



New South Wales

Local Government Amendment (Red Tape Reduction) Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Local Government Act 1993* (the *Act*):
 - (i) to enable a local council to delegate its function of accepting tenders that the local council is required under the Act to invite, and
 - (ii) to enable a local council to enter a contract for the purchase of goods or services with a disability employment organisation without first having to invite tenders, and
 - (iii) to clarify that an exemption from the requirement to invite tenders that applies in relation to certain contracts involving orders against standing offers applies whether or not a rate is specified for the contracts, and
 - (iv) to reduce the frequency with which local councils are required to adopt a policy concerning expenses and facilities,
- (b) to amend the *Act* and the *Local Government (General) Regulation 2005* (the *Regulation*):
 - (i) to exempt prescribed local councils from the requirement to invite tenders for contracts involving an amount of less than \$250,000 (rather than less than \$150,000, as for other local councils), and
 - (ii) to replace requirements for local councils and election managers to publish notices and advertisements in newspapers with requirements to publish them on their websites and in such other manner as they consider appropriate.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of Schedules 1 [3] and 2 [8] to the proposed Act on a day to be appointed by proclamation and the remainder of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Local Government Act 1993 No 30

Amendments relating to tendering

The Act requires local councils to invite tenders before entering into certain contracts.

Schedule 1 [8] removes a prohibition on a local council delegating a local council's function of accepting tenders that are required to be invited by a local council.

Schedule 1 [4] exempts a local council from the requirement to invite tenders in relation to contracts for the purchase of goods or services made with a person or body approved as a disability employment organisation under the *Public Works and Procurement Act 1912*.

Schedule 1 [2] clarifies that current exemptions from the requirement to invite tenders that apply in relation to certain 'standing offer' contracts (involving orders for goods and services against standing offers established by the NSW Procurement Board and other entities) apply whether or not a rate is specified for the contract.

Currently, local councils are exempt from the requirement to invite tenders in relation to contracts involving an estimated expenditure or receipt of an amount of less than \$150,000. **Schedule 1 [3]** increases the threshold amount to \$250,000 for local councils (if any) specified in the Regulation for the purposes of the exemption and retains the \$150,000 threshold amount (currently prescribed in the Regulation) for local councils not so specified.

Amendments relating to council policies concerning expenses and facilities

Schedule 1 [5] reduces the frequency with which a local council is required to adopt a policy for the payment of expenses incurred by, and provision of facilities to, its councillors (an *expenses and facilities policy*), from once each year to once in each term of the local council (within the first 12 months of the term).

Schedule 1 [6] removes a requirement for a local council to report to the Chief Executive of the Office of Local Government in relation to the adoption or amendment of an expenses and facilities policy. The item also makes an amendment consequential on that made by Schedule 1 [5].

Schedule 1 [17] inserts consequential provisions of a savings or transitional nature.

Amendments replacing requirements to publish notices and advertisements in newspapers

Schedule 1 [7], [9], [10] and [14]–[16] replace requirements for a local council to publish certain notices, advertisements or other matter in newspapers, with requirements for the local council to publish them on its website and either in a local or metropolitan newspaper (or both), or in some other manner, as determined by the local council with the object of bringing them to the attention of as many interested persons as possible.

Schedule 1 [1] and [11]–[13] make consequential amendments.

Schedule 2 Amendment of Local Government (General) Regulation 2005

Schedule 2 [1]–[7], [10]–[18] and [20]–[23] make amendments to replace requirements for a local council or election manager to publish certain notices, advertisements or other matter in newspapers with requirements to publish them on its website and either in a local or metropolitan newspaper (or both), or in some other manner, as determined by the local council or election

manager with the object of bringing them to the attention of as many interested persons as possible. **Schedule 2 [9] and [19]** make consequential amendments.

Schedule 2 [8] makes an amendment consequential on Schedule 1 [3].



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New South Wales

Local Government Amendment (Red Tape Reduction) Bill 2014

No , 2014

A Bill for

An Act to amend the *Local Government Act 1993* and the *Local Government (General) Regulation 2005* in relation to tenders and the manner in which certain notices and other matter are to be published; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment (Red Tape Reduction) Act 2014*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedules 1 [3] and 2 [8] commence on a day to be appointed by proclamation.

