

Local Government (General) Regulations 2005

I, the Administrator 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.

22 June 2005

E. C. CRAWFORD

Administrator

By His Excellency's Command,

J. G. COX

Minister Assisting the Premier on Local Government

PART 1 - Preliminary

1. Short title

These regulations may be cited as the Local Government (General) Regulations 2005.

2. Commencement

These regulations take effect on 1 July 2005.

3. Interpretation

In these regulations –

Act means the Local Government Act 1993;

appropriate authority means –

(a) the Director; and

(b) the Commissioner of Police;

code of conduct means a code of conduct adopted under section 28E of the Act;

complaint, for the purposes of Part 2A, means a complaint made under section 28F of the Act;

election dispute means a dispute in relation to the result of an election held under the Act;

election dispute proceedings means proceedings relating to an election dispute;

first meeting means a council meeting at which an election is to be held under section 43A or 44 of the Act;

multiple-stage tender means a tender referred to in regulation 26;

multiple-use register means a register referred to in regulation 25;

nominating period means the period beginning at 9 a.m. on the fourth business day before the meeting of the council at which the elections under section 43A or 44 of the Act of a mayor or deputy mayor are to be held and ending at noon on the last business day before that meeting;

notify means give notice in writing;

open tender means a tender referred to in regulation 24;

public tender means a tender referred to in regulation 23;

respondent councillor means a councillor who is the subject of a complaint;

Rules of Court means Rules of Court referred to in regulation 17;

scrutineer means a person appointed as scrutineer under regulation 5(2);

table means to present for information only;

Wage Price Index figure means the Labour Price Index, Australia: WPI All Groups Tasmania published by the Australian Statistician under the authority of the *Census and Statistics Act 1905* of the Commonwealth.

PART 2 - Elections

Division 1 - Elections of mayor and deputy mayor by councillors

4. Nominations for mayor and deputy mayor

(1) Before the nominating period, the general manager is to issue to all councillors –

(a) a notice of an election for the office of mayor or deputy mayor or both; and

(b) a nomination form for that election.

(2) The general manager is not to release the names or details of any councillor who has nominated until the end of the nominating period.

(3) At the end of the nominating period, the general manager is to inform each councillor –

(a) of the nominations received; and

(b) whether a ballot is required.

(4) A ballot is required if there is more than one nomination for an office.

(5) If a ballot is not required, the general manager is to declare the nominee elected to the office of mayor or deputy mayor, as applicable, at the beginning of the first meeting.

(6) If a nomination is not received for the office of mayor or deputy mayor, the general manager is to invite nominations for the office at the first meeting.

(7) If a nomination is not received after the invitation –

(a) the council is to appoint a councillor to act in the vacant office; and

(b) the general manager is to advise the Director accordingly.

5. Ballots

(1) If there are 2 or more nominations for the office of mayor or deputy mayor, a ballot is to be conducted by the general manager in accordance with this Division.

(2) A candidate may appoint a person who is not a councillor as a scrutineer by written notification to the general manager of that appointment before the ballot commences.

(3) The councillors present at the meeting at which the ballot is to be conducted are to appoint a councillor who is not a candidate to preside at the meeting for the period of the ballot.

(4) Each councillor present at the meeting, whether a candidate or not, is to be given a ballot paper on which are printed in alphabetical order the names of all the candidates.

6. Voting

(1) Voting is to be carried out by secret ballot at a meeting of the council.

(2) Each councillor is to vote for one candidate by striking through the names of the other candidates for whom the councillor does not intend to vote.

(3) The councillor appointed to preside at the ballot may vote as a councillor.

(4) If the names of more than 2 candidates appear on the ballot paper and no candidate receives a simple majority, the following procedure applies:

(a) the candidate who received the smallest number of votes is to be excluded as a candidate;

(b) new ballot papers, which have the names of the continuing candidates printed on them in alphabetical order, are to be prepared;

(c) one of those new ballot papers is to be given to each councillor present at the meeting, whether a candidate or not;

(d) voting is to take place in accordance with subregulation (2).

(5) The procedure specified in subregulation (4) is to be repeated until one candidate receives a simple majority.

7. Counting of votes

(1) The counting of votes may be conducted in a room other than the council meeting room.

(2) A scrutineer is entitled to be present at the count.

(3) On any count with more than 2 continuing candidates, if 2 or more candidates receive an equal number of votes and that number is the smallest number for the purpose of regulation 6(4), the candidate to be excluded is the candidate whose name is first drawn on a drawing or casting of lots under regulation 20.

(4) If there are only 2 continuing candidates in a count and each receives an equal number of votes, a new ballot is to be conducted.

(5) If a ballot conducted under subregulation (4) results in an equal number of votes for each continuing candidate, the successful candidate is the candidate whose name is first drawn on a drawing or casting of lots under regulation 20.

(6) Except as provided in subregulation (5), the successful candidate is the candidate with a simple majority.

8. Declaration of result of ballot

(1) The general manager is to declare the successful candidate elected to the office of mayor or deputy mayor, as appropriate.

(2) The general manager is to ensure that the result of the ballot for each office is recorded in the minutes of the meeting.

Division 2 - Hearing and determination of election dispute

9. Parties to election dispute

(1) The Supreme Court may allow a person to appear and be heard, or to be represented, in election dispute proceedings under this Division.

(2) A party may only be represented by one person.

(3) The Electoral Commissioner is entitled to appear and be heard in any election dispute proceedings.

(4) The Electoral Commissioner is a party in the proceedings if –

(a) the Electoral Commissioner appears under subregulation (3); or

(b) the dispute involves the conduct of an electoral officer.

10. Hearings

(1) Election dispute proceedings in respect of the same election are to be heard in the same hearing.

(2) Subject to subregulation (1), applications are to be heard in the order in which they appear in the list.

(3) Notice of the time and place for the hearing of an election dispute is to be given at least 7 days before the day of the hearing in the manner prescribed by the Rules of Court.

(4) A hearing is to be in open court without a jury.

(5) The Supreme Court may adjourn the hearing from time to time but the hearing, so far as is reasonably practicable, is to be continued from day to day until its conclusion.

(6) A hearing in relation to the election of a councillor is to proceed despite a subsequent resignation of the councillor.

(7) The Supreme Court may inquire –

(a) into the identity of electors; and

(b) whether or not their votes were properly admitted or rejected for the purpose of an election.

(8) The Supreme Court may not inquire into the correctness of the electoral roll.

(9) The Supreme Court is to be guided by the substantial merits and good conscience of the case without regard to –

(a) any legal forms or technicalities; or

(b) whether the evidence before the Court is in accordance with the law of evidence or not.

11. Evidence

(1) A party in any election dispute proceedings may give evidence to prove that a person was not duly elected.

(2) If it appears that there is an equality of votes between any candidates at an election and that the addition of a vote would entitle any of those candidates to be elected, the Supreme Court is to refer the matter to the Electoral Commissioner.

(3) On receipt of a matter referred by the Supreme Court, the Electoral Commissioner is to –

(a) decide between the candidates by lots; and

(b) proceed as if the candidate who was decided by lot had received an additional vote.

(4) The Supreme Court may not receive evidence to the effect that a witness was not permitted to vote at the election concerned unless the witness satisfies the Court that –

(a) he or she was entitled to vote under the Act; and

(b) in so far as the witness was permitted to do so, he or she complied with the requirements of the Act relating to voting by electors.

12. Witnesses

(1) A person summoned as a witness at any election dispute proceedings is not excused from answering a question relating to an offence alleged to have been committed at, or in connection with, an election –

(a) on grounds that the answer to the question may incriminate or tend to incriminate that person or the spouse or partner of that person; or

(b) on grounds of privilege.

(2) An answer by a witness to a question put by or before the Supreme Court in any election dispute proceedings is not admissible in evidence in any other legal proceedings, except in the case of a criminal proceeding for perjury.

13. Expenses

A person attending the Supreme Court to give evidence in any election dispute proceedings is entitled to expenses according to the scale applicable in respect of witnesses attending the trial of an action before the Supreme Court.

14. Orders of Court

(1) At the conclusion of the hearing of an application in respect of an election dispute, the Supreme Court may make any one or more of the following orders:

(a) an order dismissing the application, in whole or in part;

(b) an order declaring that a person who was declared elected at the election was not duly elected;

(c) an order declaring that a person who was not declared elected at the election is duly elected;

(d) subject to regulation 15(1), an order declaring that an election in respect of a municipal area or electoral district is void on the closing day fixed or determined under section 268A of the Act.

(2) If the Supreme Court makes an order under subregulation (1)(b) that a person was not duly elected, it is to declare, in the same order, that the office of councillor for which the person was not so elected is vacant.

(3) If the Supreme Court makes an order under subregulation (1)(d) declaring that an election in respect of any municipal area or electoral district is void, that election is taken to have wholly failed.

(4) A certified copy of the order referred to in subregulation (3) is to be given to the Electoral Commissioner.

(5) The Electoral Commissioner is to advise the Minister and the relevant council of the order referred to in subregulation (3).

