



Local Government (General) Amendment (Employment Protection) Regulation 2004

under the

Local Government Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

ANTHONY BERNARD KELLY, M.L.C.,
Minister for Local Government

Explanatory note

One of the objects of this Regulation is to exempt certain kinds of termination payments by a council to its senior staff from a requirement, under section 354A of the *Local Government Act 1993* (the *Act*), for Ministerial approval.

A further object is to specify circumstances in which a council to which a former council's staff are transferred, following the constitution, amalgamation or alteration of council areas, is bound by a determination of the terms and conditions of employment of those staff made during the period when the relevant proposal to constitute, amalgamate or alter the council areas was being considered. Under section 354E of the *Act*, the council to which the staff are transferred is not bound by any such determination, unless the determination has been approved by the Minister or complies with requirements specified in regulations.

This Regulation is made under the *Local Government Act 1993*, including section 748 (the general regulation-making power) and sections 354A (4) and 354E (4) (a).

2004 No 107

Clause 1 Local Government (General) Amendment (Employment Protection)
Regulation 2004

Local Government (General) Amendment (Employment Protection) Regulation 2004

under the

Local Government Act 1993

1 Name of Regulation

This Regulation is the *Local Government (General) Amendment (Employment Protection) Regulation 2004*.

2 Amendment of Local Government (General) Regulation 1999

The *Local Government (General) Regulation 1999* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 2)

Clauses 43C and 43D

Insert after clause 43B:

43C Exemption from Ministerial approval for certain termination payments to senior staff

- (1) The following kinds of payments to a senior staff member are exempted from section 354A of the Act:
 - (a) a termination payment that does not exceed the value of the senior staff member's total remuneration package over the 12 months preceding his or her termination of employment,
 - (b) a payment to which the senior staff member is entitled, on termination of employment, under any Act.
- (2) For the purposes of subclause (1) (a), a senior staff member's total remuneration package includes the matters set out in section 332 (3) (a)–(d) of the Act.

43D Determinations relating to staff entitlements during proposal period not requiring Ministerial approval

A determination to which section 354E of the Act applies is not required to be approved by the Minister if it complies with any of the following requirements:

- (a) it is a determination that is authorised by an industrial instrument, or employment policy of the former council, made or approved before the proposal period,
- (b) it is a determination in, or authorised by, an award, enterprise agreement or other industrial instrument made or approved by the Industrial Relations Commission or Australian Industrial Relations Commission,
- (c) it is a determination that comprises the renewal of an employment contract entered into before the proposal period.