

South Australia

Local Government (Financial Management) Variation Regulations 2007

under the *Local Government Act 1999*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Local Government (Financial Management) Variation Regulations 2007*.

2—Commencement

These regulations will come into operation on the day on which section 7 of the *Local Government (Financial Management and Rating) Amendment Act 2005* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Local Government (Financial Management) Regulations 1999*

4—Variation of regulation 4—Interpretation

- (1) Regulation 4, definition of *Australian Accounting Standard*—delete the definition and substitute:

Australian Accounting Standard means an Australian Accounting Standard published by the Australian Accounting Standards Board, as in force from time to time;

- (2) Regulation 4, definition of *financial statements*—delete the definition and substitute:

financial statements are constituted by the following:

- (a) an income statement;
- (b) a balance sheet (as at the end of the financial year);
- (c) a statement of changes in equity;
- (d) a statement of cash flows,

prepared by a council, council subsidiary or regional subsidiary under the Act and include appropriate notes and other explanatory documentation to be read in conjunction with the statements referred to above;

- (3) Regulation 4, definition of *infrastructure*—delete the definition

- (4) Regulation 4, definition of *material*—delete the definition and substitute:

material has the same meaning as in Australian Accounting Standard AASB 1031;

Model Financial Statements means the Model Financial Statements referred to in regulation 4A(2).

5—Insertion of regulation 4A

After regulation 4 insert:

4A—Adopted standards and statements

- (1) For the purposes of the definition of *Australian Accounting Standard*—
 - (a) the Australian Accounting Standards Board is declared to be a prescribed body under section 303(4) of the Act; and
 - (b) a copy of the Australian Accounting Standards must be kept available at the principal office of the Department primarily responsible to assist the Minister in the administration of this Act for the purposes of section 303(7)(c) of the Act.
- (2) For the purposes of the definition of *Model Financial Statements*—
 - (a) the LGA is declared to be a prescribed body under section 303(4) of the Act; and
 - (b) the document entitled the *Model Financial Statements* published by the LGA on 23 August 2006, as in force from time to time, is adopted by these regulations pursuant to section 303(4) of the Act; and
 - (c) the principal office of the LGA (at 16 Hutt Street, Adelaide, 5000 or, if the LGA moves its principal office, at that new address) is specified for the purposes of section 303(7)(c) of the Act.
- (3) An alteration to the Model Financial Statements by the LGA has no force or effect for the purposes of subregulation (2)(b) unless or until the Minister has provided his or her written approval to the making of the alteration.

6—Substitution of heading to Part 2

Heading to Part 2—delete the heading to Part 2 and substitute:

Part 2—Financial accountability

7—Substitution of regulation 5

Regulation 5—delete regulation 5 and substitute:

5—Long-term financial plans

Pursuant to section 122(2)(b) of the Act, a long-term financial plan must include—

- (a) an estimated income statement, balance sheet, statement of changes in equity and statement of cash flows with respect to the period of the long-term financial plan presented in a manner consistent with the Model Financial Statements;

- (b) a summary of proposed operating and capital investment activities presented in a manner consistent with the note in the Model Financial Statements entitled *Uniform Presentation of Finances*;
- (c) estimates with respect to an operating surplus ratio, an asset sustainability ratio and a net financial liabilities ratio presented in a manner consistent with the note in the Model Financial Statements entitled *Financial Indicators*.

5A—Annual business plans

Pursuant to section 123(2)(g) of the Act, an annual business plan (including a draft for the purposes of public consultation) must include information with respect to the following additional matters:

- (a) the reason why the council has adopted its valuation method for rating purposes;
- (b) if differential rates are used, the reasons and justifications for the differentiation, and the expected level of revenue to be raised by each differential rate;
- (c) if applicable, the use and level of a fixed charge component of a general rate;
- (d) the use and level of any separate rate, service rate or service charge, including the reasons for the rate or charge;
- (e) the council's policy on discretionary rebates and remissions, with particular reference to the rebates that will apply for more than one financial year and including information on how a rebate is designed to meet the purpose behind the rebate;
- (f) issues concerning equity within the community and the impact of rates across the area;
- (g) the application or operation of a minimum amount payable by way of rates (if applicable).

5B—Budget

Pursuant to section 123(10)(b) of the Act, each budget of a council under the Act must—

- (a) include a budgeted income statement, balance sheet, statement of changes in equity and statement of cash flows, presented in a manner consistent with the Model Financial Statements; and
- (b) state whether projected operating income is sufficient to meet projected operating expenses for the relevant financial year; and

- (c) include a summary of operating and capital investment activities presented in a manner consistent with the note in the Model Financial Statements entitled *Uniform Presentation of Finances*; and
- (d) include estimates with respect to the council's operating surplus ratio, asset sustainability ratio and net financial liabilities ratio presented in a manner consistent with the note in the Model Financial Statements entitled *Financial Indicators*.