15. Immaterial errors

(1) The Supreme Court is not to make an order under regulation 14(1)(d) declaring that an election is void because of –

(a) a delay in the taking of the votes of electors or in the issuing of a certificate of election under section 304 of the Act if the delay did not affect the result of the election; or

(b) the absence of, or an error or omission by, an electoral officer which did not affect the result of the election.

(2) If an elector was prevented from voting at an election because of the absence of, or an error or omission by, an electoral officer, the Supreme Court may not admit evidence of the way in which the elector intended to vote in order to determine whether or not the absence of, or error or omission by, the electoral officer affected the result of the election.

16. Costs

The Supreme Court may –

(a) award costs against an unsuccessful party to any election dispute proceedings; and

(b) recommend that costs, or a specified part of them, be paid by the council.

17. Rules of Court

(1) Rules of Court may be made under the Supreme Court Civil Procedure Act 1932 for the purpose of this Division.

(2) If no Rules of Court are made under subregulation (1), the practice and procedure with respect to any election dispute proceedings are to be directed by the Supreme Court.

Division 3 - Drawing or casting of lots

18. Order of names on batch of ballot papers

For the purpose of section 288(2) of the Act, the order in which the names of the candidates are to be printed on each batch of ballot papers is to be determined in accordance with Schedule 1.

19. Exclusion and election of candidates

(1) For the purpose of clause 5(1) of Part 2 of Schedule 7 and clause 15(2) of Part 3 of Schedule 7 to the Act –

(a) the returning officer is to conduct a draw in accordance with regulation 20; and

(b) the candidate to be excluded is the candidate whose name is first recorded.

(2) For the purpose of clause 5(2) of Part 2 of Schedule 7 to the Act –

(a) the returning officer is to conduct a draw in accordance with regulation 20; and

(b) the candidate elected is the candidate whose name is first recorded.

20. Procedure for drawing or casting lots

(1) To draw or cast lots, a returning officer is to –

(a) make out, in respect of each candidate to be included in the draw, a slip bearing that candidate's name; and

(b) place each of the slips in a separate identical hollow opaque sphere; and

(c) place the spheres in a container sufficiently large to allow those spheres to move about freely when shaken or rotated; and

(d) shake or rotate the container and permit any other person present who wishes to do so to shake or rotate the container; and

(e) take out of the container and open one of the spheres to obtain the enclosed slip; and

(f) record the name of the candidate which appeared on that slip; and

(g) repeat the process specified in paragraphs (d), (e) and (f) until all spheres have been removed from the container.

(2) For the purpose of subregulation (1)(f) and (g), the names of the candidates are to be recorded in the order in which the spheres were taken out of the container.

Division 4 - Electoral advertising

21. Posters and signs

(1) A person must not publicly display a poster or sign or a group of posters or signs containing advertising relating to the election of a candidate if –

(a) the poster or sign exceeds 3 square metres; or

(b) the group of posters or signs in total exceed 3 square metres.

(2) A poster or sign forms part of a group of posters or signs if it is located within 10 metres of another poster or sign.

(3) A candidate must not display, or permit to be displayed, posters or signs containing advertising relating to the election of that candidate exceeding a total number of 50, whether or not the posters or signs contain advertising relating to the election of another candidate.

(4) A person must not publicly display a poster or sign relating to the election of a candidate without the written authority of that candidate.

22. Advertising

(1) A person must not purchase advertising time on television or radio in relation to the election of a candidate without the written authority of that candidate.

(2) A candidate must not purchase, or permit to be purchased, advertising time on television or radio in relation to the election of the candidate if the advertising time during the relevant period is likely to exceed –

(a) 10 minutes on television; or

(b) 50 minutes on radio.

(3) A person must not purchase advertising space in relation to the election of a candidate without the written authority of that candidate.

(4) A candidate must not purchase or permit to be purchased advertising space in relation to the election of the candidate if the advertising space, during the relevant period, is likely to exceed a total of –

(a) 2 pages of advertising in a daily newspaper circulating in the municipal area; or

(b) 5 pages in any other newspaper circulating in the State.

(5) The total expenditure for the purchase of advertising time or space by or on behalf of a candidate must not –

(a) in respect of a single election, exceed a total amount of \$5 000; and

(b) in respect of an election for a councillor and an election for a mayor or deputy mayor, exceed a total amount of \$8 000.

(6) A candidate is taken to have incurred the total time and space of, and expenditure involved in, advertising which promotes that candidate in respect of an election irrespective of whether or not that advertising also promotes another candidate.

(7) A candidate who authorises a person to conduct electoral advertising on his or her behalf relating to an election is taken to have personally undertaken that advertising.

PART 2A - Code of Conduct

Division 1 - Code of conduct and complaints

22A. Matters to be addressed by code of conduct

For section 28E(2)(b) of the Act, the following matters are prescribed:

- (a) conflicts of interest;
- (b) the use of the office of councillor, mayor or deputy mayor;
- (c) the use of council resources;
- (d) the use of council information;
- (e) the giving and receiving of gifts and benefits;
- (f) relationships with the community, other councillors and council employees;
- (g) the representation of the council.

22B. How to make complaints

A complaint is to –

- (a) be in writing; and
- (b) be lodged with the mayor (or the deputy mayor if the complaint relates to the mayor); and
- (c) be lodged within 90 days after the alleged failure to comply with the code of conduct; and
- (d) contain particulars of the alleged failure; and
- (e) identify the complainant; and
- (f) be accompanied by the fee specified in item 4 of Schedule 3.

22C. Action to be taken by mayor, &c., on receiving a complaint

(1) On receiving a complaint, the mayor (or, if appropriate, the deputy mayor) is to notify the respondent councillor –

- (a) of the complaint; and
- (b) of the respondent councillor's right to elect to have the complaint referred to the Local Government Association of Tasmania to be dealt with by a Standards Panel; and

(c) that, in the absence of such an election, the complaint will be referred to and dealt with by a Code of Conduct Panel.

(2) On receiving a notification under subregulation (1), the respondent councillor may elect to have the complaint referred to the Local Government Association of Tasmania to be dealt with by a Standards Panel.

(3) An election under subregulation (2) is to be –

(a) in writing; and

(b) lodged with the Local Government Association of Tasmania within 7 days after the respondent councillor is notified under subregulation (1); and

(c) accompanied by the fee specified in item 5 of Schedule 3.

(4) As soon as practicable after making an election under subregulation (2), a respondent councillor is to notify the mayor (or, if appropriate, the deputy mayor) of the election.

(5) In the absence of an election under subregulation (2) the mayor (or, if appropriate, the deputy mayor) is to refer the complaint to a Code of Conduct Panel.

Division 2 - Code of Conduct Panel

22D. Proceedings of Code of Conduct Panel

(1) A Code of Conduct Panel is to deal with each complaint referred to it unless the Panel reasonably determines that –

(a) the complaint discloses that an offence or a crime may have been committed; or

(b) the Panel does not have the expertise to hear and determine the complaint; or

(c) the complaint –

(i) is frivolous or vexatious; or

(ii) does not relate to a failure to comply with a provision of the Code of Conduct; or

(d) the complaint has been made in contravention of a direction under regulation 22J(5).

(2) If subregulation (1)(a) applies, a Code of Conduct Panel is to notify each appropriate authority of its determination.

(3) If subregulation (1)(b) applies, a Code of Conduct Panel is to refer the complaint to the Local Government Association of Tasmania to be dealt with by a Standards Panel.

(4) If subregulation (1)(c) or (d) applies, a Code of Conduct Panel is to reject the complaint.

(5) A Code of Conduct Panel that deals with a complaint is to –

(a) give the respondent councillor an opportunity to respond to the complaint; and

(b) hear and determine the complaint –

(i) within 90 days after the complaint is referred to it; and

(ii) in a fair and equitable manner.

(6) A Code of Conduct Panel may –

(a) hear and determine one or more complaints about a respondent councillor in the same proceedings; and

(b) require a complainant or respondent councillor to give it further particulars regarding a complaint; and

(c) subject to the Act and these regulations, regulate its own proceedings.

22E. Mediation of complaints – Code of Conduct Panel

(1) A Code of Conduct Panel that is dealing with a complaint is to invite the complainant and respondent councillor to participate in mediation in respect of the complaint.

(2) If the complainant and respondent councillor accept the invitation, the mediation is to be conducted –

(a) over a period not exceeding 21 days; and

(b) on such conditions as the Code of Conduct Panel determines.

(3) The mediation is to be conducted by a person nominated by the Panel.

(4) A Code of Conduct Panel may hear and determine a complaint that is being mediated –

(a) after the conclusion of mediation; or

(b) if mediation is not concluded within 21 days, after the expiration of that period.

22F. Determination of Code of Conduct Panel

(1) After hearing a complaint, a Code of Conduct Panel may –

(a) uphold the complaint; or

(b) dismiss the complaint.

(2) A determination under subregulation (1) is to be agreed on by both members of the Panel, and if they cannot so agree, the complaint is to be dismissed.

