

Passed by both Houses



New South Wales

Local Government Amendment (Miscellaneous) Bill 2006

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2006*



New South Wales

Local Government Amendment (Miscellaneous) Bill 2006

Act No , 2006

An Act to amend the *Local Government Act 1993* with respect to constitutional referenda, council meetings, by-elections and service of notices; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment (Miscellaneous) Act 2006*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

4 Amendment of Local Government (General) Regulation 2005

The *Local Government (General) Regulation 2005* is amended as set out in Schedule 2.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Local Government Act 1993

(Section 3)

[1] Section 20 When is a question at a council poll or constitutional referendum carried?

Insert at the end of the section:

- (2) The reference to votes in subsection (1) does not include a reference to any vote that, pursuant to the regulations, is found to be informal.

[2] Section 234 When does a vacancy occur in a civic office?

Insert after section 234 (2):

- (3) If the holder of a civic office attends a council meeting (whether or not an ordinary meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards any future council meeting.
- (4) Subsection (3) does not prevent the council from granting further leave of absence in respect of any future council meeting.

[3] Section 294 Dispensing with by-elections

Omit “1 April” from section 294 (1). Insert instead “1 October”.

[4] Section 377 General power of the council to delegate

Insert before the third last dot point in section 377 (1):

- a decision under section 234 to grant leave of absence to the holder of a civic office

[5] Section 377 (1)

Renumber the dot point paragraphs (including the paragraph inserted by item [4]) as paragraphs (a)–(u), and insert commas at the end of each paragraph, other than the last.

[6] Section 710 Service of notices on persons

Insert “transmitting the notice by” before “facsimile transmission” in section 710 (2) (d).

[7] Section 710 (2) (d1)

Insert after section 710 (2) (d):

- (d1) by transmitting the notice by electronic mail to an email address specified by the person (on correspondence or otherwise) as an address to which electronic mail to that person may be transmitted, or

[8] Section 710 (2A)–(2C)

Insert after section 710 (2):

- (2A) Subsection (2) (d1) does not authorise a notice to be transmitted to a person by electronic mail unless the person has requested the council, in writing, that notices of that kind be transmitted to the person by electronic mail, and has not subsequently withdrawn the request.
- (2B) A person’s request under subsection (2A) is taken to have been withdrawn in relation to a particular kind of notice only if the person has informed the council, in writing, that notices of that kind are no longer to be transmitted to the person by electronic mail.
- (2C) While a person’s request under subsection (2A) has effect in relation to a particular kind of notice, the address to which notices of that kind are to be transmitted is:
 - (a) the email address indicated in the request, or
 - (b) if the person subsequently directs the council, in writing, to transmit notices of that kind to a different email address, that different address.

[9] Section 710 (8)

Insert “, or its transmission by electronic mail has been initiated,” after “posted”.

[10] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1 (1):

Local Government Amendment (Miscellaneous) Act 2006

[11] Schedule 8

Insert at the end of the Schedule, with appropriate numbering:

**Part Provisions consequent on enactment of
Local Government Amendment
(Miscellaneous) Act 2006**

Definition

In this Part:

the 2006 amending Act means the *Local Government Amendment (Miscellaneous) Act 2006*.

Council polls and constitutional referendums

Section 20, as amended by the 2006 amending Act, extends to any council poll or constitutional referendum initiated before that section was so amended.

Leave of absence

Section 234, as amended by the 2006 amending Act, extends to any leave of absence granted before that section was so amended.

Schedule 2 Amendment of Local Government (General) Regulation 2005

(Section 4)

[1] Clause 235A

Insert after clause 235:

235A Leave of absence

- (1) A councillor's application for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent.
- (2) A councillor who intends to attend a council meeting despite having been granted leave of absence should, if practicable, give the general manager at least 2 days' notice of his or her intention to attend.

[2] Part 13, Division 11

Insert after Division 10 of Part 13:

Division 11 Functions of general manager

413A Functions of general manager (section 335)

If a court or tribunal orders a council to pay any fine or other penalty, or to pay costs in relation to any legal proceedings, it is the duty of the council's general manager to ensure that the following information is made available to each councillor as soon as practicable after the order is made:

- (a) the date on which the order was made,
- (b) the amount of the fine, penalty or costs,
- (c) the act or omission giving rise to the fine or penalty, or the nature of the legal proceedings giving rise to the costs, as the case may be.