

1993—No. 264

LOCAL GOVERNMENT ACT 1993—REGULATION

(Local Government (Financial Management) Regulation 1993)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Government Act 1993, has been pleased to make the Regulation set forth hereunder.

GARRY WEST, M.P.,
Minister for Local Government and Co-operatives.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Local Government (Financial Management) Regulation 1993.

Commencement

2. This Regulation commences on 1 July 1993.

Application of Regulation

3. This Regulation applies to all councils and to all county councils, except county councils specified in Schedule 2 to the Public Finance and Audit Act 1983.

Definitions

4. In this Regulation:

accounting records, in relation to a council, means the records that section 412 of the Act requires the council to keep, and includes any cash receipt record, assets register, contracts register, stores register or ledger, debtors' ledger and creditors' ledger;

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council includes a county council, other than a county council specified in Schedule 2 to the Public Finance and Audit Act 1983;

Departmental representative means a person authorised under section 430 of the Act;

estimate includes all sub-estimates that the estimate is required to contain;

quarter means the period of 3 months ending on 30 September, 31 December, 31 March or 30 June;

records includes books, registers, deeds and documents, and any other sources of information compiled, recorded or stored in written form or on microfilm, or by electronic process, or in any other manner or by any other means;

responsible accounting officer, in relation to a council, means a member of the staff of the council designated by the council as its responsible accounting officer or, if no such member of staff is designated, means the general manager of the council;

the Act means the Local Government Act 1993;

valuable security means a document that:

- (a) creates, transfers, surrenders or releases a right to, or in or over, property; or
- (b) authorises the payment of money or the delivery of property; or
- (c) evidences the creation, transfer, surrender or release of such a right, the payment of money, the delivery of property or the satisfaction of an obligation.

Notes in the text

5. Notes in the text of this Regulation are explanatory notes and do not form part of this Regulation. They are provided to assist understanding.

PART 2—MANAGEMENT PLANS AND BUDGETING BY COUNCILS**Requirements as to the estimates of income and expenditure**

6. (1) The council's detailed estimate of its income and expenditure required by section 404 (1) of the Act to be included in its draft management plan for a year must include an estimate of the income and expenditure of the council's consolidated fund for that year and must include a sub-estimate for each of the following items:

- (a) the ordinary rate that the council proposes to levy;
 - (b) special rates or charges that the council proposes to levy for any water supplied by the council;
 - (c) special rates or charges that the council proposes to levy for any sewerage service to be provided by the council;
 - (d) special rates or charges that the council proposes to levy for any drainage service to be provided by the council;
 - (e) any other special rate or charge that the council proposes to levy.
- (2) The estimate must be prepared on an accrual basis and by matching estimated income for the year to which the estimate relates with estimated expenditure for that year and must contain information relating to the following:
- (a) the council's operating revenue;
 - (b) the council's operating expenses;
 - (c) the council's operating surplus or deficit;
 - (d) funds that the council is to use for the acquisition of assets, the repayment of loans made to the council and the payment of other debts that the council has incurred;
 - (e) advances proposed to be made by the council on deferred repayment terms;
 - (f) the use of funds expected to be derived from:
 - sales of assets; and
 - the repayment of advances made by the council on deferred repayment terms; and
 - loans and other financial accommodation that the council proposes to obtain;
 - (g) an adjustment for any depreciation expense, or expense for increase in provisions, that do not involve the expenditure of funds from the council's estimated income for the year to which the estimate relates;
 - (h) the estimated surplus or deficit of the council for that year;
 - (i) a summary prepared in accordance with Form 1 in Schedule 1.

Council to submit copy of summary of estimate to the Director-General

7. A council must, not later than 14 days after adopting a management plan as required by section 406 of the Act, deliver to the Director-General a copy of the summary referred to in clause 6 (2) (i).

