



New South Wales

# Local Government (General) Amendment (Governance) Regulation 2018

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*.

GABRIELLE UPTON, MP  
Minister for Local Government

## Explanatory note

The object of this Regulation is to give effect to changes made to the governance of councils by the *Local Government Amendment (Governance and Planning) Act 2016* as follows:

- (a) by prescribing a model code of conduct published in the Government Gazette (which provides for misconduct by councillors relating to disclosures of pecuniary interests to be dealt with in the same way as other misconduct, includes disclosure requirements and applies the same disciplinary provisions that apply to breaches of the code),
- (b) by extending the operation of provisions of the model code of conduct relating to the disclosure of pecuniary interests to members of council committees and council advisers,
- (c) by prescribing a model code of meeting practice for the conduct of meetings of councils and of those committees of councils all the members of which are councillors.

This Regulation also:

- (a) requires induction training courses, and an ongoing professional development program, to be delivered to and attended by mayors and other councillors, and
- (b) requires the annual report of a council to include specified details about that training and professional development and the councillors who participated in it, and more detailed information about its cost, and
- (c) repeals existing provisions about conduct, the disclosure of pecuniary interests and meetings that are either no longer relevant or will be inconsistent with the *Local Government Act 1993*, as amended.

This Regulation is made under the *Local Government Act 1993* (as amended by the *Local Government Amendment (Governance and Planning) Act 2016*) including sections 360, 440, 440AA, 490A and 748 (the general regulation-making power) and clauses 2 and 13A of Schedule 6.

## **Local Government (General) Amendment (Governance) Regulation 2018**

under the

Local Government Act 1993

### **1 Name of Regulation**

This Regulation is the *Local Government (General) Amendment (Governance) Regulation 2018*.

### **2 Commencement**

This Regulation commences on 14 December 2018 and is required to be published on the NSW legislation website.

## Schedule 1      **Amendment of Local Government (General) Regulation 2005**

### [1]    **Parts 8 and 8A**

Omit Part 8. Insert instead:

### **Part 8    Conduct**

#### **180    Content of model code of conduct**

- (1) For the purposes of section 440 (1) of the Act, the document entitled *Model Code of Conduct for Local Councils in NSW* published in the Gazette on 14 December 2018 is prescribed as the model code of conduct applicable to councillors, members of staff of councils and delegates of councils.

**Note.** Clause 420 makes provision for the phasing in of the prescribed model code of conduct.

- (2) For the purposes of section 440 (2) of the Act, the provisions of that document published in the Gazette on 14 December 2018 relating to the disclosure of pecuniary interests are also to apply to the following persons:

- (a) a member of a committee of the council (including the Audit, Risk and Improvement Committee),
- (b) an adviser to the council.

#### **181    Model procedure for administering the model code of conduct**

For the purposes of section 440AA (1) of the Act, the document entitled *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* published in the Gazette on 14 December 2018 is prescribed as the model procedure for administering the model code.

**Note.** Clause 421 makes provision for the phasing in of the model procedure for administering the model code of conduct.

#### **182    Acts of disorder**

For the purposes of section 490A of the Act, a councillor commits an act of disorder if the councillor, at a meeting of a council or a committee of a council:

- (a) contravenes the Act, this Regulation or any provision of the code of meeting practice adopted by the council under section 360 (3) of the Act, including any provisions incorporated in the adopted code that are prescribed by this Regulation as mandatory provisions of the model code of meeting practice, or
- (b) assaults or threatens to assault another councillor or person present at the meeting, or
- (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee, or addresses or attempts to address the council or committee on such a motion, amendment or matter, or
- (d) insults, makes unfavourable personal remarks about, or imputes improper motives to, any other councillor, or
- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or committee into contempt.

## **Part 8A Induction training and professional development for councillors**

### **183 Induction training courses for councillors**

- (1) The general manager must ensure that an induction training course is delivered to each councillor who has been elected to the council for the first time, within 6 months of the councillor's election.
- (2) The induction training course required by subclause (1) must provide councillors with information about the functions and obligations of councils and councillors and the administrative procedures and operations of the council.
- (3) The general manager must ensure that an induction refresher course is delivered to each councillor who is re-elected to the council, within 6 months of the councillor's re-election.
- (4) The induction refresher course required by subclause (3) must provide councillors with updated information about the functions and obligations of councils and councillors and the administrative procedures and operations of the council.
- (5) A councillor must make all reasonable efforts to participate in any induction training course or induction refresher course delivered to the councillor in accordance with a requirement under this clause.