(3) If the Code of Conduct Panel upholds the complaint, it may impose one or more of the following sanctions on the respondent councillor:

(a) a caution;

- (b) a reprimand;
- (c) a requirement to apologise to a person affected by the failure to comply with the code of conduct;
- (d) a requirement to attend counselling or a training course.

(4) The Code of Conduct Panel is to notify the complainant and the respondent councillor of its determination and the right of appeal under regulation 22L(1).

22G. Code of Conduct Panel to report to mayor

(1) After determining a complaint, a Code of Conduct Panel is to give a report to the mayor (or, if appropriate, the deputy mayor) of the following:

- (a) a summary of the complaint;
- (b) the name of the respondent councillor;
- (c) its determination;
- (d) the relevant facts and evidence on which its determination is based;
- (e) the reasons for its determination;
- (f) any sanction imposed on the respondent councillor.

(2) However, a report under subregulation (1) is not to be given –

- (a) before the time for lodging an appeal under regulation 22L(1) has expired; or
- (b) if an appeal has been lodged in accordance with regulation 22L(1).

(3) On receiving a report, the mayor (or, if appropriate, the deputy mayor) is to ensure that –

- (a) the report is tabled at the next available closed meeting of the council; and
- (b) the following information from the report is tabled at the next available open meeting of the council:
 - (i) a summary of the complaint;
 - (ii) the determination;
 - (iii) any sanction imposed on the respondent councillor;
 - (iv) if a sanction has been imposed, the name of the respondent councillor.

(4) The Code of Conduct Panel is to ensure that a copy of the report is also given to the complainant and the respondent councillor.

Division 3 - Standards Panel

22H. Proceedings of Standards Panels

(1) A Standards Panel is to deal with each complaint referred to it unless the Panel reasonably determines that the complaint discloses that an offence or a crime may have been committed (in which case it is to notify each appropriate authority).

(2) A Standards Panel that deals with a complaint is to –

(a) give the respondent councillor an opportunity to respond to the complaint; and

(b) hear and determine the complaint –

(i) within 90 days after the complaint is referred to it; and

(ii) in a fair and equitable manner.

(3) A Standards Panel may –

(a) hear and determine one or more complaints about a respondent councillor in the same proceedings; and

(b) require a complainant or respondent councillor to give it further particulars regarding the complaint; and

(c) subject to the Act and these regulations, regulate its own proceedings.

22I. Mediation of complaints – Standards Panel

(1) A Standards Panel that is dealing with a complaint is to invite the complainant and respondent councillor to participate in mediation in respect of the complaint.

(2) If the complainant and respondent councillor accept the invitation, the mediation is to be conducted –

(a) over a period not exceeding 21 days; and

(b) on such conditions as the Panel determines.

(3) The mediation is to be conducted by a person nominated by the Panel.

(4) A Standards Panel may hear and determine a complaint that is being mediated –

(a) after the conclusion of the mediation; or

(b) if mediation is not concluded within 21 days, after the expiration of that period.

22J. Determination of Standards Panel

(1) After hearing a complaint, a Standards Panel may –

(a) uphold the complaint; or

(b) dismiss the complaint.

(2) If a Standards Panel consists of three members, a determination under subregulation (1) is to be by a majority vote.

(3) If a Standards Panel consists of two members, a determination under subregulation (1) is to be agreed on by both members of the Panel, and if they cannot so agree, the complaint is to be dismissed.

(4) If the Standards Panel upholds the complaint, it may impose one or more of the following sanctions on the respondent councillor:

(a) a caution;

(b) a reprimand;

(c) a requirement to apologise to a person affected by the failure to comply with the code of conduct;

(d) a requirement to attend counselling or a training course.

(5) If the Standards Panel dismisses the complaint, it may direct that the complainant not make a complaint in relation to the same matter for a period of 12 months, unless the complainant provides substantive new information.

(6) The Standards Panel is to notify the complainant and the respondent councillor of its determination.

22K. Standards Panel to report to mayor

(1) After determining a complaint, a Standards Panel is to give a report to the mayor (or, if appropriate, the deputy mayor) of the following:

(a) a summary of the complaint;

(b) the name of the respondent councillor;

(c) its determination;

(d) the relevant facts and evidence on which its determination is based;

(e) the reasons for its determination;

(f) any sanction imposed on the respondent councillor.

(2) However, a report under subregulation (1) is not to be given –

(a) within 28 days after the giving of notification under regulation 22J(6); or

(b) if either party makes an application to a court in relation to the complaint within those 28 days, until after the completion of those court proceedings.

(3) On receiving a report, the mayor (or, if appropriate, the deputy mayor) is to ensure that –

(a) the report is tabled at the next available closed meeting of the council; and

(b) the following information from the report is tabled at the next available open meeting of the council:

(i) a summary of the complaint;

(ii) the determination;

(iii) any sanction imposed on the respondent councillor;

(iv) if a sanction has been imposed, the name of the respondent councillor.

(4) The Standards Panel is to ensure that a copy of the report is also given to the complainant and the respondent councillor.

22L. Appeals to Standards Panel

(1) A complainant or a respondent councillor who is dissatisfied with the determination of a Code of Conduct Panel may, within 21 days after receipt of a notification under regulation 22F(4), lodge an appeal with the Local Government Association of Tasmania to be heard and determined by a Standards Panel.

(2) An appeal under subregulation (1) is to –

(a) be in writing; and

(b) identify the determination to which the appeal relates; and

(c) state the grounds for the appeal; and

(d) be accompanied by the fee specified in item 6 of Schedule 3.

(3) If the Standards Panel is of the opinion that an appeal relates to another appeal that it is to hear and determine, it may decide to hear and determine both appeals in the same proceedings, if it is satisfied that this is fair to all parties.

(4) A Standards Panel is to hear and determine an appeal –

(a) within 90 days after the appeal is lodged; and

(b) in a fair and equitable manner.

(5) A Standards Panel may –

(a) hear matters afresh; and

(b) take into account new information not considered by the Code of Conduct Panel; and

(c) subject to the Act and these regulations, regulate its own proceedings.

22M. Determination of Standards Panel regarding appeals

(1) In determining an appeal, a Standards Panel may –

- (a) affirm the determination of a Code of Conduct Panel; or
 - (b) set aside that determination.
- (2) If a Standards Panel consists of three members, a determination under subregulation (1) is to be by a majority vote.
- (3) If a Standards Panel consists of two members, a determination under subregulation (1) is to be agreed on by both members of the Panel, and if they cannot so agree, the determination of the Code of Conduct Panel is to be affirmed.
- (4) If a Standards Panel sets aside the determination, it is to substitute –
- (a) a determination of the kind specified in regulation 22F(1); and
 - (b) if the complaint is upheld, a sanction in accordance with regulation 22F(3).
- (5) The Standards Panel is to notify the complainant and the respondent councillor of its determination.

22N. Standards Panel to report to mayor regarding appeals

(1) After determining an appeal, a Standards Panel is to give a report to the mayor (or, if appropriate, the deputy mayor) of the following:

- (a) a summary of the appeal;
- (b) the name of the respondent councillor;
- (c) its determination;
- (d) the relevant facts and evidence on which its determination is based;
- (e) the reasons for its determination;
- (f) any sanction imposed on the respondent councillor.

(2) However, a report under subregulation (1) is not to be given –

- (a) within 28 days after the giving of notification under regulation 22M(5); or
- (b) if either party makes an application to a court in relation to the complaint within those 28 days, until after the completion of those court proceedings.

(3) On receiving a report, the mayor (or, if appropriate, the deputy mayor) is to ensure that –

- (a) the report is tabled at the next available closed meeting of the council; and
- (b) the following information from the report is tabled at the next available open meeting of the council and recorded in the minutes:
 - (i) a summary of the complaint;

- (ii) the determination;
 - (iii) any sanction imposed on the respondent councillor;
 - (iv) if a sanction has been imposed, the name of the respondent councillor.
- (4) The Standards Panel is to ensure that a copy of the report is also given to the complainant and the respondent councillor.

Division 4 - Procedures to be followed by Code of Conduct Panel and Standards Panel

22O. Interpretation

In this Division –

Panel means –

- (a) a Code of Conduct Panel determining complaints; and
- (b) a Standards Panel determining complaints; and
- (c) a Standards Panel determining appeals.

22P. Procedure and evidence

- (1) A Panel is not bound by the rules of evidence but may inform itself on any matter in any manner that it considers appropriate.
- (2) A Panel may itself elicit the issues in dispute and the facts of a matter by –
- (a) inquiry of the parties and any witnesses; and
 - (b) examination of evidence, if any, produced to the Panel.
- (3) The proceedings are to take the form of an inquiry by the Panel into the matters in dispute between the parties rather than an adversarial contest between the parties.
- (4) A Panel may itself call and examine witnesses.
- (5) The proceedings are to be conducted with as little formality and as much expedition as possible, having regard to the requirements of these regulations, and a proper consideration of the issues in dispute.
- (6) In proceedings before a Panel, evidence may –
- (a) be taken on oath or affirmation; and
 - (b) be given orally, or in writing.
- (7) Where evidence is given in writing, a Panel may require the person giving that evidence to verify it by statutory declaration.

