person cannot withdraw an infringement they have issued.	Drafting Improvement
Regulation 13	Form 1	Form 1 will no longer be used by local governments for the appointment of authorised persons , this having been replaced by appointment under section 9.10(2) of the <i>Local Government Act 1995</i> , thus ensuring consistency across	Introducing Administrative Efficiencies

Regulation	Amends	Explanation	Theme
		multiple pieces of legislation. Form 1 in Schedule 1 has been replaced and will be used by the local government to appoint registration officers under the <i>Dog Act 1976</i> .	
Regulation 15	<i>Local Government (Administration) Regulations 1996</i> , Regulations 3A and 3B	<p>The definition of local public notice and statewide public notice are being amended in the <i>Local Government Act 1995</i> to recognise alternative and contemporary means of communication. These have been set out in new Part 1A of the Administration Regulations to provide flexibility to respond quickly to include future contemporary communication methods as and when necessary.</p> <p>The <i>Local Government Legislation Amendment Act 2019</i> amends section 1.7 of the Local Government Act so that local public notice will be given when notice is published on the official website of the local government and in at least three of the ways set out in regulation 3A. The new forms of communicating a local public notice include publication in a newspaper or newsletters circulating generally in the district or a newspaper in the State, publication on the official website of a relevant State Government Department, circulation by email or text or posting on a local government's social media account. This would allow, for example, a tender to be posted on TendersWA, or an election notice on the WAEC website as one of the three ways.</p> <p>Notices that are posted need to remain available for at least the time specified in the Act or 7 days if no time is specified.</p> <p>The new state-wide public notice provisions incorporate all of those methods that are available as a local public notice. In addition to the requirement to publish the notice on the local government's own website, regulation 3B states that the notice must be published either in a newspaper circulating generally throughout the State or on the official website of a State government agency.</p> <p>Certain adjustments are made when it is the Electoral Commissioner who is publishing the Statewide public notice, so that the website and social media account are those of the WAEC.</p>	Introducing Administrative Efficiencies Recognising New Technology
Regulation 16	Regulation 10	Regulation 10 deals with the process to revoke or change a decision made at a council or committee meeting, under section 5.25 of the Act. The change to this regulation recognises the requirement for a special majority decision has been removed from the Act.	Introducing Administrative Efficiencies

Regulation	Amends	Explanation	Theme
Regulation 17	Regulation 11	To further the policy aims of transparency and accountability, an amendment to regulation 11 has been made to require a local government to include in the minutes all documents which are attached to a council or committee meeting agenda, except where that part of the meeting was closed to the public.	Transparency Accountability
Regulation 18	Regulations 12 and 13	<p>Regulation 12 currently provides the requirements for giving local public notice of meetings. The new regulation 12 provides for the same information to be published by the CEO of a local government on a local government's official website instead.</p> <p>Regulation 13 is being replaced to improve accessibility to information held by local government. The unconfirmed minutes of each council or committee meeting open to members of the public are to be published on the local government's official website, rather than merely being available for inspection. If the meeting is closed to members of the public, then only that part of the unconfirmed minutes that are a record of the decision(s) made at that meeting will be available on the website.</p> <p>The wording of the timeframe has been changed in Regulation 13 from business days to days to align with the rest of the Act.</p>	Transparency Recognising New Technology
Regulation 19	Regulation 14	Regulation 14 is being amended to improve accessibility to information held by local governments. The amendment provides that all notice papers , agendas, reports and other documentation produced for a local government or committee meeting must be published on the local government's official website at the time they are made available to council or committee members. This obligation will not apply, if, in the CEO's opinion, that part of the meeting to which the information refers is likely to be closed to the public.	Transparency Recognising New Technology
Regulation 20	Regulations 19B and 19CA	<p>Existing regulation 19B is being replaced to provide for additional information to be included in the annual report. In addition to the current requirement to report on the number of employees receiving salary over \$100,000 in \$10,000 bands, the annual report is now to include:</p> <ul style="list-style-type: none"> • the amount of money the local government has paid in Standards Panel costs for hearing a complaint regarding one of its council members and any amount that the Standards Panel orders to be reimbursed to the local government by the council member; • the remuneration paid or provided to the CEO; • the number of council and committee meetings attended by each council member; and • diversity data, including age ranges for council members. 	Transparency Accountability