Responsible accounting officer to maintain system for budgetary control

8. The responsible accounting officer of a council must:
- (a) establish and maintain a system of budgetary control that will enable the council's actual income and expenditure to be monitored and to be compared with the estimate of the council's income and expenditure; and
 - (b) if any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.

Budget review statements and the revision of estimates

9. (1) Not later than 6 weeks after the end of each quarter, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure (including the sub-estimates) set out in the management plan that the council has adopted for the relevant year, a revised estimate of the income and expenditure for that year.

(2) A budget review statement must include or be accompanied by:

- (a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure; and
- (b) if that position is unsatisfactory, recommendations for remedial action.

(3) A budget review statement must also include the information set out in clause 6 (2).

(4) Not later than 8 weeks after the end of each quarter, a council must submit to the Director-General a summary of the budget review statement prepared for that quarter. The summary must be in a form approved by the Director-General.

PART 3—COUNCILS' FUNDS**Council to establish and maintain bank accounts**

10. A council must establish and maintain at least one bank account for its consolidated fund and at least one bank account for its trust fund.

Council to keep a separate account of certain money forming part of its consolidated fund

11. (1) A council must operate a separate account within its consolidated fund showing credits, debits and balances for each of the following classes of money:

- (a) money referred to in section 409 (3) (a) of the Act;
- (b) money referred to in section 409 (3) (b) of the Act;
- (c) money referred to in section 409 (3) (c) of the Act;
- (d) money which the council must set aside to repay the principal outstanding on loans made to the council on interest-only terms;
- (e) money lent to the council not yet expended for the purpose for which the money was obtained;
- (f) money that the council must set aside to meet outstanding claims to be met by the council under any self-insurance scheme that the council operates.

(2) A council must keep money referred to in subclause (1) in a bank account maintained under clause 10 and must ensure that the money is withdrawn from the account only for the purpose for which it is held or for investment in accordance with section 625 of the Act.

Note. Section 409 (3) (a), (b) and (c) of the Act respectively specify:

- (a) money received as a result of levying a special rate or charge; and
- (b) money that is, by the provisions of an Act, required to be set aside for a special purpose; and
- (c) money that has been received from the Government or a public authority for a specific purpose.

Section 625 of the Act says how a council may invest its surplus funds.

PART 4—ACCOUNTING RECORDS AND ACCOUNTING PRACTICES**What accounting records are to be kept by a council**

12. (1) Among the records that a council must keep are:

- (a) a general ledger, which must include a record of all of the council's receipts and expenditure; and
- (b) a general journal, which includes particulars of omissions from, errors in and adjustments to the council's accounting records and any other accounting matter not involving the receipt or expenditure of money; and
- (c) a cash record, which must show credits, debits and balances in the council's accounts; and

- (d) adequate subsidiary registers and other records, which will ensure that proper accounting control is maintained over the council's assets, liabilities, income and expenditure.
- (2) The council's responsible accounting officer must ensure that the records referred to in subclause (1) are kept up-to-date and in an accessible form.

Responsibility for accounting records

13. (1) The responsible accounting officer of a council is responsible for keeping the council's accounting records.

- (2) That officer must take all reasonable measures to ensure that:
 - (a) all money payable to the council is collected or recovered promptly; and
 - (b) appropriate arrangements are implemented for the security and banking of money received by the council; and
 - (c) the assets of or under the control of the council are properly accounted for; and
 - (d) liabilities are incurred by the council only with the authority of the council and the council's funds are properly spent in meeting those liabilities; and
 - (e) appropriate budgeting and accounting systems (including internal control systems) are established and maintained for the purposes of the council; and
 - (f) adequate measures are taken to protect the council's valuable securities and accounting records from loss, destruction, damage and theft.

Production of accounting records

14. A member of the staff of a council who has control of any of the council's accounting records must:

- (a) produce those records for inspection and audit in proper order whenever directed or requested to do so by the council's mayor, responsible accounting officer, general manager (if not the council's responsible accounting officer) or auditor or by a Departmental representative; and
- (b) render all practicable assistance to the mayor, responsible accounting officer, general manager, auditor or Departmental representative with respect to those records.

