

CLAUSE NOTES

Local Government (Miscellaneous Amendments) Bill 2023

Clause 1 Short title

Clause 2 Commencement

The provisions commence the day the Act receives royal assent.

Clause 3 Principal Act

In this Act, the *Local Government Act 1993* is referred to as the Principal Act.

Clause 4 Section 60G inserted

Section 60G (Interpretation) is inserted in Part 7, Division 1 (General manager and employees) of the Principal Act.

The section provides that, in that Division, merit assessment means in relation to a decision on the appointment of a person:

A written assessment of the knowledge, skills, qualifications and experience of the person relevant to the required duties of the appointment.

The assessment takes into consideration the relative suitability of candidates for the required duties of the appointment; the relationship between candidates' work-related qualities and the work-related qualities generally required for the duties of the appointment; and the relative capacity of candidates to achieve outcomes related to the appointment.

The elements of merit assessment provided in this section are derived from those in the *State Service Act 2000*.

Clause 5 Section 61 (Appointment of general manager) of the Principal Act is amended.

Subsection 1A is omitted and substituted. The subsection provides that the primary consideration in a council's decision to appoint a general manager must be based on the undertaking of a merit assessment; and the decision must be in accordance with any relevant order made under section 61A by the Minister for Local Government.

Subsection 3 is omitted and substituted. The subsection provides that if a vacancy occurs in the position of general manager, the council is to invite applications for the vacancy by placing a public notice in a daily newspaper circulating in the municipal area.

Subsection 4 is amended. The phrase "seeking applications for the position" is omitted and substituted for the phrase "inviting applications in accordance with subsection 3." This subsection provides, as previously, that a council may reappoint its general manager within six months of the expiry of their appointment without inviting or seeking applications.

Subsection 4A is inserted. The subsection provides that the requirement at subsection 3 to invite applications by public notice does not apply if a council is to appoint a person who is, and will continue to be, appointed as the general manager of another council area. This is provided to ensure councils pursuing resource sharing or shared services arrangements, which have included historically common general managers, are not hindered by the operation of subsection 3.

Clause 6 Section 63 amended (Employees)

Subsection 63 (Employees) of the Principal Act is amended by omitting and substituting subsection 2.

Subsection 2 provides that a council is to adopt human resource policies, and the general manager is to adopt human resource practices and procedures in accordance with the policies of the council, to ensure that:

The council promotes fairness and equity in employment, including the provision of reasonable opportunities for member of the community to apply for employment with the council.

The appointment and promotion of a person as an employee of the council is based on a merit assessment of the person having been undertaken (within the meaning of section 60G).

All employees of the council receive fair and equitable treatment without discrimination.

The subsection encompasses the provision made at the existing subsection of the Principal Act, while incorporating elements relevant to human resources policies, practices and procedures based on merit derived from the *State Service Act 2000*.

Clause 7 Sections 339G and 339H inserted

Subsections 339G and 339H are inserted within Part 16, Division 3 of the Principal Act.

Section 339G provides that, despite any other provision of the Principal Act requiring that any information, record, or document be made available for collection or inspection at a public office, a general manager, if satisfied that emergency circumstances exist, may authorise instead that:

A document required to be available for collection in person at a public office may instead be collected, free of charge, by electronic means.

A document required to be inspected in person may instead be made available for inspection free of charge by electronic means and, upon required, be provided by post to a person in paper copy free of charge.

This section does not apply to inspections of the electoral roll and list of electors at sections 259(1) and 261A, respectively, of the Principal Act.

Section 339H provides that a council may undertake an action requiring the attestation of the execution of a document or the imprint of its common seal by electronic means.

These provisions are intended to ensure business continuity in the event of future disruptions to in-person operations and generally support efficient electronic business practices.

Clause 8 **Legislation repealed**

The legislation specified in Schedule 1 is repealed.

Clause 9 **Repeal of the Act**

This automatically repeals the amending legislation 12 months after the Act is fully commenced. This is because the amendments are incorporated into the Principal Act, and will remain in force after the repeal of the Amending Act.

Schedule 1 The *Ockerby Gardens Helipad Act 1999* is repealed.