(8) A Panel is to give any evidence that it takes or receives such weight as it considers appropriate.

(9) A contravention of this regulation does not invalidate the hearing or determination of the proceedings in respect of which the contravention occurs.

22Q. Panel to afford procedural fairness

A Panel must afford procedural fairness to the complainant and to the respondent councillor in all proceedings.

22R. Representation at hearings

A complainant or respondent councillor may be represented at proceedings by –

- (a)** with the consent of the relevant Panel and the other party, an Australian legal practitioner; or
- (b)** with the consent of the relevant Panel, any other person.

22S. Proceedings closed to the public

The proceedings of a Panel are closed to the public.

Division 5 - Miscellaneous matters

22T. Disclosure

(1) Except in carrying out an obligation under this Part or as required in any proceedings, a mayor, deputy mayor or member of a Code of Conduct Panel or Standards Panel must not disclose –

- (a)** the fact that a complaint has been made; or
- (b)** the identity of a complainant or respondent councillor; or
- (c)** any other information relating to a complaint.

Penalty:

Fine not exceeding 10 penalty units.

(2) However, subregulation (1) does not apply –

- (a)** if a determination has been made under regulation 22F and –
 - (i)** no appeal has been lodged under regulation 22L(1); and
 - (ii)** the time allowed for lodging such an appeal has expired; or
- (b)** if a determination has been made under regulation 22J or 22M and –
 - (i)** a period of 28 days has expired since the giving of notification of that determination; and

(ii) neither party to the complaint makes an application relating to the complaint to a court within that period; or

(c) if either party to the complaint makes an application to a court in relation to the complaint within 28 days after the giving of notification under regulation 22J or 22M, after those court proceedings are completed.

22U. Refund of fees

(1) A Code of Conduct Panel is to refund the fee paid by a complainant on lodging a complaint if –

(a) the complaint is upheld; or

(b) the complainant withdraws the complaint, with the agreement of the Panel, before it is dealt with by the Panel; or

(c) the Panel notifies each appropriate authority under regulation 22D(2); or

(d) a party to the complaint dies before the Panel determines the complaint; or

(e) the respondent councillor resigns or loses office before the Panel determines the complaint.

(2) A Standards Panel is to refund the fee paid by a respondent councillor who refers a complaint to it if –

(a) the complaint is not upheld; or

(b) the complainant withdraws the complaint, with the agreement of the Panel, before it is dealt with by the Standards Panel; or

(c) the Panel notifies each appropriate authority under regulation 22H(1); or

(d) a party to the complaint dies before the Panel determines the complaint; or

(e) the respondent councillor resigns or loses office before the Panel determines the complaint.

(3) A Standards Panel is to refund the fee paid by a person lodging an appeal if –

(a) it sets aside or substitutes the determination of the Code of Conduct Panel; or

(b) the person lodging the appeal is not entitled to lodge an appeal; or

(c) the person lodging the appeal withdraws the appeal, with the agreement of the Standards Panel, before it is dealt with by the Standards Panel; or

(d) a party to the appeal dies before the Standards Panel determines the appeal; or

(e) the respondent councillor resigns or loses office before the Standards Panel determines the appeal.

(4) A council, on request by a Standards Panel, is to refund the fee paid to the council by the complainant if –

(a) the complaint has been referred to the Standards Panel under regulation 22C(2); or

(b) the Standards Panel has made a determination under regulation 22M(4).

PART 3 - Tendering and contracting

Division 1 - Tenders for goods and services

23. Public tenders

(1) For the purpose of section 333A(1) of the Local Government Act 1993 the prescribed amount is \$100 000 (excluding GST).

(1A) A tender is to be publicly invited by one of the following:

(a) an open tender under regulation 24;

(b) a multiple-use register under regulation 25;

(c) a multiple-stage tender under regulation 26.

(2) A council, through a public tender process, may establish a standing contract in which a single tenderer or multiple tenderers may be contracted for a specified period to provide specified goods or services during that period without the need for a further tender process.

(3) A council must not split a contract into 2 or more contracts for the primary purpose of avoiding compliance with the requirement to publicly invite tenders.

(4) A council may extend a contract entered into by tender –

(a) as specified in the contract; or

(b) if the contract does not specify extensions, by an absolute majority.

(5) A council is to report the following in its annual report in relation to any contract for the supply or provision of goods or services valued at or exceeding the amount prescribed under subregulation (1), entered into or extended under subregulation (4)(b) in the financial year:

(a) a description of the contract;

(b) the period of the contract;

(c) the periods of any options for extending the contract;

(d) the value of any tender awarded or, if a tender was not required, the value of the contract excluding GST;

(e) the business name of the successful contractor;

(f) the business address of the successful contractor.

24. Open tenders

(1) The general manager is to invite tenders by publishing at least once a notice in a daily newspaper circulating in the municipal area specifying –

- (a) the nature of the goods or services the council requires; and
- (b) any identification details allocated to the contract; and
- (c) where the tender is to be lodged; and
- (d) particulars identifying a person from whom more detailed information relating to the tender may be obtained; and
- (e) the period within which the tender is to be lodged.

(2) The period within which a tender is to be lodged must be at least 14 days after the date on which the notice is published.

(3) The general manager is to ensure that prospective tenderers are provided with the following in order to make a tender:

- (a) details of the goods or services required;
- (b) details of the duration of the contract, including any extensions that are specified in the contract;
- (c) the criteria for evaluating tenders;
- (d) the method of evaluating tenders against the evaluation criteria;
- (e) any mandatory tender specifications and contract conditions;
- (f) a reference to the council's code relating to tenders and contracts.

(4) A person making a tender must –

- (a) do so in writing; and
- (b) specify the goods or services tendered for; and
- (c) lodge the tender within the period specified in the notice.

25. Multiple-use register

(1) A council may establish a multiple-use register of suppliers who meet criteria established by the council in respect of the supply of particular categories of goods or services.

(2) A council is to invite applications from suppliers for inclusion on a multiple-use register by causing to be published at least once in a daily newspaper circulating in the municipal area a notice specifying –

- (a) the nature of the goods or services the council requires; and
- (b) any identification details allocated to the register; and
- (c) where the application is to be lodged; and

(d) the person from whom more detailed information may be obtained; and

(e) the period within which the application is to be lodged.

(3) The general manager is to ensure that applicants are provided with the following in order to make an application:

(a) details of the categories of goods or services required;

(b) the criteria for evaluating applications;

(c) the method of evaluating applications against the criteria;

(d) a reference to the council's code for tenders and contracts.

(4) A council may –

(a) accept an application for inclusion on a multiple-use register; or

(b) reject the application.

(5) If a council rejects an application, the general manager is to advise the applicant of the reasons for that rejection.

(6) If a council accepts an application, the general manager is to advise the applicant of the category for which the applicant is to be included on the multiple-use register.

(7) A council is to invite tenders for a contract for the supply of goods or services from all suppliers included on a multiple-use register for a particular category of goods or services.

(8) A multiple-use register is to be reviewed at least once every 2 years.

(9) A council must allow a supplier to apply for inclusion on a multiple-use register at any time, unless the supplier –

(a) has made an application within the previous 12 months; and

(b) the application has not been accepted.

26. Multiple-stage tender

(1) A council may invite tenders for a contract for the supply of goods or services using a multiple-stage tender process.

(2) A multiple-stage tender process is a process by which suppliers are evaluated through stages against criteria determined by the council.

(3) At the first stage of a multiple-stage tender process, the general manager is to invite expressions of interest from prospective tenderers by causing to be published at least once in a daily newspaper circulating in the municipal area a notice specifying –

(a) the nature of the goods or services the council requires; and

- (b) any identification details allocated to the contract; and
- (c) where the expression of interest is to be lodged; and
- (d) the person from whom more detailed information may be obtained; and
- (e) the period within which the expression of interest is to be lodged.

(4) The general manager is to ensure that prospective tenderers are provided with the following in order to lodge an expression of interest:

- (a) details of the goods or services required;
- (b) the criteria for evaluating expressions of interest;
- (c) the method of evaluating expressions of interest against the criteria;
- (d) details of any further stages in the tender process;
- (e) a reference to the council's code for tenders and contracts.

(5) At the final stage of a multiple-stage tender process, the general manager is to invite all suppliers who have met the criteria determined by the council to tender for the supply of goods or services.

(6) If only one supplier meets the criteria determined by the council at the first stage as specified in subregulation (3), the council may contract with that supplier after –

- (a) a tender by that supplier; or
- (b) a decision by absolute majority of the council to do so.

(7) The general manager is to ensure the consistency of the criteria used at each stage of a multiple-stage tender process.