Particular responsibilities of the general manager

15. The general manager of a council must ensure that:
- (a) the provisions of the Act, the regulations and any other written law relating to councils' financial obligations or the keeping of accounts by councils are complied with; and
 - (b) effective measures are taken to secure the effective, efficient and economical management of financial operations within each division of the council's administration; and
 - (c) authorising and recording procedures are established to provide effective control over the council's assets, liabilities, revenue and expenditure and secure the accuracy of the accounting records, including a proper division of accounting responsibilities among the council's staff; and
 - (d) lines of authority and the responsibilities of members of the council's staff for related tasks are clearly defined.

Council to rectify defects in internal control systems

16. On becoming aware:
- (a) that the systems for properly accounting for the receipt, investment, handling or expenditure of money by a council are defective or inadequate; or
 - (b) that the existing systems established for those purposes are not being complied with,

the Director-General may, by notice in writing served on the council, direct the council to remedy the defect or inadequacy, or to comply with the existing systems. The council must comply with such a direction.

Note. Failure to comply with a direction under clause 16 may lead to an investigation being held under Part 5 of Chapter 13 of the Act.

Authorisation of expenditure

17. (1) A council, or a person purporting to act on behalf of a council, must not incur a liability for the expenditure of money unless the council:
- (a) has approved the expenditure; and
 - (b) has voted the money necessary to meet the expenditure.
- (2) Subclause (1) does not apply in the following circumstances:
- (a) when the council has not approved a management plan for the year concerned;
 - (b) when the council has authorised small purchases to be paid for from money designated by the council as petty cash.

(3) All such approvals and votes lapse at the end of a council's financial year and whenever the council's term of office ends. However, this subclause does not apply to approvals and votes relating to:

- (a) work carried out or started, or contracted to be carried out, for the council; or
- (b) any service provided, or contracted to be provided, for the council; or
- (c) goods or materials provided, or contracted to be provided, for the council; or
- (d) facilities provided or started, or contracted to be provided, for the council,

before the end of the year concerned or before the term of office of the council ended, or to the payment of remuneration to members of the council's staff.

(4) An approval or vote that has lapsed under this clause may be reinstated by a resolution of the council concerned.

Orders for services, goods and materials to be in writing

18. (1) A council must not enter into a contract for the acquisition of services, goods or materials unless it has given an order in writing for the supply of the services, goods or materials to the supplier.

(2) Subclause (1) does not apply to contracts for the payment of services, goods or materials out of petty cash advances.

Council to maintain a record of its investments

19. (1) A council must maintain a separate record of money that it has invested under section 625 of the Act. The record must specify:

- (a) the source and amount of money invested; and
- (b) particulars of the security or form of investment in which the money is invested; and
- (c) if appropriate, the rate of interest to be paid, and the amount of money that the council has earned, in respect of the money invested.

(2) A council must also maintain a separate record of all quotations that the council has obtained before making such an investment.

- (3) The responsible accounting officer of a council:
- (a) must provide the council with a written report, to be presented at each ordinary meeting of the council, setting out details of all money that the council has invested under section 625 of the Act; and
 - (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.

Note. Section 625 of the Act says how a council may invest its surplus funds.

Restrictions on writing-off debts to a council

20. (1) This clause does not apply to amounts owed to a council for rates or other charges for which the Act, or any other regulation in force under the Act, makes specific provision for writing-off those amounts in specified circumstances.

(2) A council must from time to time, by resolution, fix an amount above which debts to the council may be written off only by resolution of the council.

(3) A debt of or below that amount can be written off either by resolution of the council or by order in writing of the council's general manager. In the absence of a resolution under subclause (2), the council's debts can be written off only by resolution of the council.

