



New South Wales

# **Local Government (Approvals) Amendment (Exemptions) Regulation 1996**

under the

Local Government Act 1993

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

ERNIE PAGE

Minister for Local Government

## **Explanatory note**

The object of this Regulation is to exempt certain uses of buildings from the requirement to obtain prior council approval for that use under the *Local Government Act 1993*.

At present, a person must not use a building as a place of public entertainment, or permit such a use, without the prior approval of the council. Under the *Local Government Act 1993*, public entertainment includes a public meeting. This Regulation exempts from that approval requirement the use of a class 9b building for the purpose of a public meeting. (See Schedule 1 [5].) Class 9b buildings (as classified under the Building Code of Australia) are buildings of a public nature used as assembly buildings (such as school halls and classrooms, libraries, church halls and other assembly halls).

A change of use of a building to a use that is not consistent with its current classification also requires the prior approval of the council. This Regulation provides that if the council approves the use of an existing building as a place of public entertainment for a period of up to 72 hours (for example, the

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use of a building for a one-off dance party), and that use is not consistent with the current classification of the building, it is not necessary to also obtain an approval to change the use of the building. If the approval exceeds 72 hours, but does not exceed 7 days, an approval to change the use of the building is not required if the council determines that, in the circumstances of the case, it is not necessary. It is also not necessary to reclassify the building in respect of that short term use. (See Schedule 1 [2], [4] and [5].)

Other amendments ensure that the principles governing the grant of an approval to change the use of a building to a use that is not consistent with its current classification and the grant of an approval to use a building as a place of public entertainment are consistent. (See Schedule 1 [1] and [3].)

This Regulation is made under the *Local Government Act 1993*, including item 8 of Schedule 6 (power to make regulations with respect to approvals), section 175 (Other certificates and statements) and section 748 (the general regulation making power).

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## **Local Government (Approvals) Amendment (Exemptions) Regulation 1996**

### **1 Name of Regulation**

This Regulation is the *Local Government (Approvals) Amendment (Exemptions) Regulation 1996*.

### **2 Amendment of Local Government (Approvals) Regulation 1993**

The *Local Government (Approvals) Regulation 1993* is amended as set out in Schedule 1.

### **3 Notes**

The explanatory note does not form part of this Regulation

## Schedule 1 Amendments

(Clause 2)

**[1] Clause 18 Matters to be taken into consideration by council in determining whether to approve the use of a building or temporary structure as a place of public entertainment**

Insert at the end of clause 18:

- (2) If the application relates to an existing building, the council must not approve the use of the building as a place of public entertainment unless the council, having regard to the circumstances of the case, is of the opinion that the building, with such alterations as it may require:
  - (a) will be structurally sound and capable of withstanding the loadings likely to arise from the use, and
  - (b) will contain reasonable provision for the safety of persons proposed to be accommodated in the building, in the event of fire, particularly in relation to egress, and
  - (c) will contain reasonable provision for the prevention or suppression of fire and the prevention of the spread of fire.

**[2] Clause 23, note**

Insert at the end of clause 23:

**Note.**

If the use of an existing building as a place of public entertainment has been approved by the council for a short period only and that new use is not consistent with the current classification of the building, it may not be necessary to also obtain an approval referred to in this clause (see clause 70(g)).

**[3] Clause 25 Compliance with standards**

Insert after clause 25 (2).

- (3) In addition, the council may approve the use of an existing building as a place of public entertainment without the building being made to comply with the Act and the provisions applicable to that use (Part E1 of the Building Code of Australia excepted) if the council, having regard to the circumstances of the case, is of the opinion that the building, with such alterations as it may require, satisfies clause 18 (2).

**[4] Clause 51A**

Insert after clause 51:

**51A Approval of use of existing building as place of public entertainment for a short time only—building not to be reclassified**

- (1) If the council approves the use of an existing building as a place of public entertainment (pursuant to clause 18) and that new use is not consistent with the current classification of the building, the building is not to be classified in respect of the new use if an approval for the change of use of the building is not required because of clause 70 (g).
- (2) Clause 45 (Occupation prohibited pending issue of certificate of classification) is not contravened if a building is occupied in accordance with the council's approval (pursuant to clause 18).

**Note.**

Clause 70 (g) makes it unnecessary in certain circumstances to obtain council approval for a change of use of a building to a use that is not consistent with its current classification if the new use is the use of the building as a place of public entertainment and that use has been approved by the council under clause 18. The exemption applies only if the approval to use the building as a place of public entertainment is of a short duration.

**[5] Clause 70 Activities for which approval is not required**

Insert after clause 70 (f):

- (g) **Change of use of an existing building to a use that is not consistent with its current classification (where new use is use of building as place of public entertainment).** A change of use of an existing building, or part of an existing building, (being a building that does not exceed 25 metres in height) to a new use that is not consistent with the current classification of the building or part but only if:
  - (i) the new use is the use of the building or part as a place of public entertainment and that use has been approved by the council (pursuant to clause 18), and
  - (ii) the council's approval has effect for a period not exceeding 72 hours, or for a longer period (not exceeding 7 days) that the council determines in the circumstances of the case is of such a short duration as to make it unnecessary to also approve a change of use.
- (h) **Use of class 9b buildings for public meetings.** The use of a building that is a class 9b building for the purpose of a public meeting, or the permission of the use of a such a building for that purpose.