



Hon David Templeman MLA
Minister for Local Government; Heritage; Culture & the Arts

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TO ALL LOCAL GOVERNMENTS

CIRCULAR N^o 01-2020

**PRACTICAL ASSISTANCE FOR LOCAL GOVERNMENTS TO RESPOND DURING
A STATE OF EMERGENCY (COVID-19)**

I am advising that His Excellency the Governor, in Executive Council, has approved regulation amendments dealing with access to funding, procurement and long service leave during the COVID-19 outbreak.

Amendments are being made to the following regulations:

Local Government (Financial Management) Regulations 1996

The purpose of these amendments is to increase the flexibility of the local government sector to access funding in a timelier manner to respond to the State of Emergency Declaration under the *Emergency Management Act 2005*.

Regulation 18 contains exemptions from the requirement for a local government to give local public notice of a change of 'use of money' set aside in a Reserve Account (this currently requires one month's public notice). During a state of emergency in a local government district or part of a district, a further exemption is being provided to allow the local government to change the 'use of money' required to address a need arising from the hazard or from the impact or consequences of the hazard to which the state of emergency declaration relates. This decision, and the reasons for it, must be recorded in the formal minutes of the council.

Regulation 20 contains exemptions from the requirement for a local government to give local public notice of a 'power to borrow' under section 6.20 of the Act. An additional exemption from the period for giving local public notice is provided if the decision is made while a state of emergency declaration is in force and the local government considers that the borrowing is required to address a need arising from the hazard (in this case COVID-19) or from the impact or consequences of the hazard. Once again, this decision, and the reasons for it, must be recorded in the formal council minutes.

Regulation 21 provides further flexibility to a local government to re-purpose money borrowed, but not spent, to address a hazard or the impact or consequences of the hazard. This is tied to the declaration of a state of emergency and has the effect of exempting the local government from providing local public notice before they can access the funds for the new purpose. Once again, this decision, and the reasons for it, must be recorded in the council minutes.

Local Government (Functions and General) Regulations 1996

The primary purpose of these amendments is to increase the flexibility of the local government sector to contract with local suppliers during, and in the aftermath of, the State of Emergency Declaration under the *Emergency Management Act 2005*.

An amendment is being made to regulation 11(1) to increase the threshold to \$250,000 to align with State Government tendering thresholds. This will permit local governments to extend the use of their own purchasing policy and apply local content provisions more readily to goods and services acquired via written quotations.

Local governments should update their purchasing policy to cover the direct purchase of goods and services under \$250,000. For purchases over \$150,000, local governments should ensure that quotations are requested in writing and offers are received in writing. Regulation 11A covering purchasing policies will be updated in the coming weeks.

Regulation 11(2) contains two further exemptions when tenders do not have to be publicly invited.

The first exemption, in new regulation 11(2)(aa), ensures the formal tender process does not need to be undertaken when sourcing and securing essential goods and services to respond to a state of emergency. As outlined in regulation 11(3), there must be a state of emergency declaration in force for the local government district or part of the district and the goods or services must be required to address needs arising from, or impacts or consequences of, the hazard to which the emergency relates.

The other exemption in regulation 11(2)(ja) gives a local government the discretion to renew or extend a contract that expires when a state of emergency declaration is in force, even though this option is not included in the original contract. This will overcome the practical difficulty of businesses responding to a formal tender process while they are shut down or in the transition period when normal business resumes. Limits on this apply: the original contract must have less than three months left to run, the renewal or extension cannot be for more than twelve months, and there must be a state of emergency declaration applying to the district or part of the district when the renewal or extension is entered into.

A further exemption in regulation 11(2)(h) is being updated to encourage local governments to purchase goods or services supplied by Aboriginal businesses. The exemption will now reflect the fact that the Chamber of Commerce and Industry administers the Aboriginal Business Directory. A new exemption has been added recognising goods or services may also be supplied by Supply Nation.

Local Government (Long Service Leave) Regulations

The purpose of these amendments is to provide greater access to paid leave for local government employees stood down during a state of emergency declaration under the *Emergency Management Act 2005*.

Regulation 4 governs rules towards entitlements for long service leave. New regulation 4(da) provides that any period of absence from duty connected with an employer's response to a hazard, or the impact or consequences of the hazard declared under the *Emergency Management Act 2005*, is deemed as continuous service towards an employee's next entitlement of long service leave.

Regulation 7 deals with the actual taking of long service leave. Currently, leave may only be granted and taken in one consecutive period or, by agreement, not more than three consecutive periods. This restriction has been lifted to allow employees to take leave by agreement in two or more separate periods.

In addition, regulation 7A(2) establishes a new right for a worker to take advance leave by agreement with their employer if:

- (a) the worker has completed at least seven years of continuous service of the normal accrual period; and
- (b) the approval for the advance leave is given when there is a state of emergency declaration applying to the district or part of the district in which they work.

If you have any questions, please email LGresponse@dlgsc.wa.gov.au. This is a new email address which has been established to assist local governments during this time.

Yours sincerely



HON DAVID TEMPLEMAN MLA
**MINISTER FOR LOCAL GOVERNMENT;
HERITAGE; CULTURE AND THE ARTS**