(4) A resolution or order writing off a debt to a council must:

- (a) specify the name of the person whose debt is being written off; and
- (b) identify the account concerned; and
- (c) specify the amount of the debt,

or must refer to a record kept by the council in which those particulars are recorded.

(5) A debt can be written off under this clause only if:

- (a) the debt is not lawfully recoverable; or
- (b) as a result of a decision of a court; or
- (c) the council or the general manager believes on reasonable grounds that an attempt to recover the debt would not be cost effective.

(6) The fact that a debt is written off under this clause does not prevent the council concerned from taking legal proceedings to recover the debt.

PART 5—ANNUAL FINANCIAL REPORTS**Additional standard for the preparation of a council's financial reports**

21. For the purpose of section 413 (3) (b) of the Act, the Local Government Code of Auditing Practice and Financial Reporting, issued by the Minister and published in the Department, is a prescribed standard.

Financial statement by a council on its annual reports

22. (1) The statement required by section 413 (2) (c) of the Act must:

- (a) be made by resolution of the council; and
- (b) be signed by:
 - the mayor; and
 - at least one other member of the council; and
 - the responsible accounting officer; and
 - the general manager (if not the responsible accounting officer).

(2) The financial statement must indicate:

- (a) whether or not the council's annual financial reports have been drawn up in accordance with:
 - the Act and the regulations; and
 - the Statements of Accounting Concepts; and
 - the Local Government Code of Accounting Practice and Financial Reporting; and
 - the Australian Accounting Standards; and
- (b) whether or not those reports present fairly the council's financial position and operating result for the year; and
- (c) whether or not those reports accord with the council's accounting and other records; and
- (d) whether or not the signatories know of anything that would make those reports false or misleading in any way,

and include such information and explanations as will prevent those reports from being misleading because of any qualification that is included in the statement.

(3) The council must ensure that the statement is attached to the relevant annual financial reports.

Summary of financial reports to be included in public notice of reports

23. The approved form for a summary of a council's financial reports, referred to in section 418 (3) (b) of the Act, is a form that is in accordance with Form 2 in Schedule 1.

Council to provide Director-General and Australian Statistician with audited financial reports

24. A council must, within 14 days after it receives its auditor's reports on the council's financial reports for a year (or within such extended period as the Minister may allow), provide a copy of those financial reports:

- (a) to the Director-General; and
- (b) to the Australian Statistician.

Council's annual financial reports to be amended in certain cases

25. (1) If the Director-General, by notice in writing served on a council, directs the council to amend its annual financial reports in a way specified in the notice, the council must comply with the direction as soon as practicable after service of the notice.

(2) A council that amends its annual financial reports to give effect to such a direction must give public notice of the amendment in a newspaper circulating in its area. The council must specify in the notice that any member of the public is entitled to inspect, without fee, the amended financial reports at each of the council's offices during the council's ordinary business hours.

PART 6—AUDITORS**Responsible accounting officer to make the council's accounting records ready for audit**

26. The responsible accounting officer of a council must:
- (a) keep the council's accounting records up to date; and
 - (b) ensure that the council's annual financial reports are prepared as required by the Act; and
 - (c) ensure that, within 1 month after the first 6 months of each financial year (other than the first financial year after the commencement of the Act), the council's ledgers are balanced and

a list of ledger balances is prepared so as to enable the council's auditor to conduct a six-monthly audit of the council's accounting records; and

- (d) as soon as practicable afterwards, notify the council's auditor that those records are available for audit.

Inspection of council's accounting records by auditor

27. (1) For the purpose of section 426 (1) (b) of the Act, the prescribed periods are:

- (a) the period of 2 months after the council has referred its annual financial reports for audit in accordance with section 413 (1) of the Act; and
- (b) the period of 2 months after the date on which the council's auditor is notified in accordance with clause 26 (d).

(2) This clause does not have effect until 1 July 1994.

