

Department of Premier and Cabinet

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24 APR 2018

Dr. Katrena Stephenson
 Chief Executive Officer
 Local Government Association of Tasmania
 GPO Box 1521
 HOBART TAS 7001

Dear Dr Stephenson

I am writing to provide the Local Government Association of Tasmania (LGAT) with the opportunity to comment on the enclosed draft Local Government (General) Amendment Regulations 2018 (Amendment Regulations).

In November 2017, the Department of Premier and Cabinet's Local Government Division sought initial comment from the sector on proposed changes to the *Local Government (General) Regulations 2015*, following amendments brought about by the *Local Government Amendment (Targeted Review) Act 2017*.

The consultation supported the majority of proposed amendments, which have been drafted in response to sector feedback. The key amendments proposed are:

1. The introduction of a gifts and donations register as per the new Part 5A of the *Local Government Act 1993*.
2. Amendments to regulation 21 to remove the requirements prescribing poster size and number.
3. Amendments to regulation 22 to remove the restrictions in regard to limitations on television, radio and newspaper advertising.
4. Amendments to regulation 22 to remove two separate electoral expenditure limits, replacing these with a single expenditure limit of \$10,000 for a candidate, regardless of whether they are running for mayor or deputy mayor or councillor. This amount will be increased each year by CPI.
5. Amending the Declaration of Office such that elected members are required to engage in ongoing professional development and abide by the principles of good governance.

Amendments to regulation 21 and 22 – posters and television and radio

The draft Amendment Regulations include additional proposed amendments to regulation 21 and 22 to remove restrictions that are considered unnecessary. It is noted that these proposed changes are consistent with previous feedback from the sector.

The limits regarding radio and television have been removed, allowing candidates greater flexibility in terms of campaigning, provided that any spending is within the new expenditure limit of \$10,000.

The restrictions the Regulations currently impose in relation to poster size have been proposed as unnecessary, especially in light of planning schemes, which may conflict with the current regulation 21 and cause confusion for candidates.

General

The Amendment Regulations will be supported by detailed Guidelines and there may be consequential amendments to the *Local Government (Model Code of Conduct) Order 2016* as required, to ensure consistency across both instruments, particularly in relation to compliance matters. The sector will be consulted on any proposed amendment to the Model Code of Conduct, as part of the wider review of the Code of Conduct framework.

With local government elections to be held in October 2018, it is prudent that the amendments are finalised well in advance, so that persons nominating for election are fully aware of their obligations.

Please provide any comments on the draft Amendment Regulations in writing, either by email to lgd@dpac.tas.gov.au or post to:

Local Government Division
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

The submission must be received by close of business on **Friday 1 June 2018**. This date is based on commencing consultation on or before **26 April 2018** in accordance with the *Statewide Partnership Agreement on Communication and Consultation*, and to allow LGAT to seek the view of its members.

Important information to note

All submissions will be treated as public information and will be published on DPAC's website once consideration of the submissions has concluded. However, if you wish your submissions to be treated as confidential, whether in whole or in part, please note this in writing at the time of making your submissions, and clearly indicate which parts of your submission are confidential, and advise the reasons as to why.


Please note that your name, or the name of your organisation making a submission, will be disclosed unless you request otherwise. In the absence of a clear indication that a submission is intended to be treated as confidential (or parts of the submission), DPAC will treat the submission as public.

The Right to Information Act 2009 and confidentiality

By law, information provided to the Government may be provided to an applicant under the provisions of the *Right to Information Act 2009* (RTI). If you have indicated that you wish all or part of your submission to be treated as confidential, your statement detailing the reasons will be taken into account in determining whether or not to release the information in the event of an RTI application for assessed disclosure.

Should your organisation have any questions regarding the draft Amendment Regulations, please contact DPAC's Local Government Division by email at lgd@dpac.tas.gov.au or by telephone on 6232 7022.

Yours sincerely



Alex Tay
Director of Local Government

Drafted in the Office of
Parliamentary Counsel

TASMANIA

**LOCAL GOVERNMENT (GENERAL)
AMENDMENT REGULATIONS 2018**

STATUTORY RULES 2018, No.

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**LOCAL GOVERNMENT (GENERAL)
AMENDMENT REGULATIONS 2018**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Local Government Act 1993*.

Dated 20 .

Governor

By Her Excellency's Command,

Minister for Local Government

1. Short title

These regulations may be cited as the *Local Government (General) Amendment Regulations 2018*.

2. Commencement

These regulations take effect on 1 August 2018.

3. Principal Regulations

In these regulations, the *Local Government (General) Regulations 2015** are referred to as the Principal Regulations.

*S.R. 2015, No. 37

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4. Regulation 21 amended (Posters and signs)

Regulation 21 of the Principal Regulations is amended by omitting subregulations (1), (2) and (3).

5. Regulation 22 amended (Advertising)

Regulation 22 of the Principal Regulations is amended as follows:

- (a) by inserting in subregulation (1) “electoral” after “purchase”;
- (b) by omitting from subregulation (1) “on television or radio” and substituting “or space”;
- (c) by omitting subregulations (2), (3), (4) and (5);
- (d) by inserting in subregulation (6) “electoral” after “in.”.

