WESTERN AUSTRALIA

LOCAL GOVERNMENT (CONSTITUTION) REGULATIONS 1996

ARRANGEMENT

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SCHEDULE 1 — FORMS
LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (CONSTITUTION) REGULATIONS 1996

Made by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the Local Government (Constitution) Regulations 1996.

Interpretation

2. (1) In these regulations, unless the contrary intention appears —

   "commencement day" means the day of coming into operation of the Act;

   "Schedule" means a Schedule to the Act;

   "section" means a section of the Act.

   (2) A reference in these regulations to a Form followed by a designation is a reference to the Form so designated in Schedule 1 to these regulations.

Proposals to change the method of filling the office of mayor or president — s. 2.12

3. A proposal by electors under section 2.12 to change the method of filling the office of mayor or president of a local government to the other method mentioned in section 2.11 (1) (a) or (b) is to be in the form of Form 1.
Disqualification for membership: serious local government offences — s. 2.22

4. For the purposes of section 2.22 —
   (a) the period referred to in paragraph (a) of the definition of "serious local government offence" in section 2.22 (3) is 2 years; and
   (b) the amount referred to in paragraph (b) of the definition of "serious local government offence" in section 2.22 (3) is $10,000.

Forms of oath, affirmation and declaration — ss. 2.29 and 2.42

5. For the purposes of sections 2.29 and 2.42 —
   (a) the form of oath of allegiance is set out in Form 2;
   (b) the form of affirmation of allegiance is set out in Form 3;
   (c) the form of declaration for a mayor, president, deputy mayor, deputy president or councillor is set out in Form 4; and
   (d) the form of declaration for a commissioner is set out in Form 5.

Persons before whom oath, affirmation or declaration may be taken or made — ss. 2.29 and 2.42

6. (1) An oath, affirmation or declaration required by section 2.29 to be taken or made by a person elected as a mayor or president is to be taken or made before —
   (a) the immediate predecessor of the person in the office of mayor or president; or
   (b) an authorized person.

   (2) An oath, affirmation or declaration required by section 2.29 to be taken or made by a person elected as a councillor, deputy mayor or deputy president is to be taken or made before an authorized person.

   (3) An oath, affirmation or declaration required by section 2.42 to be taken or made by a person appointed as a commissioner is to be taken or made before an authorized person.
(4) In this regulation —

"authorized person" means a person before whom a statutory declaration can be made under section 2 of the Declarations and Attestations Act 1913.

Proposals about creating, changing the boundaries of, and abolishing districts — Sch. 2.1, cl. 2

7. A proposal by affected electors under clause 2 of Schedule 2.1 (which provides for proposals about creating, changing the boundaries of, or abolishing districts) is to be in the form of Form 6.

Request for a poll on a recommended amalgamation — Sch. 2.1, cl. 8

8. A request by electors under clause 8 of Schedule 2.1 asking for a recommendation of the Advisory Board that districts be abolished and amalgamated to be put to a poll of electors of the districts is to be in the form of Form 7.

Submission about changes to wards, names or representation — Sch. 2.2, cl. 3

9. A submission by affected electors under clause 3 of Schedule 2.2 (which provides for submission about wards, the name of a district or ward or the number of councillors for a district or ward) is to be in the form of Form 8.

Transitional provisions as to petitions — s. 9.71

10. (1) If a change to the mode of election to an office of mayor or president has been proposed by —

(a) a resolution passed under section 10A (4) (a) of the Local Government Act 1960; or

(b) a petition delivered under section 10A (4) (b) of the Local Government Act 1960,

on or after 9 January 1996, but the proposal has not been submitted to a poll of electors under section 10A (4) of the Local Government Act 1960 before the
commencement day, the resolution or petition has no effect on or after the commencement day.

(2) Nothing in subregulation (1) prevents the local government concerned from making a decision under section 2.11 (2) to change the method it uses to fill the office of mayor or president.

(3) If a petition presented to the Governor under section 12 (1) of the Local Government Act 1960 on or after 9 January 1996 has not been acted upon or rejected before the commencement day, the petition is to be regarded, on and after the commencement day, as a proposal made under clause 2 of Schedule 2.1 that an order be made as to the matters referred to in the petition.

Transitional provisions as to ward changes before the first elections under the Act — Sch. 2.2 and s. 9.71

11. (1) Despite Schedule 2.2, a local government may (without giving local public notice under clause 7 of Schedule 2.2 and without making any report or proposal to the Advisory Board) propose* to the Minister the making of any order under section 2.2 (1), 2.3 (3) or 2.18 (3), and the Governor may make that order (without any recommendation by the Advisory Board) if the Governor considers that the purpose of the order is to expedite —

   (a) the establishment of a ward system for the local government’s district; or

   (b) changes to the existing ward system for the local government’s district,

before and for the purposes of the ordinary elections to be held on 3 May 1997.