### **184 Supplementary induction training courses for mayors**

- (1) The general manager must ensure that a supplementary induction training course is delivered to a person elected as mayor of the council, within 6 months of the person's election.
- (2) The supplementary induction training course required by subclause (1) must provide the mayor with information about the functions and obligations of councils and mayors and train the mayor in the skills necessary to perform the role of mayor.
- (3) A mayor must make all reasonable efforts to participate in any supplementary induction training course delivered to the mayor in accordance with a requirement under this clause.
- (4) The requirements under this clause in relation to a person elected as mayor are in addition to the requirements under clause 183 to ensure the delivery of the induction training for councillors to that person.

### **185 Ongoing professional development program for councillors and mayors**

- (1) The general manager must ensure that an ongoing professional development program is delivered to the mayor and to each other councillor elected to the council, during the course of the term of office of the mayor or councillor concerned.
- (2) The ongoing professional development program required by this clause:
  - (a) must provide support and assistance to mayors and other councillors in the development of the skills necessary to perform the role of mayor or councillor (as the case may be), and
  - (b) must ensure that those skills are maintained over the term of office of the mayor and of each councillor.

- (3) The content of the ongoing professional development program required by this clause is to be developed:
  - (a) in consultation with the mayor and each councillor, and
  - (b) having regard to the specific skills required by the mayor, each individual councillor and the governing body of the council as a whole to perform the role of mayor, councillor or the governing body (as the case may be).
- (4) A mayor or other councillor must make all reasonable efforts to participate in any ongoing professional development program delivered to the mayor or councillor in accordance with a requirement under this clause.

**186 Information about induction training and ongoing professional development to be included in annual report**

For the purposes of section 428 (4) (b) of the Act, an annual report of a council must include the following information:

- (a) the names of any mayors or councillors who completed any induction training course, induction refresher course or supplementary induction course under this Part during the year,
- (b) the names of any mayors or councillors who participated in any ongoing professional development program under this Part during the year,
- (c) the number of seminars, circulars and other activities delivered as part of the ongoing professional development program in accordance with this Part during the year.

**Note.** Clause 217 (1) (a1) (iiia) and (iv) require details of the total costs of all training and professional development programs for councillors to be included in an annual report.

**[2] Clause 217 Additional information for inclusion in annual report**

Omit clause 217 (1) (a1) (iv). Insert instead:

- (iiia) the provision of induction training for councillors, supplementary induction training for mayors and professional development programs for mayors and other councillors,
- (iv) other training of mayors and councillors and the provision of skill development for mayors and councillors,

**[3] Part 10**

Omit the Part. Insert instead:

**Part 10 Meetings**

**232 Model code of meeting practice**

For the purposes of section 360 of the Act, the document entitled *Model Code of Meeting Practice for Local Councils in NSW* published in the Gazette on 14 December 2018 is prescribed as the model code of meeting practice for the conduct of meetings of councils and committees of councils all the members of which are councillors.

**Note.** Clause 422 makes provision for the phasing in of the prescribed model code of meeting practice.

**233 Expulsion for acts of disorder**

- (1) The chairperson may require a councillor:
  - (a) to apologise without reservation for an act of disorder referred to in clause 182 (a) or (b), or
  - (b) to withdraw a motion or an amendment referred to in clause 182 (c) and, where appropriate, to apologise without reservation, or
  - (c) to retract and apologise without reservation for any statement that constitutes an act of disorder referred to in clause 182 (d) or (e).
- (2) A councillor may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council for having failed to comply with a requirement under subclause (1). 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.

**234 Minister to convene meetings in certain cases**

- (1) Whenever an area is constituted or reconstituted, the Minister is required:
  - (a) to convene the first meeting of the council of the area, and
  - (b) to nominate the business to be transacted at the meeting, and
  - (c) to give the councillors notice of the meeting.
- (2) If there is no quorum at that meeting, the Minister may convene meetings in the same manner until a quorum is present.
- (3) The council must transact the business nominated by the Minister for a meeting convened under this clause.

**235 Report of Departmental Chief Executive to be tabled at council meeting**

When a report of the Departmental Chief Executive or a person to whom the Departmental Chief Executive's functions under section 430 of the Act have been delegated or subdelegated under section 745 of the Act has been presented to a meeting of a council in accordance with section 433 of the Act, the council must ensure that the report:

- (a) is laid on the table at that meeting, and
- (b) is subsequently available for the information of councillors and members of the public at all reasonable times.

**[4] Clause 397A Application of this Regulation to joint organisations**

Insert after clause 397A (2):

- (2A) Part 8A does not apply to a joint organisation.

**[5] Clause 397A (3)**

Omit the subclause.

**[6] Clause 397A, note**

Omit "(other than clause 235)".

**[7] Clause 397A, note**

Omit "Schedules 3, 3A and 12". Insert instead "Schedule 12".

**[8] Clause 397C Meetings of joint organisations**

Omit “, and clause 232, do” from clause 397C (1). Insert instead “does”.