27. Non-application of public tender process

(1) The following situations and contracts are prescribed for the purposes of section 333A(3) of the Act:

- (a) an emergency if, in the opinion of the general manager, there is insufficient time to invite tenders for the goods or services required in that emergency;
- (b) a contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;
- (c) a contract for goods or services supplied or provided by another council, a single authority, a joint authority or the Local Government Association of Tasmania;
- (ca) a contract for goods or services obtained as a result of a tender process conducted by another council, a single authority, a joint authority, the Local Government Association of Tasmania or any other local government association in this State or in another State or a Territory;

(d) a contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a tender;

(e) a contract for goods or services that is entered into at public auction;

(f) a contract for insurance entered into through a broker;

(g) a contract arising when a council is directed to acquire goods or services due to a claim made under a contract of insurance;

(h) a contract for goods or services if the council resolves by absolute majority and states the reasons for the decision, that a satisfactory result would not be achieved by inviting tenders because of –

(i) extenuating circumstances; or

(ii) the remoteness of the locality; or

(iii) the unavailability of competitive or reliable tenderers;

(i) a contract of employment with a person as an employee of the council.

(2) A council is to report in its annual report all instances where subregulation (1)(a) or (h) has been applied with the following details:

(a) a brief description of the reason for not inviting public tenders;

(b) a description of the goods or services acquired;

(c) the value of the goods or services acquired;

(d) the name of the supplier.

Division 2 - Code for tenders and contracts

28. Code for tenders and contracts

The code adopted under section 333B of the Act is to –

(a) promote the following principles:

(i) open and effective competition;

(ii) value for money;

(iii) enhancement of the capabilities of local business and industry;

(iv) ethical behaviour and fair dealing; and

(b) establish and maintain procedures to ensure that all potential suppliers are provided with the same information relating to the requirements of a tender or contract and are given equal opportunity to meet the requirements; and

- (c) establish and maintain procedures to ensure that fair and equal consideration is given to all tenders or quotations received; and
- (d) establish and maintain procedures to deal honestly with, and be equitable in the treatment of, all potential or existing suppliers; and
- (e) establish and maintain procedures to ensure a prompt and courteous response to all reasonable requests for advice and information from potential or existing suppliers; and
- (f) seek to minimise the cost to suppliers of participating in the tendering process; and
- (g) protect commercial-in-confidence information; and
- (h) for contracts valued at under \$100 000 excluding GST, specify when 3 written quotations are required; and
- (i) establish and maintain procedures for the use of multiple-use registers for contracts valued at under \$100 000, excluding GST; and
- (j) establish and maintain procedures for reporting by the general manager to the council in relation to the purchase of goods or services in circumstances where a public tender or quotation process is not used; and
- (k) establish and maintain procedures for the review of each tender process to ensure that each tender is in accordance with these regulations and the code; and
- (l) establish and maintain procedures for the following:
 - (i) amending or extending a tender once it has been released;
 - (ii) opening tenders;
 - (iii) the consideration of tenders that do not fully conform with the tender requirements;
 - (iv) the debriefing of unsuccessful tenderers;
 - (v) handling complaints regarding processes related to the supply of goods or services.

PART 4 - Miscellaneous

29. Incapacity to perform duties as councillor

For the purpose of making an application to a magistrate under section 28J of the Act, a prescribed person means the Director.

30. Customer service charter

A customer service charter adopted under section 339F of the Act is to address the following matters:

- (a) the manner in which a complaint referred to in section 339E of the Act may be made;
- (b) the manner in which a response to a complaint is to be made;

- (c) opportunities for a review of a response by the general manager;
- (d) the periods within which complaints are to be dealt with;
- (e) other actions that may be taken if a complainant is dissatisfied by the response;
- (f) reporting of the complaints received.

31. Service rate

The following are prescribed services for the purpose of section 93(1)(g) of the Act:

- (a) the management, maintenance, monitoring and auditing of an on-site waste water management system as defined in the *Building Act 2000*;
- (b) a community medical service.

32. Variation factors

For the purpose of section 107(1)(e) of the Act, prescribed factors for general or service rates are –

- (a)
- (b) the division of land by the issue of a separate strata title to each parcel subject to the *Strata Titles Act 1998*; and
- (c) if separately assessed land is predominantly used for residential dwelling, the number of residential dwellings on that land.

33. Instalment payments

For the purpose of section 124(3) of the Act, a council may determine that rates are not payable by instalments if the total amount of rates for a financial year is \$100 or less.

34. Publication of details of register of money

(1) For the purpose of section 139A of the Act, the following are prescribed as details to be published in respect of the register of money kept under that section:

- (a) the name of the last known owner of the land;
- (b) the address of the land;
- (c) the amount of money recorded on the register in respect of the land.

(2) For the purpose of section 139A of the Act, the prescribed amounts are any amounts of \$50 or more.

35. Notice of proposed by-law

For the purpose of section 157A of the Act, the prescribed matters are as follows:

- (a) the title of the proposed by-law;
- (b) the objectives of the proposed by-law;
- (c) the envisaged or potential impact and the primary features of the proposed by-law affecting the community or particular groups within the community;
- (d) an invitation for submissions from the public on the proposed by-law;
- (e) the manner in which submissions may be made;
- (f) the period within which submissions may be made;
- (g) the availability of the regulatory impact statement and a copy of the proposed by-law or how that information may be accessed;
- (h) a contact point or person for public enquiries on the content and effect of the proposed by-law.

36.

37. Compulsory acquisition of land

A council may acquire land under section 176 of the Act for the following purposes:

- (a) the establishment of, or extension to, its public offices;
- (b) the establishment of, or extension to, a works depot, pound or plant nursery;
- (ba) the establishment of, or extension to –
 - (i) any education and care service premises, within the meaning of the Education and Care Services National Law (Tasmania), other than any premises for a family day care service, within the meaning of that Law; or
 - (ii) a child care centre within the meaning of the *Child Care Act 2001*;
- (c) the establishment of, or extension to, public land;
- (d) the establishment or realignment of a highway or local highway, as defined by section 3 of the Local Government (Highways) Act 1982;
- (e) the establishment of, or the provision of access to –
 - (i)
 - (ii) a stormwater reticulation system, drainage system, handling system, disposal facility system or pump station; and
 - (iii)
- (iv) a waste management facility, waste disposal site or waste transfer station;

(ea) the undertaking of work, or the provision of access for the undertaking of work, for the prevention, control or mitigation of a flood;

(f) the establishment and operation of a quarry for the extraction, processing and storage of rock, crushed rock, gravel or sand for council works.

38. Criteria for city status

For the purposes of section 214D(3) of the Act, the Board may make a recommendation relating to the declaration of a municipal area or part of a municipal area as a city if all of the following circumstances exist:

(a) if, for 5 years immediately preceding the Board's review, the municipal area had a population of at least 20 000 persons;

(b) if at least 60% of the population of the municipal area lives in an urban area;

(c) if an elector poll conducted on behalf of the council has indicated that the majority of electors favour the recommendation.

39. Plan of boundaries of towns

A council is to lodge a plan with the Central Plan Register established under the Survey Co-ordination Act 1944 of the boundaries of any town or proposed town.

40. Declaration of office

(1) For the purpose of section 321 of the Act, the declaration of office is to be in accordance with the form specified in Schedule 2.

(2) A person elected as councillor is to read aloud the declaration of office in the presence of the general manager and sign the declaration.

(3) The general manager is to sign the declaration of office as witness.

41. Fees

The fees specified in Schedule 3 are the fees payable in respect of the matters mentioned in that Schedule.

42. Allowances for elected members

(1) In this regulation –

current period means the period commencing on 1 December 2012 and ending at the end of 31 October 2013;

inflationary factor, in respect of each calendar year, means the amount ascertained by dividing the Wage Price Index figure for the June quarter of that year by the Wage Price Index figure for the June quarter of the previous calendar year;

June quarter, in relation to a calendar year, means April, May and June of that year;

previous period, in respect of a subsequent period, means the 12-month period immediately before the 1 November on which the subsequent period commences;

subsequent period means a 12-month period commencing on 1 November in any calendar year after 2013;

November 2013 period means the period commencing on 1 November 2013 and ending at the end of 31 October 2014.

(2) For the purposes of sections 340A(1) and (2) of the Act, the allowance for a councillor or the additional allowance for a deputy mayor or a mayor is the amount calculated by –

(a) for the current period, dividing the amount specified in column 2, 3 or 4, respectively, in Schedule 4 by 12 and multiplying the resulting amount by 11; and

(b) for the November 2013 period, multiplying the amount specified in column 2, 3 or 4, respectively, in Schedule 4 by the inflationary factor for the 2013 calendar year and rounding the resulting amount to the nearest whole dollar; and

(c) for a subsequent period, multiplying the allowance for the previous period by the inflationary factor for the calendar year in which the subsequent period commences and rounding the resulting amount to the nearest whole dollar.

(3) The allowances referred to in this regulation are to be paid in monthly or fortnightly instalments.

43. Expenses for councillors

A councillor is entitled to be reimbursed for reasonable expenses in accordance with the policy adopted under Schedule 5 to the Act in relation to –

(a) telephone rental and telephone calls; and

(b) travelling; and

(c) care of any child of the councillor.

44. Prescribed newspapers

For the purposes of section 72B of the Act and regulations 7(2) and 13(6) of the *Local Government (Meeting Procedures) Regulations 2005*, the following newspapers are prescribed newspapers:

(a) in respect of the municipal area of King Island, the King Island Courier;

(b) in respect of the municipal area of Flinders, the Island News.

