

1993—No. 265

LOCAL GOVERNMENT ACT 1993—REGULATION

(Local Government (Meetings) Regulation 1993)

NEW SOUTH WALES



[Published in Gazette No. 73 of 1 July 1993]

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 (Meetings) Regulation 1993.

Commencement

2. This Regulation commences on 1 July 1993.

Definitions

3. In this Regulation:

amendment, in relation to an original motion, means a motion moving an amendment to that motion;

chairperson:

(a) in relation to a meeting of a council—means the person presiding at the meeting as provided by section 369 of the Act; and

(b) in relation to a meeting of a committee of a council—means the person presiding at the meeting as provided by clause 34 of this Regulation;

committee, in relation to a council, means a committee appointed or elected by the council in accordance with clause 29 (1) or the council when it has resolved itself into a committee of the whole;

councillor includes a member of the governing body of a county council;

record means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a councillor or an employee of the council and, in particular, includes the minutes of meetings of a council or of a committee of a council;

the Act means the Local Government Act 1993.

Notes in the text

4. 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—CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS

What happens when a quorum is not present

5. (1) A meeting of a council must be adjourned if a quorum is not present:

- (a) within half an hour after the time designated for the holding of the meeting; or
- (b) at any time during the meeting.

(2) In either case, the meeting must be adjourned to a time, date and place fixed:

- (a) by the chairperson; or
- (b) in his or her absence—by the majority of the councillors present; or
- (c) failing that, by the general manager.

(3) The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

Minister to convene meetings in certain cases

6. (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.

Presence at council meetings

7. A councillor cannot participate in a meeting of a council unless personally present at the meeting.

PART 3—PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS**Councillor to be elected to preside at certain meetings**

8. (1) If no chairperson is present at a meeting of a council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

Note. Section 369 (2) of the Act provides for a councillor to be elected to chair a meeting of a council when the mayor and deputy mayor are absent.

(2) The election must be conducted:

- (a) by the general manager or, in his or her absence, an employee of the council designated by the general manager to conduct the election; or
- (b) if neither of them is present at the meeting or there is no general manager or designated employee—by the person who called the meeting or a person acting on his or her behalf.

Chairperson to have precedence

9. When the chairperson rises during a meeting of a council:

- (a) any councillor then speaking or seeking to speak must immediately resume his or her seat; and
- (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

Chairperson's duty with respect to motions

10. (1) It is the duty of the chairperson at a meeting of a council to receive and put to the meeting any lawful motion that is brought before the meeting.

(2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.

(3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.

Order of business

11. (1) At a meeting of a council (other than an extraordinary meeting), the general order of business is (except as provided by this Regulation) such as the council has fixed by resolution passed at any previous meeting or, if no such resolution has been passed, in accordance with any code of meeting practice that the council has adopted.

(2) The order of business fixed under subclause (1) may be altered if a motion to that effect which can be moved without notice is carried.

(3) Despite clause 22, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

Business papers for council meetings

12. (1) The general manager must ensure that the business paper for a meeting of the council states:

- (a)** all matters to be dealt with arising out of the proceedings of former meetings of the council; and
- (b)** if the mayor is the chairperson—any business that the chairperson may decide to put before the meeting without notice; and
- (c)** any business of which due notice has been given.

(2) The general manager must cause the business paper for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.

(3) If, in the opinion of the general manager, business to be transacted at a meeting of the council or of a committee of the council is a kind of business referred to in section 10 (2) of the Act, the business may be included in a confidential business paper. All other business to be transacted at the meeting must be included in an ordinary business paper.

(4) If a confidential business paper is prepared for a kind of business referred to in section 10 (2) of the Act, the business must be referred to in the ordinary business paper prepared for the same meeting.

Giving notice of business

13. (1) A council must not transact business at a meeting of the council:

- (a) unless a councillor has given notice of the business in writing within such time before the meeting as is fixed by resolution of the council or, if there is no such resolution, in accordance with the council's code of meeting practice (if any); and
- (b) unless notice of the business has been sent to the councillors in accordance with section 367 of the Act.

(2) Subclause (1) does not apply to the consideration of business at a meeting if the business was considered at an earlier meeting of the council.

(3) Despite subclause (1), business may be transacted at a meeting of a council when due notice of the business has not been given to councillors, but only if:

- (a) a motion is passed to have the business transacted at the meeting; and
- (b) the motion is one that can be moved without notice; and
- (c) all the councillors (disregarding any casual vacancies) are present at the meeting or the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

(4) Despite clause 22, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.

Business paper for extraordinary meeting

14. The general manager must ensure that the business paper for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.

Official minutes

15. (1) If the mayor is the chairperson at a meeting of a council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting any matter or topic that is within the jurisdiction of the council or of which the council has official knowledge.

(2) Such a minute, when put to the meeting, takes precedence over all business on the council's business paper for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of the minute without the motion being seconded.

(3) A recommendation made in a minute of the chairperson (being the mayor) or in a report made by a council employee is, so far as adopted by the council, a resolution of the council.