8—Variation of regulation 7—Reconsideration of budgets

- (1) Regulation 7(2)—delete "in relation to the audited financial statements" and substitute:
 - which takes account of the financial outcomes
- (2) Regulation 7—after subregulation (2) insert:
 - (3) A reconsideration of a budget under this regulation must examine and, if necessary, revise, the relevant entity's budgeted income statement, balance sheet, statement of changes in equity and statement of cash flows.

9—Variation of regulation 8—Accounting standards

Regulation 8(4)—delete subregulation (4)

10—Variation of regulation 9—Revaluation of assets

- (1) Regulation 9(1)—delete "any relevant Australian Accounting Standard" and substitute:
 - Australian Accounting Standard AASB 116
- (2) Regulation 9(2) and (3)—delete subregulations (2) and (3)

11—Variation of regulation 10—Form of financial statements

Regulation 10—delete "the forms set out in the Schedule" and substitute:
the requirements set out in the Model Financial Statements

12—Variation of regulation 13—Provision of information

- (1) Regulation 13(1)—delete subregulation (1) and substitute:
 - (1) Pursuant to section 127(4) of the Act, a council must, on or before 30 November in each year, submit a copy of the audited financial statements of the council for the immediately preceding financial year to—
 - (a) the Minister; and
 - (b) the presiding member of the South Australian Local Government Grants Commission.
- (2) Regulation 13(2)—delete "Data" and substitute:

Return

13—Insertion of Part 4A

After regulation 13 insert:

Part 4A—Audit committees

13A—Membership

- (1) The audit committee of a council—
 - (a) must have between 3 and 5 members (inclusive); and
 - (b) must include at least 1 person who is not a member of the council and who is determined by the council to have financial experience relevant to the functions of an audit committee; and
 - (c) must not include, as a member, the council's auditor under section 128 of the Act.
- (2) The audit committee of a council subsidiary—
 - (a) must have between 3 and 5 members (inclusive); and
 - (b) must include at least 1 person who is not a member of the board of management of the subsidiary and who is determined by the council to have financial experience relevant to the functions of the audit committee; and
 - (c) must not include, as a member, the council's auditor under section 128 of the Act or the auditor of the subsidiary under Part 5.
- (3) The audit committee of a regional subsidiary—
 - (a) must have between 3 and 5 members (inclusive); and
 - (b) must include at least 1 person who is not a member of the board of management of the regional subsidiary and who is determined by the constituent councils to have financial experience relevant to the functions of the audit committee; and
 - (c) may include members who are members of a constituent council; and
 - (d) must not include, as a member, a constituent council's auditor under section 128 of the Act or the auditor of the subsidiary under Part 5.

14—Variation of regulation 14—Audit standards

Regulation 14(1)—delete "Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants" and substitute:

Australian Auditing and Assurance Standards Board

15—Insertion of new Division

After regulation 16 insert:

Division 3—Independence of council auditor

16A—Independence of council auditor

- (1) A council, council subsidiary or regional subsidiary must not engage its auditor to provide services to the council outside the scope of the auditor's functions under the Act.
- (2) The chief executive officer of a council (in a case involving a council or council subsidiary) or the chief executive officer of each constituent council (in a case involving a regional subsidiary), and the presiding member of the audit committee of the relevant body (unless the body is exempt from the requirement to have an audit committee), must each provide, on an annual basis, a statement that provides a certification as to compliance for the relevant financial year with the requirement that the auditor be independent of the relevant body.
- (3) A statement under subregulation (2) must accompany the financial statements for the relevant body.
- (4) The auditor of a council, council subsidiary or regional subsidiary must provide a statement to the following effect:

I confirm that, for the audit of the financial statements of for the...../..... financial year, I have maintained my independence in accordance with the requirements of APES 110—Code of Ethics for Professional Accountants, Section 290, published by the Accounting Professional and Ethical Standards Board, and in accordance with the requirements of the *Local Government Act 1999* and the *Local Government (Financial Management) Regulations 1999* made under that Act.
- (5) A statement under subregulation (4) must accompany the audited financial statements of the relevant body.
- (6) The Minister may, on application by a council, by notice in the Gazette, grant an exemption from the operation of this regulation, or a part of this regulation.
- (7) An exemption under subregulation (6) may be subject to conditions specified by the Minister.
- (8) The Minister may, by subsequent notice in the Gazette, vary or revoke an exemption, or a condition imposed in relation to an exemption.
- (9) The Minister must not act under subregulation (8) except on the application of, or after consultation with, the relevant council.

16—Revocation of Schedule

Schedule—delete the Schedule

Schedule 1—Transitional provisions

The variations effected to the *Local Government (Financial Management) Regulations 1999* by these regulations apply as follows:

- (a) the variations effected by regulations 4(1), (2) and (4), 5, 11, 12, 14 and 16 apply in relation to the 2006/2007 financial year, and subsequent financial years;
- (b) the variations effected by regulation 13 apply from the commencement of these regulations;
- (c) the variations effected by regulations 4(3), 6 to 10 (inclusive) and 15 apply in relation to the 2007/2008 financial year, and subsequent financial years.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 25 January 2007

No 3 of 2007

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