

1994—No. 293

LOCAL GOVERNMENT ACT 1993—REGULATION

(Relating to council meetings)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Government Act 1993, has been pleased to make the Regulation set forth hereunder.

EDWARD PICKERING, M.L.C.,
Minister for Local Government and Co-operatives.

Commencement

1. This Regulation commences on 1 July 1994.

Amendments

2. The Local Government (Meetings) Regulation 1993 is amended:

(a) by inserting after clause 8 (2) the following subclauses:

(3) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.

(4) For the purposes of subclause (3), the person conducting the election must:

(a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and

(b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

(5) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

(b) by inserting in clause 9 (a) after the word “must” the words “, if standing”;

(c) by omitting from clause 11 (2) the words “which can be moved without notice”;

(d) by inserting at the end of clause 11 (2) the following words:
Such a motion can be moved without notice.

(e) by omitting from clause 12 (1) (b) the words “any business that the chairperson may decide to put before the meeting without notice” and by inserting instead the words “any matter or topic that the chairperson proposes, at the time when the business paper is prepared, to put to the meeting”;

(f) by inserting after clause 12 (4) the following subclause:
(5) Nothing in this clause limits the powers of the chairperson under clause 15.

(g) by omitting clause 13 (2) and (3) and by inserting instead the following subclauses:

(2) Subclause (1) does not apply to the consideration of business at a meeting if the business:

- (a) is already before, or directly relates to a matter that is already before, the council; or
- (b) is the election of a chairperson to preside at the meeting as provided by clause 8 (1); or
- (c) is a matter or topic put to the meeting by the chairperson in accordance with clause 15; or
- (d) is a motion for the adoption of recommendations of a committee of the council.

(3) Despite subclause (1), business may be transacted at a meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if

- (a) a motion is passed to have the business transacted at the meeting; and
- (b) either:
 - all the councillors (disregarding any casual vacancies) are present at the meeting; or
 - the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice.

(h) by inserting at the end of clause 14 the following subclauses:

(2) Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:

- (a) a motion is passed to have the business transacted at the meeting; and
- (b) either:
 - all the councillors (disregarding any casual vacancies) are present at the meeting; or
 - the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the business paper for the meeting has been disposed of.

(3) Despite clause 22, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.

- (i) by inserting in clause 15 (1), after the words “put to the meeting”, the words “without notice”;
- (j) by inserting in clause 16 (b), after the word “councillors”, the words “and members of the public”;
- (k) by inserting at the end of clause 22 (4) the following words:
A councillor may also move that the question be now put if the mover of a motion or amendment has spoken in favour of the motion or amendment and no councillor indicates a wish to speak against it.
- (l) by inserting at the end of clause 22 (6) the following words:
However, if the question is an amendment, the chairperson must immediately put the question to the vote without further debate and the mover of the motion has no right of reply under that subclause.
- (m) by inserting at the end of clause 23 (1) the following words:
This subclause does not apply to a councillor who does not vote because he or she has a pecuniary interest in the subject-matter of the motion.
- (n) by omitting clause 25 (3) and by inserting instead the following subclause:
(3) A councillor may, as provided by section 10 (4) (a) or (b) of the Act, be expelled from a meeting of a council for having failed to comply with a requirement under subclause (2). The expulsion

of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

- (o) by omitting clause 26 (2) and by inserting instead the following subclause:
 - (2) A member of the public may, as provided by section 10 (4) (a) or (b) of the Act, be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting.

- (p) by omitting clause 27 and by inserting instead the following clause:

Power to remove persons from meeting after expulsion

27. If a councillor or a member of the public fails to leave the place where a meeting of a council is being held:

- (a) immediately after the council has passed a resolution expelling the councillor or member from the meeting; or
- (b) where the council has authorised the person presiding at the meeting to exercise the power of expulsion, immediately after being directed by the person presiding to leave the meeting,

a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member from that place and, if necessary, restrain the councillor or member from re-entering that place.

- (q) by inserting in clause 28 (2), after the words “general manager”, the words “or, in the absence of the general manager, an employee of the council designated by the general manager”;
- (r) by inserting in clause 28 (3), after the words “report of the proceedings”, the words “(including any recommendations of the committee)”;
- (s) by omitting clause 38 and by inserting instead the following clause:

Certain persons may be expelled from council committee meetings

38. (1) If a meeting or part of a meeting of a committee of a council is closed to the public in accordance with section 10 (2) of the Act, any person who is not a councillor may be expelled from the meeting as provided by section 10 (4) (a) or (b) of the Act.

(2) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council, committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.

(t) by omitting clause 39 and by inserting instead the following clause:

Disclosure and misuse of information—prescribed circumstances

39. For the purposes of section 664 (1B) (c) of the Act, any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the Act is a prescribed circumstance.

(u) by omitting clause 42 (2) and (3) and by inserting instead the following subclauses:

(2) A person may, as provided by section 10 (4) (a) or (b) of the Act, be expelled from a meeting of a council or a committee of a council for using or having used a tape recorder in contravention of this clause.

(3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.

(v) by inserting after clause 42 the following clause:

Council seal

43. (1) The seal of a council must be kept by the mayor or the general manager, as the council determines.

(2) The seal of a council may be affixed to a document only in the presence of

- (a) the mayor and the general manager; or
- (b) at least 1 councillor (other than the mayor) and the general manager; or
- (c) the mayor and at least 1 other councillor; or
- (d) at least 2 councillors other than the mayor.

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(3) The affixing of a council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.

EXPLANATORY NOTE

The object of this Regulation is to make provision for the keeping and affixing of council seals and to make other miscellaneous minor amendments to the Local Government (Meetings) Regulation 1993. Those other amendments (some of which are consequential on amendments to sections 10 and 664 of the Local Government Act 1993 made by the Local Government Legislation (Miscellaneous Amendments) Act 1994) relate to the following matters:

- the election of a councillor to preside at a council meeting at which the chairperson is not present;
- the right of the chairperson to have precedence at a council meeting;
- the chairperson's duty with respect to motions;
- the order of business;
- business papers for council meetings;
- giving notice of business;
- official minutes;
- tabling the report of a Departmental representative at a council meeting;
- limiting the number of speeches at a council meeting;
- voting at council meetings;
- the removal of persons from a council meeting after a resolution or direction expelling them from the meeting;
- the proceedings of the council when in committee of the whole.

This Regulation is made under the Local Government Act 1993, including section 748 (the general regulation making power).