Report of a Departmental representative to be tabled at council meeting

16. When a report of a Departmental representative 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 at all reasonable times.

Notice of motion—absence of mover

17. In the absence of a councillor who has placed a notice of motion on the business paper for a meeting of a council:

- (a) any other councillor may move the motion at the meeting; or
- (b) the chairperson may defer the motion until the next meeting of the council at which the motion can be considered.

Motions to be seconded

18. A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 15 (2) and 22 (5).

How subsequent amendments may be moved

19. If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the council at any one time.

Motions of dissent

20. (1) A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.

(2) If a motion of dissent is carried, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the business paper and proceed with it in due course.

(3) Despite clause 22, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

Questions may be put to councillors and council employees

21. (1) A councillor:

- (a) may, through the chairperson, put a question to another councillor; and
- (b) may, through the general manager, put a question to a council employee.

(2) However, a councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.

(3) The councillor must put every such question directly, succinctly and without argument.

(4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or council employee under this clause.

Limitation as to number of speeches

22. (1) A councillor who, during a debate at a meeting of a council, moves an original motion has the right of general reply to all observations that are made by another councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.

(2) A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

(3) A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to

speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

(4) Despite subclauses (1) and (2), if at least 2 councillors have spoken in favour of a motion or an amendment and at least 2 councillors have spoken against the motion or amendment, any councillor may move that the question be now put.

(5) The chairperson must immediately put to the vote a motion that the question be now put without the motion being seconded and without debate.

(6) If a motion that the question be now put is passed, the chairperson must, after the mover of the motion has exercised his or her right of reply under subclause (1), immediately put the question to the vote without further debate.

(7) If a motion that the question be now put is rejected, the chairperson must resume the debate on the original motion or amendment.

Voting at council meetings

23. (1) A councillor who is present at a meeting of a council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

(2) If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.

(3) The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division.

(4) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.

PART 4—KEEPING ORDER AT MEETINGS

Questions of order

24. (1) The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.

(2) A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.

(3) The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.

(4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

Acts of disorder

25. (1) 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 or any regulation in force under the Act; 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 or makes personal reflections on 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.

(2) The chairperson may require a councillor:

- (a) to apologise for an act of disorder referred to in subclause (1) (a) or (b); or
- (b) to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation; or
- (c) to retract and apologise for an act of disorder referred to in subclause (1) (d) or (e).

(3) A council or a committee of a council may, by resolution, expel from a meeting a councillor who fails to comply with a requirement made under subclause (2). The expulsion of a councillor under this subclause does not prevent any other action from being taken against the councillor for the act of disorder concerned.

How disorder at a meeting may be dealt with

26. (1) If disorder occurs at a meeting of a council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and

leave the chair. The council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

(2) A council may, by resolution, expel a member of the public from a council meeting on the ground that the member is engaging in or has, at the meeting, engaged in disorderly conduct.

Power to remove persons from meeting after expulsion resolution

27. If a meeting of a council resolves to expel from the meeting a councillor for failing to comply with a requirement made under clause 24 or a member of the public for disorderly conduct and the councillor or member of the public fails to leave the meeting immediately after the resolution is passed, a police officer, or any person authorised by the council for the purpose, may remove the person from the meeting and, if necessary, restrain the person from re-entering the place where the meeting is being held.

PART 5—COUNCIL COMMITTEES

Committee of the whole

28. (1) All the provisions of this Regulation relating to meetings of a council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provision limiting the number and duration of speeches.

(2) The general manager is responsible for reporting to the council proceedings in committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.

(3) The council must ensure that a report of the proceedings is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

Council may appoint committees

29. (1) A council may appoint or elect such committees as it considers necessary.

(2) Such a committee is to consist of such number of councillors of the council as the council decides.

- (3) The quorum for a meeting of such a committee is to be:
- (a) such number of members as the council decides; or
 - (b) if the council has not decided a number—a majority of the members of the committee.

Functions of committees

30. A council must specify the functions of each of its committees when the committee is appointed or elected, but may from time to time amend those functions.

Notice of committee meetings to be given

31. (1) The general manager of a council must send to each councillor, at least 3 days before each meeting of the committee, a notice specifying:
- (a) the time and place at which and the date on which the meeting is to be held; and
 - (b) the business proposed to be transacted at the meeting.
- (2) However, notice of less than 3 days may be given of a committee meeting called in an emergency.

Non-members entitled to attend committee meetings

32. A councillor who is not a member of a committee of a council is entitled to attend and speak at, but is not entitled to vote at, a meeting of the committee.

Procedure in committees

33. (1) Each committee of a council may regulate its own procedure.
- (2) Without limiting subclause (1), a committee of a council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.

Chairperson and deputy chairperson of committees

34. (1) The chairperson of each committee of the council, must be:
- (a) the mayor; or
 - (b) if the mayor does not wish to be the chairperson of a committee—a member of the committee elected by the council; or

(c) if the council does not elect such a member—a member of the committee elected by the committee.

(2) A council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

(3) If neither the chairperson nor the deputy chairperson of a committee of a council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.