44A. Council land information certificate

For the purposes of section 337 of the Act –

(a) the certificate is to be in accordance with Schedule 6; and

(b) the prescribed questions are as specified in Schedule 7.

45. Statutory Rules rescinded

The Statutory Rules specified in Schedule 5 are rescinded.

SCHEDULE 1 - Order of names on batch of ballot papers

Regulation 18

1. Interpretation

In this Schedule –

batch means a group of ballot papers on which the names of candidates appear in the same order;

column, in relation to a ballot paper, means the single vertical column in which the names of candidates are to appear on the ballot paper;

favoured position means a favoured position within the meaning of Schedule 3 to the Electoral Act 2004;

matrix column means a vertical column in a matrix;

matrix row means a horizontal row in a matrix.

2. Batch of ballot papers

(1) The number of ballot papers in each batch, as far as is practicable, is to be the same.

(2) The number of batches is to be equal to the number of candidates.

3. Favoured position

(1) In relation to each candidate, there is to be printed, in respect of each favoured position, a batch of ballot papers on which the name of that candidate appears in that favoured position.

(2) If there are 6 or more candidates, the name of a candidate is not to appear immediately above the name of a particular candidate on more than one batch of ballot papers if the names of both candidates would be in favoured positions.

4. Matrices

(1) There is to be a matrix corresponding to the number of candidates.

(2) The purpose of each matrix is to determine the order of names on each batch of ballot papers.

(3) The number of matrix columns and matrix rows are to be the same as the corresponding number of candidates.

(4) Each matrix is to comprise letters, each of which represents the name of a particular candidate.

(5) The names of the candidates, in the order in which they are drawn in accordance with regulation 20, are to be represented by the letters A, B, C and so on in alphabetical order.

(6) The order in which the names of candidates is to be printed on the batches of ballot papers is to be in accordance with the particular matrix for that number of candidates.

5. Matrix column

(1) The first matrix column is to be in alphabetical order starting with A.

(2) The names on the first batch of ballot papers are to be printed in the order represented by the first matrix column.

(3) The names on the second batch of ballot papers are to be printed in the order represented by the second matrix column, and so on.

6. Matrices for 12 or fewer candidates

If the number of candidates is 12 or less, the matrices are as set out in Schedule 2 to the Electoral Regulations 2005.

7. Matrices for more than 12 candidates

(1) If the number of candidates is more than 12 but less than 31, the Electoral Commissioner is to prepare matrices as follows:

(a) the first matrix row is to contain a sequence of letters as set out in subclause (2);

(b) the second matrix row is to contain the same sequence of letters commencing with the letter B, continuing to the end of the sequence and then continuing from the start of the sequence to the letter immediately before B;

(c) the third matrix row is to contain the same sequence of letters commencing with the letter C, continuing to the end of the sequence and then continuing from the start of the sequence to the letter immediately before C;

(d) the subsequent matrix rows are to contain a sequence of letters following the patterns specified in paragraphs (b) and (c).

(2) The sequence of letters in the first matrix row is as follows:

(a) if there are 13 candidates, A B K C G F D L J I E M H;

(b) if there are 14 candidates, A B L C G F D M J K E I H N;

(c) if there are 15 candidates, A B M C G F D N L H E K J O I;

(d) if there are 16 candidates, A B N C G F D O L J E M H P K I;

(e) if there are 17 candidates, A B O C G F D P M J E K H Q I N L;

(f) if there are 18 candidates, A B P C I H D Q G L E N M R J K O F;

(g) if there are 19 candidates, A B Q C I H D R G P E N M S J K O F L;

(h) if there are 20 candidates, A B R C O G D S N Q E J M T L I K F H P;

(i) if there are 21 candidates, A B S C O G D T N R E L M U H J I F P Q K;

(j) if there are 22 candidates, A B T C O G D U N S E P L V H J I F Q R K M;

(k) if there are 23 candidates, A B U C O G D V N T E L I W H J Q F R S K P M;

- (l) if there are 24 candidates, A B V C O G D W N U E J I X H M K F S T R L Q P;
- (m) if there are 25 candidates, A B W C O G D X N V E J I Y H M K F T U S L Q R P;
- (n) if there are 26 candidates, A B X C O G D Y N W E J I Z H M K F U V T L P Q S R;
- (o) if there are 27 candidates, A B Y C O G D Z N X E J I A A H M L F V W U P Q T K R S;
- (p) if there are 28 candidates, A B Z C O G D A A P Y E J I A B H U L F W X V S N R K Q M T;
- (q) if there are 29 candidates, A B A A C O G D A B P Z E J I A C H R L F X Y W Q N S K T M U V;
- (r) if there are 30 candidates, A B A B C O G D A C P A A E J I A D H Q L F Y Z X R N V K W M T S U.
- (3) If the number of candidates is 31 or more, the Electoral Commissioner is to prepare matrices taking into account the provisions of these regulations.

8. Collation of ballot papers

- (1) Ballot papers are to be collated so that a ballot paper from batch 1 is followed by a ballot paper from batch 2, then a ballot paper from batch 3 and so on up to a ballot paper from the last batch, to be followed by a ballot paper from batch 1, batch 2 and so on until the collation is complete.
- (2) Ballot papers are to be inserted into envelopes in the order as collated for sending or delivering or providing in person to an elector under section 284 or 286 of the Act.

SCHEDULE 2 - Declaration of Office

FORM

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

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

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.

.....
[signature of councillor]

Made before me at in Tasmania on the day of
..... 20 ...

.....
[general manager]

SCHEDULE 3 - Fees

Regulation 41

1. Application for a council land information certificate under <u>section 337</u> of the Act	132.5 fee units
2. Issue of a certificate of liabilities under <u>section 132</u> of the Act	30 fee units
3. Copy of the annual report of a council	Maximum of 5 fee units
4. Making a complaint under <u>section 28F</u> of the Act	20 fee units
5. Referral of a complaint under <u>section 28F</u> of the Act	50 fee units
6. Lodging an appeal under <u>section 28F</u> of the Act	100 fee units

SCHEDULE 4 - Allowances for elected members

Regulation 42

Column 1	Column 2	Column 3	Column 4
Council	Allowance for Councillors	Additional allowance for Deputy Mayors	Additional allowance for Mayors

Hobart City	31 513	20 352	78 784
Launceston City	31 513	20 352	78 784
Clarence City	25 512	17 726	63 778
Glenorchy City	25 512	17 726	63 778
Kingborough	25 512	17 726	63 778
Burnie City	19 321	15 101	48 302
Central Coast	19 321	15 101	48 302
Devonport City	19 321	15 101	48 302
West Tamar	19 321	15 101	48 302
Brighton	13 131	12 473	32 826
Huon Valley	13 131	12 473	32 826
Meander Valley	13 131	12 473	32 826
Northern Midlands	13 131	12 473	32 826
Sorell	13 131	12 473	32 826
Waratah-Wynyard	13 131	12 473	32 826
Break O'Day	10 975	10 504	27 438
Circular Head	10 975	10 504	27 438
Derwent Valley	10 975	10 504	27 438
Dorset	10 975	10 504	27 438
George Town	10 975	10 504	27 438
Latrobe	10 975	10 504	27 438
Glamorgan-Spring Bay	9 242	9 191	23 105
Kentish	9 242	9 191	23 105
Southern Midlands	9 242	9 191	23 105
West Coast	9 242	9 191	23 105
Central Highlands	8 087	8 535	20 217
Flinders	8 087	8 535	20 217
King Island	8 087	8 535	20 217
Tasman	8 087	8 535	20 217

SCHEDULE 5 - Statutory Rules rescinded

Regulation 45

Local Government Regulations 1994 (No. 25 of 1994)
Local Government Amendment Regulations 1994 (No. 85 of 1994)
Local Government Amendment Regulations (No. 2) 1994 (No. 100 of 1994)
Local Government Amendment Regulations (No. 3) 1994 (No. 125 of 1994)
Local Government Amendment Regulations (No. 4) 1994 (No. 181 of 1994)
Local Government Amendment Regulations 1995 (No. 178 of 1995)
Local Government Amendment Regulations 1996 (No. 122 of 1996)
Local Government (Elections) Regulations 1998 (No. 12 of 1998)
Local Government Amendment Regulations 1999 (No. 2 of 1999)
Local Government Amendment Regulations (No. 2) 1999 (No. 69 of 1999)
Local Government Amendment (Operational Plans) Regulations 1999 (No. 160 of 1999)

Local Government Amendment Regulations 2000 (No. 189 of 2000)

Local Government Amendment Regulations 2002 (No. 183 of 2002)

Local Government Amendment Regulations 2004 (No. 92 of 2004)

SCHEDULE 6 - Council Land Information Certificate

Regulation 44A(a)

Section 337 of the *Local Government Act 1993*

SPECIFIED LAND (Property address)

.....

SPECIFIED HIGHWAY(S) (Public road or street frontage)

.....

