

Circular No. 12-12  
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## AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1993

### Purpose

The purpose of this circular is to advise councils and other stakeholders of recent changes to the *Local Government Act 1993*. The amendments were made by three separate amending Acts being:

- the Local Government Amendment Act 2012, the majority of which commenced on 4 April 2012. Clause 9 of Schedule 1 which will commence separately by proclamation and the making of a Regulation;
- the Local Government Amendment (Elections) Act 2012, which commenced on 11 April 2012; and
- the Local Government Amendment (Members of Parliament) Act 2012), which commenced on 11 April 2012.

### The changes

The changes include the following:

- allowing a council to grant a lease or licence over community land for a period of up to 30 years subject to the consent of the Minister;
- providing that the voting system in a contested election is to be optional preferential if only one councillor is to be elected, or proportional if 2 or more councillors are to be elected;
- providing an exemption from compliance with requirements of the pecuniary interest provisions at meetings in relation to the adoption of principal local environmental plans (yet to commence);
- allowing eligible persons to enrol as residential electors for local government elections and cast a provisional vote at an election on polling day, provided the person can produce a NSW drivers licence or Photo Card;
- making other miscellaneous amendments to improve the conduct of local government elections;
- precluding members of the NSW Parliament from also holding office as a councillor or Mayor;
- Providing a regulation making power limiting the exercise of functions by councils in the 4 weeks preceding ordinary elections. Councils will be separately advised of the arrangements to apply during the upcoming 'caretaker' period once the Regulation is made.

**Where to get further information**

The amendment Acts can be viewed on the Parliamentary Counsel's website [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

Alternatively, you may contact the Division's Council Governance Team at the above number.

A handwritten signature in blue ink that reads "Ross Woodward". The signature is written in a cursive style with a large initial 'R'.

**Ross Woodward**  
**Chief Executive, Local Government**  
**A Division of the Department of Premier and Cabinet**

Circular No. 12-19  
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Contact Governance Team  
02 4428 4100

## SEPTEMBER 2012 LOCAL GOVERNMENT ELECTIONS – CARETAKER PROVISIONS

### Purpose

With the upcoming local government elections in September 2012 this circular provides a summary of the new caretaker provisions pursuant to the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

### Issue

- Like Commonwealth and State Government, local councils are expected to assume a caretaker role during the election period to ensure that major decisions are not made which would limit the actions of an incoming council.
- On 22 June 2012 amendments were made to the *Local Government (General) Regulation* to mandate what were formally caretaker conventions.
- Clause 393B requires that the council, the General Manager or any other delegate of the council (other than a Joint Regional Planning Panel or the Central Sydney Planning Committee) must not exercise the following functions during the four weeks preceding an ordinary election (caretaker period):
  - Entering into any contract or undertaking involving an expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger).
  - Determining a controversial development application, except where a failure to make such a determination would give rise to a deemed refusal, or such a deemed refusal arose before the commencement of the caretaker period. The term "controversial development application" is defined as one for which at least 25 persons have made submissions by way of objection.
  - Appointing or renewing the appointment of the General Manager or terminating their employment. (This does not include the appointment of an acting or temporary General Manager).
- In particular cases these functions may be exercised with the approval of the Minister.

- The caretaker period for the September 2012 ordinary local government elections commences on Friday 10 August 2012 and ends on Saturday 8 September 2012.

**Action**

- General Managers are asked to bring this circular to the attention of all councillors and senior staff.



**Ross Woodward**  
**Chief Executive, Local Government**  
**A Division of the Department of Premier and Cabinet**