Regulation	Amends	Explanation	Theme
		The requirement to provide details of modifications to the strategic community plan and corporate business plan, where significant, made during the financial year has been moved from regulation 19CA (which is being deleted) to be included in 19B.	
Regulation 21	Regulation 19D	The method by which the public has access to the strategic community plan in regulation 19D is being updated. The local government is to publish its strategic community plan on its official website. Local public notice is still required to be given of the adoption or modification of the plan.	Transparency Recognising New Technology
Regulation 22	Regulation 29	<p>The information to be available for public inspection under regulation 29 is being amended to recognise that it is available in other forms.</p> <p>As regulation 12 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> was deleted as part of the reforms introduced by the <i>Local Government Regulations Amendment (Gifts) Regulations 2019</i>, the redundant reference in sub regulation 29(1)(baa) is being deleted. The Act requires the gift register to be made available on the local government's website.</p> <p>Regulation 13 is being amended (see above) to provide that the unconfirmed minutes of each Council or Committee meeting that is open to the public is to be published on the local government's official website. The requirement in sub regulation 29(1)(c) is consequently unnecessary.</p> <p>As regulation 14 is being amended (see above) to require notice papers, agendas, reports and other documentation produced for a local government or committee meeting to be published on the local government's official website, the requirement in sub regulation 29(1)(d) is unnecessary and is being deleted.</p> <p>Since sub regulations 29(2)-(3) relate expressly to sub regulations 29(1)(c) and 29(1)(d) above then they are also being deleted.</p>	Reducing Red Tape Introducing Administrative Efficiencies
Regulation 23	Regulation 29A	<p>Section 5.95(5) of the <i>Local Government Act 1995</i> was deleted by section 46(2) of the <i>Local Government Legislation Amendment Act 2019</i>, removing the requirement to make the contract of a CEO or a Senior Employee available for inspection. As a consequence, regulation 29A(1) is being deleted.</p> <p>Instead the remuneration paid or provided to the CEO is to be disclosed in the annual report (see 19B above).</p>	Reducing Red Tape
Regulation 24	Regulations 29C and 29D	New regulation 29C imposes an obligation on the CEO of a local government to publish information on the local government official website (in addition to that	Transparency

Regulation	Amends	Explanation	Theme
		<p>information in section 5.96A(1) of the <i>Local Government Act 1995</i>). The additional information includes –</p> <ul style="list-style-type: none"> • Any adverse recommendation from an inquiry by an authorised person under section 8.13; • Any adverse finding or recommendation made by an oversight body being the Corruption and Crime Commission, Public Sector Commissioner, State Administrative Tribunal, an Inquiry Panel, the standards panel or a Royal Commission, against the local government, the council, a council member or the CEO, once this is made available to the public; • Current and previous versions of policies that relate to the deciding of applications made to the local government; • The name of each council member who has lodged a primary or annual return for the financial year; • The position of each employee who has lodged a primary or annual return for the financial year (the returns themselves will not be published); and • The type and amount or value of fees, expenses and allowances paid to each council member, mayor or president during the financial year. These will need to be detailed by person and type. <p>Regulation 29C also includes timeframes for each class of information to be published on the local government’s official website.</p> <p>New regulation 29D specifies the period for which information must be kept on the local government’s official website. The following documents must be retained for a period of not less than 5 years beginning on the day the information is first published:</p> <ul style="list-style-type: none"> • The annual report; • The annual budget • Confirmed minutes of council and committee meetings; • Minutes of electors’ meetings; • Notice papers, agendas, reports and other documents tabled or produced at council or committee meetings except where these were closed to the public; and • The information listed in 29C above. <p>There is no requirement for local governments to publish the material listed above for years before these provisions come into effect.</p>	<p>Accountability</p> <p>Recognising New Technology</p>