UNIQUE PROPERTY IDENTIFICATION NO(S). (UPI) OR PROPERTY IDENTIFICATION NO(S). (PID)

.....

TITLE REFERENCE(S)

.....

NAME OF APPLICANT

.....
.....

APPLICANT'S POSTAL ADDRESS

.....
.....

I certify that the information provided in this certificate in response to the questions in Parts 1 to 6 on the attached pages is derived from the existing records of the Council as they relate to the specified land as at the date shown below and is true and accurate according to those records.

..... Council

Signed

Date

SCHEDULE 7 - Questions

Regulation 44A(b)

PART 1 - Statutory Notices and Orders

Part 12 of the *Local Government Act 1993*

No.	Question	Answer
1.	Fencing and land repair notices under <u>Division 2 of Part 12</u> (a) Has the council a record of having served a notice under <u>Division 2 of Part 12</u> of the Act in relation to the specified land and the notice has not been satisfied? (b) If YES to (a), provide particulars.	
2.	Abatement notice under <u>Division 6 of Part 12</u> (a) Has the council a record of having served an abatement notice on the owner under <u>section 200</u> of the Act in relation to a nuisance affecting the specified land and the notice has not been satisfied? (b) If YES to (a), has the council decided to take action to abate the nuisance at the owner's expense? (c) If YES to (b), provide particulars.	
3.	Court order for abatement of nuisance (a) Has the council a record showing that a nuisance still exists affecting the specified land in contravention of a Court order made under <u>section 203</u> of the Act? (b) If YES to (a), provide particulars.	

Land Acquisition Act 1993

No.	Question	Answer
4.	Notice of acquisition (a) Has the council a record of having served a notice to treat under <u>Part 2</u> of the Act in relation to the proposed acquisition of the specified land or any part or interest in that land and the notice has not been withdrawn? (b) If YES to (a), provide particulars.	

PART 2 - Health and Environmental Matters

Public Health Act 1997

No.	Question	Answer
5.	Closure order (a) Has the council a record of having served on the owner or occupier of the specified land a closure order or interim closure order, made under <u>section 87</u> of the Act, in relation to the unsafe state of premises on the specified land for the purposes of human occupation or habitation and the order has not been satisfied? (b) If YES to (a), provide particulars.	
6.	Licences and registration (a) Has the council a record of having issued a licence or certificate of registration under <u>Part 5 (Premises)</u> or <u>Part 6 (Water)</u> of the Act affecting premises on the specified land? (b) If YES to (a), provide particulars.	
7.	Rectification notice (a) Has the council a record of having served a rectification notice under <u>section 92</u> of the Act regarding the condition of premises on the specified land and the notice has not been satisfied?	

(b) If YES to (a), provide particulars.

Food Act 2003

No.	Question	Answer
8.	Improvement notice (a) Has the council a record of having issued an improvement notice under <u>section 60</u> of the Act to the proprietor of a food business operating from premises on the specified land and the notice has not been satisfied? (b) If YES to (a), provide particulars.	
9.	Prohibition order (a) Has the council a record of having served on the owner or occupier of the specified land a prohibition order under <u>section 62</u> of the Act relating to the premises or equipment on the specified land and the order has not been satisfied? (b) If YES to (a), provide particulars.	

Environmental Management and Pollution Control Act 1994

No.	Question	Answer
10.	Environment protection notice (a) Has the council a record of having issued an environment protection notice under <u>section 44</u> of the Act in relation to an activity on the specified land involving actual or potential environmental harm as defined by that Act and the notice has not been satisfied? (b) If YES to (a), provide particulars.	

Burial and Cremation Act 2002

No.	Question	Answer
11.	Grave on private land (a) Has the council a record of having given permission under <u>section 41</u> of the Act for the interment of human remains in a grave on the specified land? (b) If YES to (a), was the permission made subject to any conditions as to the location and identification of the grave and continuing access to that site, or for other measures to be taken on the specified land? Provide particulars.	

PART 3 - Planning and Development

Land Use Planning and Approvals Act 1993

No.	Question	Answer
12.	Planning scheme or special planning order (a) Is the specified land subject to a planning scheme or special planning order under the Act? (b) If YES to (a), what is the name of the planning scheme or special planning order?	
13.	Zoning (a) What is the current zoning applicable to the specified land under that planning scheme or special planning order? (b) Has the council a record of having initiated an amendment to the planning scheme	

under Part 3 of the Act that changes the current zoning –

(i) of the specified land; or

(ii) of land that adjoins the specified land (other than adjoining land in a neighbouring municipal area) –

and that amendment has not been determined?

(c) If YES to (b)(i) or (b)(ii), provide particulars.

14. Planning restrictions

(a) Is there a special provision under the planning scheme or special planning order for a buffer zone or buffer area restriction affecting the specified land?

(b) If YES to (a), provide particulars.

15. Building line or setback

(a) Has the council determined a building line or building setback under the planning scheme?

(b) If YES to (a), what is the building line or building setback applicable in relation to the specified land? Provide particulars.

16. Planning permit

(a) In relation to the specified land, has the council a record of an application having been made for a permit, or a permit having been granted, under either section 57 or 58 of the Act?

(b) If YES to (a), provide particulars.

IMPORTANT: *Prospective purchasers are advised that an application for a permit may have been made or a permit granted under section 57 or 58 of the Land Use Planning and Approvals Act 1993 in relation to land that adjoins the specified land.*

The grant of a permit in relation to land that adjoins the specified land may affect your use and enjoyment of the specified land. If you wish to know whether an application for a permit has been made or a permit has been granted in relation to land that adjoins the specified land you will need to contact the council. An application for this additional information is to be made separately to a section 337 certificate application and may attract a further fee or charge.

17. Planning appeal

(a) Has the council a record of an appeal having been lodged under section 61 of the Act against the grant by the council of a permit in relation to the specified land and that appeal has not been determined?

(b) If YES to (a), provide particulars.

18. Obstruction of sealed scheme

(a) Has the council a record of a person using or undertaking development on the specified land or doing any other act in relation to the specified land in contravention of section 63(2) of the Act?

(b) If YES to (a), has the council decided to take action to commence proceedings in relation to that offence?

19. Civil enforcement proceedings

(a) Has the council a record of civil enforcement proceedings having been commenced in relation to the specified land under section 64 of the Act and those proceedings have not

yet been determined?

(b) If YES to (a), provide particulars to identify the proceedings.

20. Agreement under Part 5 of the Act

(a) Has the council a record of having entered into an agreement under Part 5 of the Act with the current owner or a previous owner of the specified land ?

(b) If YES to (a) and the agreement is not recorded on the certificate of title, provide particulars.

***Historic
Cultural
Heritage Act
1995***

IMPORTANT: *If the specified land has historic cultural heritage significance and is listed on the Tasmanian Heritage Register, restrictions may be imposed on modifications that impact on the significant elements of the property and its heritage value. Approval for development must be sought from the Tasmanian Heritage Council which maintains the Register under the Historic Cultural Heritage Act 1995.*

Further enquiries should be directed to Heritage Tasmania.

Mineral Resources Development Act 1995

No.	Question	Answer
------------	-----------------	---------------

21.	Notification of landslip status	
-----	---------------------------------	--

	(a) Has the council a record of having been notified by a State Agency that –	
--	---	--

	(i) the specified land is within a declared landslip area; or	
--	---	--

	(ii) an order is to be made, under <u>Part 9A</u> of the Act, that will apply to the specified land?	
--	--	--

	(b) If YES to (a)(i), what type of landslip area has been declared to apply to the specified land? Provide particulars.	
--	---	--

	(c) If YES to (a)(ii), what is the nature of the order to be made under <u>Part 9A</u> of the Act, applicable to the specified land? Provide particulars.	
--	---	--

IMPORTANT: *If "No" to question 21(a), it should be noted that there are only a small number of declared landslip areas in Tasmania. Although the specified land is not within a declared landslip area it may be prudent for the purchaser to consider whether the slope stability of the land will support the proposed use. If the specified land is on or adjacent to a slope, slope stability could be a hazard and it may be necessary to have site-specific geotechnical investigations carried out.*

The council may also require information on geotechnical and other relevant factors about the specified land before it will consider a building or planning application relating to that land. Restrictions may also apply to building and development in relation to the specified land.

Further enquiries should be directed to the council.

PART 4 - Highway Construction, Maintenance and Access Matters

Roads and Jetties Act 1935

No.	Question	Answer
------------	-----------------	---------------

22.	Maintenance and repair of highway	
-----	-----------------------------------	--

	(a) Is the council responsible, under <u>section 11</u> of the Act, for the maintenance and	
--	---	--

reconstruction of part of the specified highway(s)?

(b) If YES to (a), provide particulars.