(4) The chairperson is to preside at a meeting of a committee of a council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

(5) The mayor is, by virtue of holding that office, a member of each committee of the council.

Absence from committee meetings

35. (1) A member ceases to be a member of a committee if the member (other than the mayor):

- (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
- (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

(2) Subclause (1) does not apply if all of the members of the council are members of the committee.

Note. The expression "year" means the period beginning 1 July and ending the following 30 June. See the dictionary to the Act.

Reports of committees

36. (1) If in a report of a committee of the council distinct recommendations are made, the decision of the council may be made separately on each recommendation.

(2) The recommendations of a committee of the council are, so far as adopted by the council, resolutions of the council.

Disorder in committee meetings

37. The provisions of the Act and of this Regulation relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

Committee may expel certain persons from its meetings

38. (1) If a meeting or part of a meeting of a committee of a council is closed to the public in accordance with section 10 (2) of the Act, the committee may, by resolution, expel from the place where the meeting is being held any person who is not a councillor.

(2) If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering, that place.

PART 6—MISCELLANEOUS**Information relating to proceedings at closed meetings not to be disclosed**

39. (1) If a meeting or part of a meeting of a council or a committee of a council is closed to the public in accordance with section 10 (2) of the Act, a person must not, without the authority of the council or the committee, disclose, otherwise than to the council or to a councillor, information with respect to the discussion at, or the business of, the meeting.

(2) This clause does not apply:

- (a) to the report of a committee of a council when presented to the council; or
- (b) to the disclosure of information referred to in subclause (1) by a councillor or employee of the council in the course of the councillor's or employee's duties.

Inspection of the minutes of a council or Committee

40. (1) An inspection of the minutes of a council or committee of a council is to be carried out under the supervision of the general manager or an employee of the council designated by the general manager to supervise inspections of those minutes.

(2) The general manager must ensure that the minutes of the council and any minutes of a committee of the council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Note. Section 12 of the Act confers a right to inspect the minutes of a council or committee of a council.

Access to records

41. (1) The general manager may allow or refuse to allow any councillor to inspect any record of the council that the councillor requests to see.

(2) If the general manager refuses to allow a councillor to inspect any such record, the councillor may, at a meeting of the council, move for the production of the document. However, the councillor must give notice of intention to move the motion.

(3) If the council passes a motion for the production of a council record, the council must ensure that the record:

- (a) is produced immediately and laid on the table for inspection by the councillors; and
- (b) is made available for inspection by any councillor on reasonable notice to the general manager during the council's ordinary office hours on any day that is within 1 month after the passing of the motion.

Tape recording of meeting of council of committee prohibited without permission

42. (1) A person may use a tape recorder to record the proceedings of a meeting of a council or a committee of a council only with the authority of the council or committee.

(2) A council or committee may, by resolution, expel from the place where it is holding a meeting any person who uses a tape recorder in contravention of this clause.

(3) If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering, that place.

(4) In this clause, **tape recorder** includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

1993—No. 265

NOTE**TABLE OF PROVISIONS****PART 1—PRELIMINARY**

1. Citation
2. Commencement
3. Definitions
4. Notes in the text

PART 2—CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS

5. What happens when a quorum is not present
6. Minister to convene meetings in certain cases
7. Presence at council meetings

PART 3—PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

8. Councillor to be elected to preside at certain meetings
9. Chairperson to have precedence
10. Chairperson's duty with respect to motions
11. Order of business
12. Business papers for council meetings
13. Giving notice of business
14. Business paper for extraordinary meeting
15. Official minutes
16. Report of a Departmental representative to be tabled at council meeting
17. Notice of motion—absence of mover
18. Motions to be seconded
19. How subsequent amendments may be moved
20. Motions of dissent
21. Questions may be put to councillors and council employees
22. Limitation as to number of speeches
23. Voting at council meetings

PART 4—KEEPING ORDER AT MEETINGS

24. Questions of order
25. Acts of disorder
26. How disorder at a meeting may be dealt with
27. Power to remove persons from meeting after expulsion resolution

PART 5—COUNCIL COMMITTEES

28. Committee of the whole
29. Council may appoint committees
30. Functions of committees
31. Notice of committee meetings to be given
32. Non-members entitled to attend committee meetings
33. Procedure in committees

1993—No. 265

34. Chairperson and deputy chairperson of committees
35. Absence from committee meetings
36. Reports of committees
37. Disorder in committee meetings
38. Committee may expel certain persons from its meetings

PART 6—MISCELLANEOUS

39. Information relating to proceedings at closed meetings not to be disclosed
 40. Inspection of the minutes of a council or committee
 41. Access to records
 42. Tape recording of meeting of council or committee prohibited without permission
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EXPLANATORY NOTE

The object of this Regulation is to provide for the convening and conduct of meetings of councils and of committees of councils. The provisions of this Regulation are substantially based on the provisions of Ordinance No. 1 made under the Local Government Act 1919.

This Regulation is made under the Local Government Act 1993, including sections 360 and 748.
