



New South Wales

Local Government (General) Amendment (Staff) Regulation 2016

under the

Local Government Act 1993

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

PAUL TOOLE, MP
Minister for Local Government

Explanatory note

The object of this Regulation is to amend the *Local Government (General) Regulation 2005* as follows:

- (a) to preserve the leave and other entitlements of a senior staff member of a council affected by an amalgamation or a council boundary alteration,
- (b) to provide that a termination of employment of senior staff members of a council affected by an amalgamation or boundary alteration is, in specified circumstances, taken to be a redundancy.

This Regulation is made under the *Local Government Act 1993*, including section 748 (the general regulation-making power) and item 15 of Schedule 6.

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1 Name of Regulation

This Regulation is the *Local Government (General) Amendment (Staff) Regulation 2016*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Local Government (General) Regulation 2005

Clauses 406C and 406D

Insert after clause 406B:

406C Entitlements of senior staff on transfer following amalgamation or boundary alteration

- (1) This clause applies to senior staff members of a council.
- (2) If a staff transfer occurs, the employment of a transferred staff member continues on the same terms and conditions that applied to the staff member immediately before the transfer day.
- (3) Subclause (2) applies until other provision is duly made under any Act or law.
- (4) Neither the contract of employment nor the period of employment of a transferred staff member is taken to have been broken by the transfer for the purposes of any law or contract relating to the employment of the staff member.
- (5) A transferred staff member is not entitled to receive any payment or other benefit merely because the staff member ceases to be a staff member of the former council.
- (6) The transfer of a transferred staff member does not affect any accrued rights the staff member had immediately before the transfer, including in relation to recreation leave, sick leave, long service leave and superannuation, but does not entitle the staff member to claim dual benefits of the same kind for the same period of service.
- (7) If a staff member of a former council who was a staff member of that council immediately before the former council ceases to exist:
 - (a) is not transferred to any other council by or under the operation of a proclamation under Chapter 9 of the Act, or
 - (b) is transferred, but ceases to be a staff member of the new council as a consequence of the amalgamation before the first election for the new council,the termination of the staff member's employment with the former council or the new council is taken to be a redundancy.
- (8) A contract of employment of a staff member has no effect to the extent to which it is inconsistent with this clause.
- (9) This clause is subject to the provisions of any applicable proclamation under Chapter 9 of the Act.
- (10) Words and expressions used in this clause have the same meaning as in Part 6 of Chapter 11 of the Act.

406D Entitlements of senior staff not transferred on boundary alterations

- (1) This clause applies to senior staff members of a council.
- (2) If a staff transfer occurs as a consequence of a boundary alteration, the employment of a remaining staff member of the transferor council and an existing staff member of the transferee council continues on the same terms and conditions that applied to the staff member immediately before the transfer day.

- (3) Subclause (2) applies until other provision is duly made under any Act or law.
- (4) A contract of employment of a staff member has no effect to the extent to which it is inconsistent with this clause.
- (5) This clause is subject to the provisions of any applicable proclamation under Chapter 9 of the Act.
- (6) Words and expressions used in this clause have the same meaning as in Part 6 of Chapter 11 of the Act.