Local Government (Highways) Act 1982

No.	Question	Answer
23.	<p>Maintenance and repair of highway</p> <p>(a) Is the council responsible, under <u>section 21</u> of the Act, for the maintenance of the specified highway(s)?</p> <p>(b) If YES to (a), is the council's responsibility to maintain the specified highway(s) limited as to its extent?</p> <p>(c) If YES to (b), does the council's responsibility apply to the part of the specified highway(s) providing access to the frontage of the specified land? Provide particulars.</p>	
24.	<p>Vehicular crossing</p> <p>(a) Has the council a record of having served a notice under <u>section 35</u> of the Act, requiring the owner of the specified land to carry out works for the construction or repair of a vehicular crossing over a table drain, gutter or footpath from the specified highway(s) at or opposite the entrance to the specified land and the notice has not been satisfied?</p> <p>(b) If YES to (a), provide particulars.</p>	
25.	<p>Intention by council to undertake highway reconstruction works</p> <p>(a) Has the council a record of having decided to undertake any reconstruction works on the specified highway(s) adjacent to the part providing access to the frontage of the specified land?</p> <p>(b) If YES to (a), will the alteration to the level of the carriageway require an alteration to the existing access to the specified land? Provide particulars.</p>	
26.	<p>Alteration to alignment of highway</p> <p>(a) If YES to question 25, has the council a record of having decided to alter the line of the reservation of the part of the specified highway(s) providing access to the frontage of the specified land?</p> <p>(b) If YES to (a), provide particulars of the intended alignment.</p>	
27.	<p>Contribution of construction costs</p> <p>(a) Is the council entitled under <u>section 51</u> of the Act to construct any part of the specified highway(s), road, lane, passage or yard at the expense of the owner of the specified land?</p> <p>(b) If YES to (a), has the council decided to do so? Provide particulars.</p>	
28.	<p>Street construction scheme</p> <p>(a) Has the council a record of having decided to establish a scheme of street construction under <u>Part V</u> of the Act in relation to the part of the specified highway(s) affecting the frontage of the specified land?</p> <p>(b) If YES to (a), provide particulars of the proposed scheme as it relates to the frontage of the specified land.</p>	

Drains Act 1954

No.	Question	Answer
31.	<p>Connection to stormwater or land drainage system</p> <p>(a) Has the council a record showing that, on or under the specified land, there is a stormwater branch or drain connected to the council's stormwater collection system? If YES, provide particulars.</p> <p>(b) If NO or UNKNOWN to (a), is the specified land –</p> <p>(i) within an appointed district under <u>Part VIII of the <i>Drains Act 1954</i></u>; and</p> <p>(ii) within 30 metres from the council's stormwater drain or a form of drain capable of providing an acceptable form of drainage from the specified land to an authorised drainage point?</p>	
32.	<p>Existence and maintenance of council pipe main or drain</p> <p>(a) Has the council a record showing that there are any trunk mains or other pipes under or through the specified land, whether within formal easements or not, which the council is responsible to maintain?</p> <p>(b) If YES to (a), provide particulars including purpose or nature of the pipes, if known.</p>	
33.	<p>Notice to owner</p> <p>(a) Has the council a record of having served on the owner of the specified land a notice to take action under the <u><i>Drains Act 1954</i></u> and the notice has not been satisfied or completed?</p> <p>(b) If YES to (a), provide particulars.</p>	

PART 6 - Building and Plumbing Matters

Building Act 2000

No.	Question	Answer
34.	<p>Special plumbing permit</p> <p>(a) In relation to the specified land, has the council a record of an application having been made for –</p> <p>(i) a special plumbing permit under <u>section 79 of the <i>Building Act 2000</i></u>; or</p> <p>(ii) a special connection permit under the former <u><i>Plumbing Regulations 1994</i></u>?</p> <p>(b) If YES to (a)(i) or (a)(ii), was the permit issued or the application granted? If so, what type of plumbing work was proposed and on what conditions, if any? Provide particulars.</p> <p>(c) Does the council record show that the proposed plumbing work was carried out satisfactorily and in accordance with those conditions, if any?</p> <p>(d) If the application was granted, has the permit since been suspended or cancelled for any reason?</p> <p>(e) If YES to (d), provide particulars.</p>	
35.	<p>Plumbing permit</p> <p>(a) In relation to the specified land, has the council a record of a plumbing permit (other than a special plumbing permit or a special connection permit) having been issued under –</p>	

- (i) section 82 of the *Building Act 2000*; or
- (ii) the former *Plumbing Regulations 1994*?

(b) If YES to (a)(i) or (a)(ii), has the council a record of any plumbing work commenced but for which a certificate of completion (plumbing work) has not yet been issued under section 113 of the *Building Act 2000*?

36. Plumbing notice or order

(a) Has the council a record of having issued any plumbing notice or order under Part 11 of the *Building Act 2000* relating to plumbing work on the specified land and the notice or order has not been satisfied?

(b) Has the council a record of having issued a notice under Part 7 of the *Plumbing Regulations 2004*, relating to an on-site waste water management system installed on the specified land prior to 15 January 1996?

(c) If YES to (a) or (b), provide particulars.

37. Building permit

(a) Has the council a record of having issued a building permit under Part 7 of the *Building Act 2000* in relation to the specified land?

(b) If YES to (a), provide particulars.

38. Occupancy permit

(a) Has the council a record of having issued an occupancy permit under section 100 of the *Building Act 2000* in relation to building work on the specified land?

(b) If YES to (a), provide particulars of any conditions of the permit.

39. Certificate of completion (building work)

(a) Has the council a record of any building erected on the specified land, since 1 November 1994, for which –

(i) a certificate of completion (building work) under section 112 of the *Building Act 2000*; or

(ii) a certificate of completion under section 49 of the former Part 2 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* –

has not been issued?

(b) If YES to (a)(i) or (a)(ii), provide particulars.

40. Building certificate

(a) Has the council a record that the general manager has issued a building certificate under section 119 of the *Building Act 2000* within the previous seven years in relation to the specified land?

(b) If YES to (a), provide particulars.

41. Consent to build over existing drain

(a) In relation to the specified land, has the council a record of having provided written permission to the owner under –

(i) section 160 of the *Building Act 2000*; or

(ii) regulation 44 of the former *Building Regulations 1994* –

to carry out building work over or near an existing drain?

(b) If YES to (a)(i) or (a)(ii), provide particulars.

42. Certificate or permit of compliance

(a) Has the council a record of a certificate of material compliance for any building on the specified land having been issued under the former *Building Regulations 1994* or of a permit of substantial compliance having been issued under section 188 of the *Building Act 2000*?

(b) If YES to (a), provide particulars of the relevant certificate or permit.

43. Endorsement of irregular procedures

(a) Does the council record show, on a certificate or permit relating to building work on the specified land, an endorsement to the effect that "*This building was not the subject of the normal application, permit and inspection procedures*" in accordance with the former *Building Regulations 1994* or with section 195 of the *Building Act 2000*?

(b) If YES to (a), provide particulars of the building work to which the endorsement applies.

44. Building notice or order

(a) Has the council a record of having issued a notice or order under the former Part 2 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* in relation to building work on the specified land and that notice or order has not been satisfied?

(b) Has the council a record of any order to uncover, order to open up work, order to demolish or inspection notice issued under the former *Building Regulations 1994* in relation to building work on the specified land and that order or notice has not been satisfied?

(c) Has the council a record of having issued any notice or order under Part 11 of the *Building Act 2000* in relation to a building, temporary structure, building work or maintenance of a building on the specified land and that notice or order has not been satisfied?

(d) If YES to (a), (b) or (c), provide particulars.

45. Other outstanding notices or orders

(a) Has the council a record of having served any other notice or order on the owner under the former Part 2 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* still affecting the specified land or the use of the specified land?

(b) Has the council a record of having served any other notice or order under the *Building Act 2000* on the owner or occupier of the specified land and the notice or order has not been satisfied?

(c) If YES to (a) or (b), provide particulars.

46. Residential building insurance cover under *Housing Indemnity Act 1992*

(a) Has the council a record that an indemnity policy is in force in respect of a residential building on the specified land for the purposes of compliance with the *Housing Indemnity Act 1992*?

(b) If YES to (a), provide particulars.

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

Notified in the *Gazette* on 29 June 2005.

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

Table Of Amendments

Citation	Serial Number	Date of commencement
Local Government (General) Regulations 2005	S.R. 2005, No. 64	1.7.2005
Local Government (General) Amendment (Code of Conduct) Regulations 2006	S.R. 2006, No. 28	10.5.2006
Local Government (General) Amendment Regulations 2006	S.R. 2006, No. 42	7.6.2006
Local Government (General) Amendment (Section 337 Certificate) Regulations 2006	S.R. 2006, No. 57	1.7.2006
Local Government (General) Amendment Regulations 2007	S.R. 2007, No. 78	12.9.2007
Local Government (General) Amendment (Councillor Allowances) Regulations 2008	S.R. 2008, No. 130	29.10.2008
Legal Profession (Miscellaneous and Consequential Amendments) Act 2007	No. 66 of 2007	31.12.2008
Local Government (General) Amendment Regulations 2009	S.R. 2009, No. 59	1.7.2009
Local Government (General) Amendment Regulations 2011	S.R. 2011, No. 135	1.1.2012
Local Government (General) Amendment Regulations 2012	S.R. 2012, No. 112	1.12.2012