PART 7—LOANS TO COUNCILS

Overdraft limits

28. (1) A council may borrow by way of overdraft for any purpose for which the council is authorised to spend money. This subclause is subject to subclauses (2) and (4).

(2) The maximum amount that a council can borrow by way of overdraft is:

- (a) one-half of the income of the council as shown in the last annual financial report of the council; or
- (b) if there is no such report—one-half of the income of the council as specified in the estimate of the council's income published for the immediately preceding year.

(3) The auditor of a council must from time to time, by certificate in writing given to the council, specify the maximum amount that the council can borrow within the limits imposed by subclause (2). A certificate given to a council under this subclause cancels any earlier certificate so given.

(4) A council must not borrow by way of overdraft an amount that exceeds the maximum amount for the time being specified in a certificate given to the council in accordance with this clause.

(5) A council may borrow and reborrow from time to time within the limits prescribed by this clause.

Loans to council to be charge on the council's income

29. The repayment of money borrowed by a council (whether by way of overdraft or otherwise), and the payment of any interest on that money, is a charge on the income of the council.

General manager to notify borrowings to Director-General

30. (1) Within 7 days after a council borrows money under a loan contract, the general manager must notify the Director-General of the borrowing.

(2) This clause extends to further advances made to a council under an existing loan contract, but does not apply to a borrowing by a council by way of overdraft.

PART 8—MISCELLANEOUS

Disposal of council property

31. A council's property can be disposed of only by and in accordance with a resolution of the council.

Rounding down of certain payments to nearest multiple of 5 cents

32. (1) If a person tenders in cash an amount payable to a council and the amount is not a multiple of 5 cents, the council must round the amount down to the nearest multiple of 5 cents.

(2) A council may, before issuing an invoice or an account for the payment of an amount that is not a multiple of 5 cents, adjust the amount by rounding it down to the nearest multiple of 5 cents.

(3) An amount rounded down in accordance with this clause becomes the amount payable to the council.

SCHEDULE 1—FORMS

(Cl. 6)

FORM 1

Summary of Estimates of Income and Expenditure for the Year ended [specify]

Estimates for: [specify]	Estimated Expenses	Estimated Revenues	Estimated Operating Results
<p style="text-align: center;">Functions/activities</p> Administration Public order and safety Health Community services and education Housing and community amenities Water supplies Sewerage and drainage services Recreation and culture Fuel and energy Mining, manufacturing and construction Transport and communication Economic affairs	\$'000	\$'000	\$'000
Totals—Functions			
<i>Add expenses not involving flows of funds</i>			
Depreciation			
Increase in employees' leave			
Entitlements			
Sub-total			
<i>Add non-operating funds employed</i>			
Carrying amount of assets sold			
Cost of real estate assets sold			
Loan funds used			
Other debt finance			
Repayments by deferred debtors			
Sub-total			
<i>Subtract funds deployed for non-operating purposes</i>			
Acquisition of assets			
Development of real estate			
Advances to deferred debtors			
Repayment of loans			
Repayment of other debts			
Estimated budget result			
—Surplus or deficit			

FORM 2

(Cl. 23)

Summary of Financial Reports

	\$'000
Results from operations	
Operating expenses	
Operating revenues	
Change in net assets (operating result)	
Assets—employers	
Current	
Non-current	
Total assets	
Liabilities outstanding	
Current	
Non-current	
Total liabilities	
Net assets committed	
Current	
Non-current	
Net assets	
Equity	
Accumulated surplus	
Asset revaluation reserve	
Equity	
Budget result for year-surplus/deficit	
Projected result (used as basis for making rates)	
Actual result	
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SCHEDULE 1—FORMS

EXPLANATORY NOTE

The purpose of this Regulation is to supplement the provisions of Parts 2 and 3 of Chapter 13 and Parts 12 and 13 of Chapter 15 of the Local Government Act 1993. Those Parts respectively relate to councils' management plans, the financial management of councils, loans made to councils and investments made by councils.