Schedule 1 Amendment of Local Government Act 1993 No 30

[1] Section 47 Leases, licences and other estates in respect of community land—terms greater than 5 years	1 2 3
Omit the fourth dot point from section 47 (6). Insert instead:	4
• a copy of the public notice of the proposal, as published	5
[2] Section 55 What are the requirements for tendering?	6
Insert “, if a rate is so specified,” after “period so specified and” wherever occurring in section 55 (3) (a) and (g).	7 8
[3] Section 55 (3) (n)	9
Omit the paragraph. Insert instead:	10
(n) a contract involving an estimated expenditure or receipt of an amount:	11
(i) of less than \$250,000, or such other amount as the regulations may prescribe, for a council (if any) specified in the regulations for the purposes of this subparagraph, or	12 13 14
(ii) of less than \$150,000, or such other amount as the regulations may prescribe, for a council that is not so specified	15 16
[4] Section 55 (3) (q)	17
Insert after section 55 (3) (p):	18
(q) a contract made with a person or body approved as a disability employment organisation under the regulations made under the <i>Public Works and Procurement Act 1912</i> , for the purchase of goods or services in relation to which the person or body is so approved.	19 20 21 22
[5] Section 252 Payment of expenses and provision of facilities	23
Omit “Within 5 months after the end of each year, a council” from section 252 (1).	24
Insert instead “Within the first 12 months of each term of a council, the council”.	25
[6] Section 253 Requirements before policy concerning expenses and facilities can be adopted or amended	26 27
Omit section 253 (4) and (5). Insert instead:	28
(5) A council must comply with this section when proposing to adopt a policy in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.	29 30 31
[7] Section 348 Advertising of staff positions	32
Omit section 348 (2). Insert instead:	33
(2) If the position is a senior staff position, the requirement of this section is satisfied if an advertisement for the position is published in accordance with section 735B.	34 35 36
[8] Section 377 General power of the council to delegate	37
Omit section 377 (1) (i).	38

[9] Sections 410 (2) (b) and 715 (1) (a)	1
Omit “in a newspaper” wherever occurring.	2
Insert instead “in accordance with section 735B”.	3
[10] Sections 644A (1), 644B (3) and 645 (1)	4
Omit “in a newspaper circulating in the area as a whole or in a part of the area that includes the zone concerned” wherever occurring.	5
Insert instead “in accordance with section 735B”.	7
[11] Section 698 Judicial notice of certain documents	8
Insert after section 698 (2) (b):	9
(b1) that has been published on a website, or	10
[12] Section 705 What is public notice?	11
Omit “The” from section 705 (3).	12
Insert instead “Unless otherwise specified in this Act or the regulations, the”.	13
[13] Section 707 Publication of notices in Gazette etc	14
Omit “in any newspaper” and “in a newspaper” from section 707 (1).	15
Insert instead “in another manner” and “in the other manner”, respectively.	16
[14] Section 710 Service of notices on persons	17
Omit “in a newspaper circulating in the district in which the land, building or premises are situated” from section 710 (4) (b).	18
Insert instead “in accordance with section 735B”.	20
[15] Section 715 Notice of proposal to sell land	21
Omit “in at least one newspaper” from section 715 (1) (b).	22
Insert instead “in accordance with section 735B”.	23
[16] Section 735B	24
Insert after section 735A:	25
735B Requirements for publishing certain notices, advertisements and other matter	26
A notice, advertisement or other matter is published by a council in accordance with this section if the notice, advertisement or other matter:	27
(a) is published on the council’s website, and	29
(b) is published:	30
(i) in a local newspaper or in a newspaper circulating throughout the State (or both), as determined by the council, or	31
(ii) in such other manner as is determined by the council, with the object of bringing the subject matter of the notice, advertisement or other matter to the attention of as many people to whom the council considers it may be of interest as possible.	32
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[17] **Schedule 8 Savings, transitional and other provisions consequent on enactment of other Acts**

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Insert at the end of the Schedule with appropriate Part and clause numbering:

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Part Provisions consequent on enactment of Local Government Amendment (Red Tape Reduction) Act 2014

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Definition

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In this Part:

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amending Act means the *Local Government Amendment (Red Tape Reduction) Act 2014*.

Expenses and facilities policies

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- (1) The amendment made by Schedule 1 [5] to the amending Act applies only in relation to a council whose term commences on or after the commencement of the amendment.
- (2) The omission of section 253 (4) by Schedule 1 [6] to the amending Act extends to a policy adopted or an amendment to a policy made before the commencement of the amendment.

Schedule 2	Amendment of Local Government (General) Regulation 2005	1
[1] Clause 77	Omit the clause. Insert instead:	2
	77 Public notice of draft local approvals policies	3
	The public notice required to be given by the council under section 160 (1) of the Act must be published in accordance with clause 413F.	4
[2] Clause 78 Public notice of approval	Omit “in at least one local newspaper circulating at least once weekly in the area of the council” from clause 78 (1).	5
	Insert instead “in accordance with clause 413F”.	6
[3] Clause 100	Omit the clause. Insert instead:	7
	100 Public notice of local orders policy	8
	The public notice required to be given by the council under section 160 (1) of the Act must be published in accordance with clause 413F.	9
[4] Clause 112 Consultation concerning categorisation of land as an area of cultural significance	Omit clause 112 (2) (b). Insert instead:	10
	(b) publishing an advertisement in accordance with subclause (6), and	11
[5] Clause 112 (6)	Insert after clause 112 (5):	12
	(6) An advertisement is published in accordance with this subclause if it is published on the council’s website and:	13
	(a) in a newspaper circulating throughout the State that is primarily concerned with issues of interest to Aboriginal people, or	14
	(b) in such other manner as is determined by the council with the object of bringing the subject matter of the advertisement to the attention of as many people to whom the council considers it may be of interest as possible.	15
[6] Clause 118 Additional notifications in relation to certain filming projects	Omit clause 118 (3) (b). Insert instead:	16
	(b) an advertisement is to be published in accordance with clause 112 (6).	17
[7] Clause 137 Water supply may be restricted if there is a shortage of supply	Omit “in a newspaper circulating within the council’s area” from clause 137 (4).	18
	Insert instead “in accordance with clause 413F”.	19