* Absolute majority required

(2) An order made in accordance with subregulation (1) has no effect if it is published in the Gazette on or after 14 February 1997.
SCHEDULE 1 — FORMS

Form 1

Local Government Act 1995

Local Government (Constitution) Regulations 1996

PROPOSAL TO CHANGE THE METHOD OF FILLING THE OFFICE OF "MAYOR/PRESIDENT"

TO: The "Mayor/President" of ..........................................

1. The method of filling the office of "mayor/president" currently used by (2) is "election by electors/election from amongst the councillors.

2. The electors of (3) whose names, details and signatures are set out in the attached list propose that the method of electing the "mayor/president" be changed to "election from amongst the councillors/election by electors.

3. A summary of the reasons for the proposed change is as follows —

4. This proposal is served on behalf of the listed signatories by —

Name
Signature Date
Contact address Phone No.

(1) delete the one that does not apply
(2) insert name of local government
(3) insert name of district

* Under section 2.11 (1) of the Local Government Act 1995 the method of filling the office of mayor or president of a local government is either —
  * election by electors of the district; or
  * election by the council from amongst the councillors.
A proposal to change from one method to the other method can be made to the local government by electors of the district who —
  * are at least 250 in number; or
  * are at least 10% of the total number of electors in the district.
**Form 1 continued: form of each page of listed signatories**

**LIST OF ELECTORS**

We, the undersigned, propose that the method of filling the office of (1) Mayor/President of (2) .................................................. be changed to (1) election from amongst the councillors/election by electors.

<table>
<thead>
<tr>
<th>Full name of elector*</th>
<th>Address which entitles you to vote in the elections of the local government to which this proposal relates</th>
<th>Signature of elector</th>
<th>Date</th>
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(1) delete the one that does not apply
(2) insert name of local government

* An elector may be one of the following —

- a resident owner or occupier enrolled to vote at State elections;
- an owner of rateable property (e.g. an absentee land owner or an owner of business premises, vacant land or other non-residential property);
- an occupier of rateable property (e.g. a tenant of business premises or other non-residential property).
Form 2

Local Government Act 1995

Local Government (Constitution) Regulations 1996

OATH OF ALLEGIANCE

I, ........................................, of ........................................... sincerely promise and swear that I will be faithful and bear true allegiance to (1) ........................................., (2) her/his heirs and successors, according to law. So help me God.

Sworn at .................. on .......... 19 ...

by ..................................................

Before me ...............................

(1) insert the name of the reigning Sovereign
(2) delete the one that does not apply
Form 3

Local Government Act 1995

Local Government (Constitution) Regulations 1996

AFFIRMATION OF ALLEGIANCE

I, .................................. of .............................................
solemnly and sincerely affirm that I will be faithful and bear true allegiance to
(1) .................................., (2) her/his heirs and successors, according to law.

Affirmed at ...................... on ........... 19 .

by ................................................

Before me ........................................

(1) insert the name of the reigning Sovereign
(2) delete the one that does not apply
Form 4

Local Government Act 1995

Local Government (Constitution) Regulations 1996

DECLARATION BY ELECTED MEMBER

I, ........................................, of ........................................, having been elected to the office of ........................................, declare that I take the office upon myself, and will duly and faithfully fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the code of conduct adopted by ........................................ under section 5.103 of the Local Government Act 1995.

Declared at ........................................ on ............ 19 .

by ............................................

Before me ............................................

(1) delete those that do not apply
(2) insert name of local government
(3) delete reference to observance of the code of conduct if the local government has not yet adopted one
Form 5

Local Government Act 1995

Local Government (Constitution) Regulations 1996

DECLARATION BY COMMISSIONER

I, ..........................................., of .....................................................
having been appointed to the office of Commissioner of (1) ..................................declare that I take the office upon myself and will duly and faithfully fulfil the duties of the office according to the best of my judgment and ability.

Declared at ......................... on ............... 19 ..

by ..........................................................

Before me ...........................................

(1) insert name of local government
Form 6

Local Government Act 1995

Local Government (Constitution) Regulations 1996

PROPOSAL TO CREATE, CHANGE THE BOUNDARIES OF, OR ABOLISH A DISTRICT*

TO: The Local Government Advisory Board.

1. The affected electors whose names, details and signatures are set out in the attached list propose that an order should be made under section 2.1 of the Local Government Act 1995 in relation to the district of (1) .

2. A summary of the purposes of the proposed order is as follows —

3. The following documents are attached to and form part of this proposal —
   d a statement setting out clearly the nature of the proposal and the effects of the proposal on local governments; and
   d a plan illustrating any proposed changes to the boundaries of a district.

4. This proposal is served on behalf of the listed signatories by —
   Name ..........................
   Signature ........................ Date ..........................
   Contact address .................. Phone No. ..........................

(1) insert name of district proposed to be created, affected, or abolished

* Under clause 2 (1) (d) of Schedule 2.1 to the Local Government Act 1995 a proposal that an order be made under section 2.1 of the Act to create, change the boundaries of, or abolish a district can be made to the Local Government Advisory Board by affected electors who —
   • are at least 250 in number; or
   • are at least 10% of the total number of affected electors.

