

Local Government (General) Regulations 2013

Under the *Subordinate Legislation Act 1978*, all regulations made under any Act of Parliament have an expiry date – being 1 September of the year following the 10th anniversary of the particular regulation being made.

The expiration of a regulation can be postponed for up to four years – meaning that the very longest that a set of regulations can exist before expiring is (depending on the date that a regulation was made) around 15 years.

The purpose of this process is to ensure that regulations are wholly and comprehensively reviewed and replaced on a regular basis.

Having been enacted 13 years ago, the *Local Government (General) Regulations 1999* were close to expiry and have now been revoked and replaced by a new set of regulations – the *Local Government (General) Regulations 2013* which commenced on **1 January 2014**.

The new regulations contain 2 significant changes, all of which were foreshadowed in the draft regulations which were released in July last year.

The first significant change is the addition of regulation 11 which provides that the addition of regulation 11 which provides that, pursuant to section 144(4) of the *Local Government Act 1999*, a fee, cost or expense payable to a council under regulation 9(7) of the *South Australian Public Health (Wastewater) Regulations 2013* in relation to the connection of an on-site community wastewater management system is, while the fee, cost or expense remains unpaid, a charge on the land.

This measure is significant as it allows councils to recover outstanding CWMS fees, etc through a debt recovery action in a relevant Court of law, or as a rating debt.

...the *Local Government (General) Regulations 2013* which commenced on 1 January 2014...

The second significant change is the introduction of regulation 35 which requires the following additional information to be included in councils' Annual Reports in respect of the use of confidentiality provisions under the LG Act:

- in respect of orders made to exclude the public from a meeting of a council or council committee

under section 90(2) of the LG Act – the date and subject of **each** order **must** be included in the annual report;

- in respect of orders made under section 91(7) of the LG Act to ensure that documents or part of documents considered in confidence under section 90(2) be kept confidential – the Annual report **must** include the number of orders made under section 91(7) that remained operative at the end of the financial year (not including orders made before 15 November 2010) **and must** include the date and subject of each order.

The remainder of the changes include:

- the re-numbering of **regulations and forms** to ensure consecutive numbering (i.e. no regulation numbers include a letter such as "A");
- the replacement of the term "STEDS" with the currently-used term "community wastewater management system";
- the replacement of the term "de facto spouse" with the currently-used term "domestic partner" and the inclusion of "domestic partner" in the definition of "family" in Forms 3 – 6, being for primary and ordinary returns for elected members and staff; and
- minor rewording to provisions such as to convert written numbers to numerical symbols – i.e. "2" instead of "two".

Given the new numbering assigned to regulations and forms, we recommend that councils review their existing forms and delegations under these regulations to ensure that they are consistent with the new regulations.

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If you have any questions please contact Victoria Shute on 8113 7104 or vshute@kellyjones.com.au