[8] Clause 163 Application of Part	1
Omit clause 163 (2).	2
[9] Clause 164 Definitions	3
Omit the definition of <i>relevant newspapers</i> .	4
[10] Clauses 167 (1), 168 (1) and 169 (1)	5
Omit “in the relevant newspapers” wherever occurring.	6
Insert instead “in accordance with clause 413F”.	7
[11] Clause 216 Council’s annual financial reports to be amended in certain cases	8
Omit “in a newspaper circulating in its area” from clause 216 (2).	9
Insert instead “and publish the notice in accordance with clause 413F”.	10
[12] Clause 232 Notice of meetings	11
Omit “in a newspaper circulating in the area” from clause 232 (2).	12
Insert instead “in accordance with clause 413F”.	13
[13] Clause 277 Notice of changes to wards	14
Omit “in a newspaper circulating generally in the council’s area” from clause 277 (2) (a).	15
Insert instead “published in accordance with clause 413F”.	16
[14] Clause 280 Advertising of enrolments	17
Omit “in a newspaper circulating generally in the State or another newspaper circulating in the relevant area, or both” from clause 280 (3).	18
Insert instead “published in accordance with clause 413F”.	19
[15] Clause 288 Notice of election and call for nomination proposals	21
Omit “in a newspaper circulating in the area” from clause 288 (1).	22
Insert instead “published in accordance with clause 413F”.	23
[16] Clause 296 Declaration of uncontested election	24
Omit clause 296 (3A) (a). Insert instead:	25
(a) publish a copy of the written declaration in accordance with clause 413F, and	26
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[17] Clause 300 Notice of contested election	28
Omit clause 300 (1) (a) and (b). Insert instead:	29
(a) published in accordance with clause 413F, and	30
(b) displayed at the council’s office.	31
[18] Clause 300 (2)	32
Omit “in a newspaper circulating in the area”.	33
Insert instead “in accordance with clause 413F (1) (b)”.	34

[19] Clause 300 (3)	1
Omit “on the election manager’s internet website”.	2
Insert instead “published in accordance with clause 413F (1) (a)”.	3
[20] Clause 356 Declaring the election	4
Omit “insert, in a newspaper circulating generally in the State or another newspaper circulating in the relevant area or both” from clause 356 (7).	5
Insert instead “publish, in accordance with clause 413F”.	6
7	
[21] Clause 401 Meaning of “diligent inquiry”	8
Omit clause 401 (4). Insert instead:	9
(4) Publishing a notice , being the publishing, in accordance with clause 413F, of a notice referred to in subclause (3).	10
11	
[22] Part 13 Miscellaneous	12
Insert at the end of the Part:	13
Division 15 Requirements for publishing certain notices, advertisements and other matter	14
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413F Requirements for publishing certain notices, advertisements and other matter	16
(1) A notice, advertisement or other matter is published by a council, or by an election manager, in accordance with this clause if the notice, advertisement or other matter:	17
(a) is published on the relevant website, and	18
(b) is published:	19
(i) in a local newspaper or in a newspaper circulating throughout the State (or both), as determined by the council or by the election manager (as the case may be), or	20
(ii) in such other manner as is determined by the council or by the election manager,	21
with the object of bringing the subject matter of the notice, advertisement or other matter to the attention of as many people to whom the council or the election manager considers it may be of interest as possible.	22
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(2) In this clause:	31
<i>relevant website</i> means:	32
(a) in relation to a local council or an election manager who is the general manager of a local council—the local council’s website, or	33
(b) in relation to an election manager who is the Electoral Commissioner—the Electoral Commission’s website.	34
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(3) A reference in this clause to an election manager or the Electoral Commissioner is a reference to that term within the meaning of clause 275.	37
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[23] Schedule 10 Constitutional referendums and council polls	1
Omit “notify in a newspaper circulating in the area in which a referendum is to be taken, or the area or part of the area in which a poll is to be taken,” from clause 4 (b).	2
Insert instead “publish, in accordance with clause 413F, a notice that specifies”.	3
	4