6. Regulation 22A inserted

After regulation 22 of the Principal Regulations, the following regulation is inserted in Division 4:

22A. Total expenditure for advertising

- (1) For the purposes of section 278 of the Act, the total expenditure on electoral advertising by, or on behalf of, a

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candidate during the relevant period must not exceed the sum of –

- (a) if the relevant period commences during the financial year commencing on 1 July 2018, \$10,000; or
 - (b) if the relevant period commences during a subsequent financial year, the amount calculated for that financial year under subregulation (2).
- (2) For the purposes of subregulation (1)(b), the total expenditure for a subsequent financial year is calculated in accordance with the following formula and rounded off in accordance with subregulation (3):

$$A = B \times \frac{C}{D}$$

Where –

A is the total expenditure for the relevant financial year being calculated;

B is \$10 000;

C is the CPI figure for Hobart for the March quarter immediately preceding the relevant financial year in which the total expenditure is to apply;

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D is the CPI figure for Hobart for the March quarter 2018.

- (3) If the value of the total expenditure calculated in accordance with subregulation (2) is not a multiple of \$500, the amount is to be rounded off to the nearest multiple of \$500.
- (4) In this regulation *CPI figure for Hobart* means the Consumer Price Index: All Groups Index Number for Hobart published by the Australian Statistician under the authority of the *Census and Statistics Act 1905* of the Commonwealth.

7. Part 3A inserted

After regulation 29 of the Principal Regulations, the following Part is inserted:

PART 3A – GIFTS AND DONATIONS

29A. Gifts or donations

For the purposes of section 56A(1)(b) of the Act, the following classes of gift or donation are prescribed:

- (a) items, services, loans of money, loans of property or any other benefits with a monetary value of \$50 or more;

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- (b) items, services or other benefits that are part of a series of gifts or donations received by a councillor from the same donor, where the aggregate monetary value of the series of gifts or donations in a financial year is \$50 or more.

29B. Details to be contained in notice

For the purposes of section 56A(2)(b) of the Act, the following details are prescribed:

- (a) the name of the councillor who received the gift or donation;
- (b) a description of the gift or donation;
- (c) the name of the donor, if known;
- (d) the councillor's relationship to the donor, if known;
- (e) the suburb or locality where the donor resides, if known;
- (f) the date on which the gift or donation was received;
- (g) the estimated monetary value of the gift or donation.

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29C. Timeframe for provision of notice

For the purposes of section 56A(2)(c) of the Act, the prescribed period is –

- (a) within 14 days of receiving a gift or donation; or
- (b) in the case of a gift or donation that was received by a councillor outside of Australia, within 14 days of the councillor returning to Australia.

29D. Information to be included in register

For the purposes of section 56B(2)(c) of the Act, the register is to contain the following information:

- (a) the name of the donor of the gift or donation, if known;
- (b) the councillor's relationship to the donor, if known;
- (c) the suburb or locality where the donor resides, if known;
- (d) the date on which the gift or donation was received;
- (e) the estimated monetary value of the gift or donation.

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8. Schedule 2 substituted

Schedule 2 to the Principal Regulations is rescinded and the following Schedule is substituted:

SCHEDULE 2 – DECLARATION OF OFFICE
Regulation 40

Local Government Act 1993

DECLARATION OF OFFICE - S. 321

I,, having been elected as
[full name] [councillor]

to the Council, do solemnly declare that I will
[name of council]

- (a) faithfully carry out the functions and exercise the powers vested in me by virtue of that office to the best of my ability and in accordance with the law;
- (b) comply with the Council's code of conduct;
- (c) engage in ongoing professional development; and
- (d) abide by the principles of good governance.

.....
[signature of councillor]

Made before me at in Tasmania on the day
of 20

.....
[general manager]

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 20 .

These regulations are administered in the Department of Premier and Cabinet.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations amend the *Local Government (General) Regulations 2015* by –

- (a) prescribing certain matters relating to the notification, by councillors, of gifts and donations; and
- (b) amending requirements relating to electoral advertising; and
- (c) making other minor miscellaneous amendments.



**NORTHERN
MIDLANDS
COUNCIL**

Ref: DJ/ge

8 December 2017

Mr Dion Lester
Policy Director
Local Government Association of Tasmania
GPO Box 1521
Hobart TAS 7001

Dear Dion

Council at a recent meeting considered the Elected Representative – Changes to the Local Government Act and determined the following:

1. Gifts and Benefits

- Minimum threshold amount (\$) for disclosure be \$50.
- Register availability – register to be available at Council's public Office and on the website.
- Register updates – to be monthly.

2. Electoral Advertising Limit

An increase from \$5,000 to \$6,500 for a councillor candidate and \$8,000 to \$10,500 for councillor and mayor or deputy mayor candidate, with future increases at CPI.

3. Professional Development:

That Council support the preparation of an annual Development Program and the program outcome be reported in the Annual Report.

Council would not support any legislation to compel training.

Yours sincerely

Des Jennings
GENERAL MANAGER

P.O. Box 156
Longford 7301

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