"affected electors" are —
   • electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the proposal; or
   • people who could be electors if the area directly affected by the proposal became, or became part of, a district.
LIST OF AFFECTED ELECTORS

We, the undersigned, propose that an order be made under section 2.1 of the Local Government Act 1995 for the purposes summarized in item 2 of this proposal in relation to the district of (insert name of district proposed to be created, affected or abolished) ..............................................................................

<table>
<thead>
<tr>
<th>Full name of affected elector*</th>
<th>Address which entitles, or would entitle, you to vote in the elections of the local government of the district proposed to be created, affected or abolished</th>
<th>Signature of affected elector</th>
<th>Date</th>
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(1) insert name of district proposed to be created, affected or abolished

* An elector may be one of the following —
- a resident owner or occupier enrolled to vote at State elections;
- an owner of rateable property (e.g. an absentee land owner or an owner of business premises, vacant land or other non-residential property);
- an occupier of rateable property (e.g. a tenant of business premises or other non-residential property);
and an affected elector is —
- an elector whose eligibility as an elector comes from residence, or ownership or occupation of property, in the area directly affected by the proposal; or
- a person who could be an elector if the area directly affected by the proposal became, or became part of, a district.
REQUEST FOR A POLL ON A RECOMMENDED AMALGAMATION*

TO: The Minister for Local Government.

1. The electors of the district of .................................. whose names, details and signatures are set out in the attached list request that the recommendation of the Local Government Advisory Board that the districts of .................................. and .................................. be abolished and amalgamated, be put to a poll of electors of the districts.

2. This request is served on behalf of the listed signatories by —

   Name .................................

   Signature .......................... Date ..........................

   Contact address ..................... Phone No. .................

   .................................

   (1) insert name of district whose electors are making the request
   (2) insert names of the 2 or more districts to be abolished and amalgamated

* Under clause 8 of Schedule 2.1 to the Local Government Act 1995 a request asking for a recommendation of the Local Government Advisory Board that districts be abolished and amalgamated to be put to a poll of electors of the districts can be made to the Minister for Local Government by —

   • at least 250; or
   • at least 10%,

   of the electors of one of the districts.
**Form 7 continued: form of each page of listed signatories**

**LIST OF ELECTORS**

We, the undersigned, electors of the district of (1) ....................................................
request that the recommended abolition and amalgamation of the districts of (2) .................................................... and .................................................... be put to a poll of electors of those districts under the *Local Government Act 1995*.

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<tr>
<th>Full name of elector*</th>
<th>Address which entitles you to vote in the elections of a local government of a district recommended for amalgamation</th>
<th>Signature of elector</th>
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(1) insert name of district whose electors are making the request
(2) insert names of the 2 or more districts to be abolished and amalgamated

* An elector may be one of the following —
  * a resident owner or occupier enrolled to vote at State elections;
  * an owner of rateable property (e.g. an absentee land owner or an owner of business premises, vacant land or other non-residential property);
  * an occupier of rateable property (e.g. a tenant of business premises or other non-residential property).
Form 8

Local Government Act 1995

Local Government (Constitution) Regulations 1996

SUBMISSION ABOUT CHANGES TO WARDS, NAME OR REPRESENTATION*


1. The electors of the district of [2] .......................... whose names, details and signatures are set out in the attached list submit that an order should be made under the Local Government Act 1995 for the following purpose —

   ........................................................................

   ........................................................................

   ........................................................................

   ........................................................................

   ........................................................................

   for the following reasons —

   ........................................................................

   ........................................................................

   [Attach any other relevant documentation including a map if appropriate.]

2. This submission is served on behalf of the listed signatories by —

   Name .................................

   Signature ................................. Date .................................

   Contact address ................................. Phone No. .................................

   ........................................................................

   (1) delete the one that does not apply
   (2) insert name of local government
   (3) insert name of district

* Under clause 3 of Schedule 2.2 to the Local Government Act 1995 a submission that an order be made under the Act about wards, the name of a district or ward or the number of councillors for a district or ward can be made to the local government concerned by affected electors who —

   • are at least 250 in number; or
   • are at least 10% of the total number of affected electors.

"affected electors" are those whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the submission.
**Form 8 continued: form of each page of listed signatories**

**LIST OF AFFECTED ELECTORS**

We, the undersigned, submit that an order should be made under the *Local Government Act 1995* for the purpose set out in item 1 of this submission in relation to *(1)* ..............................................................

<table>
<thead>
<tr>
<th>Full name of affected elector*</th>
<th>Address which entitles you to vote in the elections of the local government to which this submission relates</th>
<th>Signature of affected elector</th>
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*(1) insert name of local government*

* An elector may be one of the following —
  * a resident owner or occupier enrolled to vote at State elections;
  * an owner of rateable property (e.g. an absentee land owner or an owner of business premises, vacant land or other non-residential property);
  * an occupier of rateable property (e.g. a tenant of business premises or other non-residential property);

and an affected elector is one whose eligibility as an elector comes from residence, or ownership or occupation of property, in the area directly affected by the submission.

By His Excellency's Command, J. PRITCHARD, Clerk of the Council.