

# Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020

## Contents

<b>Part 1 — Preliminary</b>		
1.	Citation	1
2.	Commencement	1
<b>Part 2 — <i>Local Government (Administration) Regulations 1996 amended</i></b>		
3.	Regulations amended	2
4.	Part 4A inserted	2
<b>Part 4A — Content of codes of conduct for employees (Act s. 5.51A(4))</b>		
	19AA. Terms used	2
	19AB. Determinations	4
	19AC. Prohibited gifts	4
	19AD. Notification of acceptance of gifts	4
	19AE. Register of gifts	5
	19AF. Conflicts of interest	6
	19AG. Other matters	7
5.	Part 9 deleted	8
<b>Part 3 — <i>Local Government (Audit) Regulations 1996 amended</i></b>		
6.	Regulations amended	9
7.	Regulation 13 amended	9



## **Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations are the *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020*.

#### **2. Commencement**

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government Legislation Amendment Act 2019* sections 25 and 48 to 51 come into operation.

**Part 2 — Local Government (Administration) Regulations 1996 amended**

**3. Regulations amended**

This Part amends the *Local Government (Administration) Regulations 1996*.

**4. Part 4A inserted**

After regulation 19A insert:

**Part 4A — Content of codes of conduct for employees (Act s. 5.51A(4))**

**19AA. Terms used**

In this Part —

***activity involving a local government discretion*** means an activity —

- (a) that cannot be undertaken without an authorisation from the local government; or
- (b) by way of a commercial dealing with the local government;

***associated person*** means a person who —

- (a) is undertaking or seeking to undertake an activity involving a local government discretion; or
- (b) it is reasonable to believe is intending to undertake an activity involving a local government discretion;

***code of conduct*** means a code of conduct under section 5.51A;

***gift*** —

- (a) has the meaning given in section 5.57; but
- (b) does not include —
  - (i) a gift from a relative as defined in section 5.74(1); or
  - (ii) a gift that must be disclosed under the *Local Government (Elections) Regulations 1997* regulation 30B; or
  - (iii) a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
  - (iv) a gift from WALGA, the Australian Local Government Association Limited (ABN 31 008 613 876) or the Local Government Professionals Australia WA (ABN 91 208 607 072);

***interest*** —

- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
- (b) includes an interest arising from kinship, friendship or membership of an association;

***prohibited gift***, in relation to an employee, means —

- (a) a gift worth the threshold amount for a prohibited gift or more than the threshold amount; or
- (b) a gift that is 1 of 2 or more gifts given to the employee by the same person within a period of 1 year that are in total worth the threshold amount for a prohibited gift or more than the threshold amount;

r. 4

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*threshold amount*, for a prohibited gift, means \$300 or a lesser amount (which may be nil) determined by the CEO.

**19AB. Determinations**

- (1) The CEO may determine an amount for the purposes of the definition of *threshold amount* in regulation 19AA.
- (2) A determination made under subregulation (1) must be published on the local government's official website.

**19AC. Prohibited gifts**

- (1) In this regulation —  
*employee* does not include the CEO.
- (2) A code of conduct must contain a requirement that an employee not accept a prohibited gift from an associated person.

**19AD. Notification of acceptance of gifts**

- (1) In this regulation —  
*employee* does not include the CEO.
- (2) This regulation applies if the threshold amount for a prohibited gift is \$50 or more.
- (3) A code of conduct must contain a requirement that an employee notify the CEO within 10 days after accepting from an associated person any of the following gifts —
  - (a) a gift worth more than \$50 and less than the threshold amount for a prohibited gift;
  - (b) a gift that is 1 of 2 or more gifts given to the employee by the same associated person within a period of 1 year that are in total worth

between \$50 and the threshold amount for a prohibited gift.

- (4) A code of conduct must contain a requirement that the notification be in writing and include —
- (a) the name of the associated person who gave the gift; and
  - (b) the date on which the gift was accepted; and
  - (c) a description, and the estimated value, of the gift; and
  - (d) the nature of the relationship between the employee and the associated person; and
  - (e) if the gift is 1 of 2 or more gifts given to the employee by the same associated person within a period of 1 year, each of the following in respect of each of the gifts accepted within the 1-year period —
    - (i) a description;
    - (ii) the estimated value;
    - (iii) the date of acceptance.

**19AE. Register of gifts**

A code of conduct must contain a requirement that the CEO —

- (a) keep a register of gifts; and
- (b) record in the register details of notifications given to comply with a requirement made under regulation 19AD(2); and
- (c) publish an up-to-date version of the register on the local government's official website.

**19AF. Conflicts of interest**

- (1) A code of conduct must contain a requirement that an employee who has an interest in any matter to be discussed at a council or committee meeting attended by the employee disclose the nature of the interest —
  - (a) in a written notice given to the CEO before the meeting; or
  - (b) at the meeting immediately before the matter is discussed.
- (2) A code of conduct must contain a requirement that an employee who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the employee disclose the nature of any interest the employee has in the matter —
  - (a) in a written notice given to the CEO before the meeting; or
  - (b) at the time the advice is given.
- (3) A code of conduct must exclude from a requirement made under subregulation (1) or (2) an interest referred to in section 5.60.
- (4) A code of conduct must excuse an employee from a requirement made under subregulation (1) or (2) to disclose the nature of an interest if —
  - (a) the employee's failure to disclose occurs because the employee did not know that the employee had an interest in the matter; or
  - (b) the employee's failure to disclose occurs because the employee did not know that the matter in which the employee had an interest would be discussed at the meeting and the employee discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.



- (5) A code of conduct must require that if, to comply with a requirement made under subregulation (1) or (2), an employee makes a disclosure in a written notice given to the CEO before a meeting then —
- (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
  - (b) immediately before a matter to which the disclosure relates is discussed at the meeting the person presiding must bring the notice and its contents to the attention of the persons present.
- (6) Subregulation (7) applies if —
- (a) to comply with a requirement made under subregulation (1), the nature of an employee's interest in a matter is disclosed at a meeting; or
  - (b) a disclosure is made as described in subregulation (4)(b) at a meeting; or
  - (c) to comply with a requirement made under subregulation (5)(b), a notice disclosing the nature of an employee's interest in a matter is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

**19AG. Other matters**

A code of conduct must contain requirements relating to —

- (a) the behaviour expected of an employee in relation to each of the following —
  - (i) the performance of the employee's duties;

**Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020**

**Part 2** Local Government (Administration) Regulations 1996 amended

r. 5

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- (ii) the employee's dealings with other employees and the broader community;
  - (iii) the use and disclosure of information acquired by the employee in the performance of the employee's duties;
  - (iv) the use by the employee of the local government's finances and resources;
- and
- (b) the way in which the records of the local government are to be kept by an employee; and
  - (c) matters relating to —
    - (i) the reporting by an employee of suspected breaches of codes of conduct and unethical, fraudulent, dishonest, illegal and corrupt behaviour; and
    - (ii) the way in which suspected breaches of the code of conduct by an employee and unethical, fraudulent, dishonest, illegal and corrupt behaviour of an employee are to be managed.

**5. Part 9 deleted**

Delete Part 9.

**Part 3 — *Local Government (Audit) Regulations 1996*  
amended**

**6. Regulations amended**

This Part amends the *Local Government (Audit) Regulations 1996*.

**7. Regulation 13 amended**

In regulation 13 in the Table under the heading “*Local Government Act 1995*” after the item for s. 5.46 insert:

s. 5.51A
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Clerk of the Executive Council