Regulation	Amends	Explanation	Theme
Regulation 25	Regulation 34B	Regulation 34B sets out the gift provisions for employees . The amendment removes the CEO from the definition of an “ employee ”. The CEO is now captured under the gift provisions applying to council members contained in the Act.	Accountability
Regulation 27	<i>Local Government (Elections) Regulations 1997</i> Regulation 30G	Regulation 30G requires the CEO of a local government to establish and maintain an electoral gift register . The amendment requires the CEO to publish an up-to-date version of the electoral gift register on the local government’s official website. Rather than the full address, only the town or suburb of an individual is to be published.	Transparency Accountability Recognising New Technology
Regulation 28	Regulation 30I	The definition of publish is being updated. This relates to electoral gift registers.	Drafting improvement
Regulation 29	Regulation 43	A minor amendment is being made to regulation 43(1)(ba) to correct the reference to electoral gift register .	Drafting improvement
Regulation 30	Regulation 73	Regulation 73 deals with the adjournment or postponement of a poll . The changes require that the notice of adjournment or postponement is to be published on the local government’s official website for at least 3 days. If the local public notice is published on another (government) website, a notice board or using social media, it must also be posted for at least 3 days.	Transparency Recognising New Technology
Regulation 32	<i>Local Government (Financial Management) Regulations 1996</i> Regulation 27	Regulation 27 sets out a list of notes to be included with the annual budget of a local government. Point (l) is being amended to clarify that itemised information in relation to the fees, expenses and allowances paid to each council member and mayor or president is required.	Transparency Accountability
Regulation 33	Regulation 44	Regulation 44 requires information about fees, expenses and allowances paid to council members, the mayor or the president to be included in the annual financial report . The amendment provides clarity that itemised information is required for each council member and mayor or president, rather than total figures.	Transparency Accountability
Regulation 35	<i>Local Government (Functions and General) Regulations 1996</i> Regulation 15	Regulation 15 deals with the minimum time public tenders are required to be open. The amendment specifies that the closing date for submission of tenders will be at least 14 days after notice is published on the local government’s official website and in the 3 other ways it is advertised under the public notice provisions. The latest publication date will determine the start of the 14 days.	Accountability Recognising New Technology

Regulation	Amends	Explanation	Theme
		If a list of acceptable tenderers is being invited to submit tenders, the 14 days commences from the date notice was given to the last potential tenderer.	
Regulation 36	Regulation 17	Regulation 17 provides for a tenders register to be kept by the CEO of a local government and for this to be available for public inspection. The CEO will now be required to also publish the tenders register on the local government's official website.	Transparency Recognising New Technology
Regulation 37	Regulation 22	Regulation 22 sets out the minimum time that must be provided for submitting an expression of interest to quote for a contract to supply goods or services to a local government. The 14 days will start from the last of publication on the local government's official website or any of the other 3 ways notice must be given.	Accountability Recognising New Technology
Regulation 38	Regulation 24AE	Regulation 24AE sets the minimum time to be allowed for submitting an application to join a panel of pre-qualified suppliers of particular goods or services. The 14 days will start from the last of publication on the local government's official website or any of the other 3 ways notice must be given.	Accountability Recognising New Technology
Regulation 39	Regulation 24E	Regulation 24E deals with regional price preference policies . The amendment will require the proposed regional price preference policy to be published on the local government's official website.	Transparency Recognising New Technology
Regulation 40	Regulation 24F	Regulation 24F deals with the adoption of a regional price preference policy . The amendment will require the local government to publish a copy of the adopted policy on their official website.	Transparency Recognising New Technology
Regulation 41	Regulation 30	Regulation 30 deals with disposal of property (including land) that is excluded from the application of section 3.58 'Disposing of property' in the <i>Local Government Act 1995</i> . Regulation 30(2a) deals with a disposition of property that is an exempt disposition because it has been disposed of within 6 months of a public tender or auction process. Currently information on the disposal of property under regulation 30(2a) is to be made available for public inspection for at least 12 months. This amendment extends this to also require the publication of details of this disposal on the local government's official website.	Transparency Recognising New Technology

Regulation	Amends	Explanation	Theme
Regulation 43	<i>Local Government (Regional Subsidiaries) Regulations 2017</i> Regulation 18	The effect of this amendment is to require a regional subsidiary to report on the salary bands of employees receiving \$100,000 or more, and the remuneration of the CEO.	Transparency Accountability