**[9] Clause 397J Annual performance statements**

Omit “(other than clause 217 (1) (a4), (e), (e1) and (f))” from clause 397J (3).

Insert instead “(other than clause 217 (1) (a1) (iiia) and (iv), (a4), (e), (e1) or (f))”.

**[10] Clauses 420–423**

Insert after clause 419:

**420 Phasing in of model code of conduct**

(1) In this clause:

*existing code of conduct* means a code of conduct duly adopted by a council under section 440 of the Act and clause 193 (1) of this Regulation, and in force immediately before 14 December 2018.

*phasing-in period*, for a council, means the period:

- (a) commencing on 14 December 2018, and
- (b) ending on 14 June 2019 or on the date on which the council adopts a code of conduct under section 440 of the Act that incorporates the provisions of the model code of conduct prescribed by clause 180, whichever occurs first.

(2) During the phasing-in period for a council, an existing code of conduct is taken to have been adopted under, and to comply with, section 440 of the Act, despite any inconsistency with the model code prescribed by clause 180.

(3) Until a council adopts a code of conduct under section 440 of the Act that incorporates the provisions of the model code of conduct prescribed by clause 180, Part 8 of this Regulation (as in force immediately before it was substituted on 14 December 2018) continues to apply to the council as if that Part had not been substituted.

**Note.** Clause 124 of Schedule 8 to the Act provides that certain provisions of the Act and the regulations about the disclosure of pecuniary interests are taken to be included in the model code and in any adopted code incorporating the provisions of that code.

**421 Phasing in of procedures for administering model code of conduct**

(1) In this clause:

*existing procedure* means a procedure duly adopted by a council under section 440AA of the Act and clause 193 (2) of this Regulation, and in force immediately before the repeal of that subclause on 14 December 2018.

*phasing-in period*, for a council, means the period:

- (a) commencing on 14 December 2018, and
- (b) ending on 14 June 2019 or on the date on which the council adopts a procedure under section 440AA of the Act that incorporates the provisions of the model procedure prescribed by clause 181, whichever occurs first.

(2) During the phasing-in period for a council, an existing procedure is taken to have been adopted under, and to comply with, section 440AA of the Act, despite any inconsistency with the model procedure prescribed by clause 181.

#### 422 Model code of meeting practice

- (1) In this clause:  
*phasing-in period*, for a council, means the period:
  - (a) commencing on 14 December 2018, and
  - (b) ending on 14 June 2019 or on the date on which the council adopts a code of meeting practice under section 360 of the Act (as substituted by the *Local Government Amendment (Governance and Planning) Act 2016*), whichever occurs first.
- (2) During the phasing-in period for a council:
  - (a) Part 10 of this Regulation (as in force immediately before 14 December 2018) continues to apply to meetings of the council as if that Part had not been substituted, and
  - (b) clause 117 (2) of Schedule 8 to the Act does not apply to the council, and
  - (c) any code of meeting practice duly adopted by the council under section 360 (2) of the Act, and in force immediately before the substitution of that subsection on 14 December 2018:
    - (i) continues to apply to the conduct of meetings of that council, and
    - (ii) is taken to have been adopted under section 360 of the Act (as substituted).

**Note.** Clause 117 of Schedule 8 to the Act provides that a council is not required to adopt a code of meeting practice in accordance with section 360, as substituted, until after the next ordinary election of councillors following that substitution.

#### 423 Interim obligation to webcast meetings of councils and their committees

- (1) On and from 14 December 2019:
  - (a) all meetings of a relevant council and of any committee of a relevant council all the members of which are councillors must be webcast on the council's website by video or audio broadcast that is transmitted across the internet either concurrently with the meeting or at a later time, and
  - (b) at the start of each meeting of a relevant council or any such committee of a relevant council the chairperson must make a statement informing those in attendance at the meeting that the meeting is being webcast and that those in attendance at the meeting should refrain from making any defamatory statements, and
  - (c) a recording of each meeting of a relevant council and any committee of a relevant council all the members of which are councillors is to be retained on the council's website for at least 12 months.
- (2) Subclause (1) does not apply to parts of a meeting that have been closed to the public in accordance with section 10A of the Act.
- (3) This clause does not apply to a joint organisation, but a joint organisation is authorised to webcast its meetings if the organisation resolves to do so.
- (4) In this clause, *relevant council* means a council that has not adopted a code of meeting practice under section 360 of the Act (as substituted by the *Local Government Amendment (Governance and Planning) Act 2016*).

#### [11] Schedule 3 Form of return—disclosure of interest

Omit the Schedule.



**[12] Schedule 3A Form of special disclosure of pecuniary interest**

Omit the Schedule.