

<b>Circular Details</b>	Circular No 17-06 / 4 May 2017 / A538210
<b>Previous Circulars</b>	16-30 Local Government Amendment (Governance and Planning) Act 16-35 More Phase 1 amendments to the Local Government Act commenced by proclamation 16-51 Further Phase 1 amendments to the Local Government Act commence and amending regulation made
<b>Who should read this</b>	General Managers / Council Governance Staff
<b>Contact</b>	Council Governance Team – 02 4428 4100
<b>Action required</b>	Information

## Commencement of Phase 1 Amendments – An Overview

### What's new or changing

The Office of Local Government has received questions about the commencement dates of amendments to the *Local Government Act 1993* made by the *Local Government Amendment (Governance and Planning) Act 2016* (the Phase 1 Amendments).

### What this will mean for your council

A table outlining the commencement date for each of the Phase 1 amendments is attached to this circular. The table also identifies those provisions that are yet to commence.

### Key points

- The previous circulars referred to above provide further details of amendments that have already commenced.
- Some provisions have not yet commenced, in order to allow for consultation and the development of supporting regulatory frameworks. The consultation process for many of these has commenced and the supporting regulatory frameworks are currently under development.
- Councils will be advised by circular when these provisions are being commenced and will be given sufficient notice to allow them to implement and comply with new requirements.

### Where to go for further information

- For further information, contact the Office's Council Governance Team on 4428 4100 or by email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).



**Tim Hurst**  
Acting Chief Executive

## ATTACHMENT TO CIRCULAR

### Commencement of Phase 1 Amendments – An Overview

<b>Commenced on 30 August 2016</b>
<b>GOVERNING BODY</b>
<b>Mayoral term</b> <ul style="list-style-type: none"><li>• The mayoral term for councillor-elected mayors has increased to two years (from one year) (s230)</li></ul>
<b>Councillor oath or affirmation of office</b> <ul style="list-style-type: none"><li>• Councillors, including mayors, must take an oath or affirmation of office before commencing their duties (s233A)</li></ul>
<b>Councillor expenses and facilities policy</b> <ul style="list-style-type: none"><li>• Policies must be adopted within 12 months of the commencement of the new council term, instead of annually (s252)</li><li>• Copies of the policy are no longer required to be provided to the Office of Local Government</li></ul>
<b>Councillor fee increases</b> <ul style="list-style-type: none"><li>• Clarification that the State wages policy (currently limiting councillors' fee increases to 2.5%) does not apply to determinations by the Local Government Remuneration Tribunal that change a council's fee category (s242A)</li></ul>
<b>Organisation structure</b> <ul style="list-style-type: none"><li>• The council is to determine the organisation structure for the senior staff level in consultation with the general manager, with the general manager to determine the balance of the organisation structure (s332)</li></ul>
<b>ELECTIONS</b>
<b>Casual vacancies</b> <ul style="list-style-type: none"><li>• Casual vacancies may only be filled by a countback election once a date to do so has been prescribed by regulation (s291A)</li><li>• A date has not yet been prescribed</li></ul>

## Commenced on 23 September 2016

### LOCAL GOVERNMENT PRINCIPLES AND COUNCIL ROLES AND FUNCTIONS

#### New purposes and principles (ss7-8C)

- General principles
- Decision making principles
- Integrated planning and reporting principles
- Community participation principle
- Sound financial management principles

#### New roles

- Governing bodies (s223)
- Mayors (s226)
- Councillors (s232)
- Administrators (s258)

#### New functions

- General manager (s335)

### DELEGATION OF TENDERS AND FINANCIAL ASSISTANCE

Councils may now delegate:

- Acceptance of tenders, except for services currently provided by council staff (s377(1)(i))
- Payment of financial assistance as part of a program specified in the council's operational plan that is not more than 5% of the council's rates income and that applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area (s377(1A))

### GOVERNING BODY

#### Mayoral term

- A mayor elected by councillors ceases to be mayor once that person ceases to hold office as a councillor (s234)

## Commenced on 1 October 2016

### AUDIT

#### External auditor

- The Auditor-General is appointed as the external auditor for all councils from the 2016-17 financial year (s422)

#### Performance audits

- The Auditor-General may conduct performance audits of all or any activities of one or more councils to determine whether the councils are carrying out those activities effectively, economically and efficiently and in compliance with relevant laws (s421B)

## **Commenced on 25 November 2016**

### **FINANCIAL CONTROLLER**

- The Minister may appoint a financial controller to a council in association with a performance improvement order and after considering prescribed criteria (s438HB)

## **Yet to commence (consultation either commenced or soon to commence)**

### **INTEGRATED PLANNING AND REPORTING (IP&R)**

- Streamlined IP&R requirements

### **GOVERNANCE**

#### **Induction and professional development for mayors and councillors**

- New requirements for the provision of, and reporting on, induction and ongoing professional development programs for mayors and councillors

#### **Model Code of Conduct and Procedures**

- Consolidation of the pecuniary interest provisions into the Model Code of Conduct for Local Councils in NSW

#### **Model Code of Meeting Practice**

- Prescription of a new Model Code of Meeting Practice
- Councils will not be required to adopt a new Meeting Code based on the Model Meeting Code until after the next ordinary election following commencement

#### **Meetings – reduced number**

- One-off opportunity for prescribed councils to seek the approval of the Minister for Local Government to reduce the minimum number of council meetings to less than 10 a year

#### **Councillors – reduced number**

- One-off opportunity for prescribed councils to seek the approval of the Minister for Local Government to reduce their councillor numbers (without a constitutional referendum)

### **PERFORMANCE MEASUREMENT FRAMEWORK**

- Prescription of a performance measurement framework for councils

### **AUDIT COMMITTEES, INTERNAL AUDIT AND RISK**

#### **Audit, risk and improvement committees**

- Requirement for councils to appoint audit, risk and improvement committees
- Councils will not be required to appoint an audit, risk and improvement committee until 6 months after the next ordinary election following commencement