

WESTERN AUSTRALIA

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**LOCAL GOVERNMENT  
(CONSTITUTION) REGULATIONS 1996**

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ARRANGEMENT

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Page

1. Citation
2. Interpretation
3. Proposals to change the method of filling the office of mayor or president — s. 2.12
4. Disqualification for membership: serious local government offences — s. 2.22
5. Forms of oath, affirmation and declaration — ss. 2.29 and 2.42
6. Persons before whom oath, affirmation or declaration may be taken or made — ss. 2.29 and 2.42
7. Proposals about creating, changing the boundaries of, and abolishing districts — Sch. 2.1, cl. 2
8. Request for a poll on a recommended amalgamation — Sch. 2.1, cl. 8
9. Submission about changes to wards, names or representation — Sch. 2.2, cl. 3
10. Transitional provisions as to petitions — s. 9.71
11. Transitional provisions as to ward changes before the first elections under the Act — Sch. 2.2 and s. 9.71

**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**

[reg. 3]

*Local Government Act 1995*

*Local Government (Constitution) Regulations 1996*

**PROPOSAL TO CHANGE THE METHOD OF FILLING THE OFFICE OF <sup>(1)</sup>MAYOR/PRESIDENT\***

TO: The <sup>(1)</sup>Mayor/President of <sup>(2)</sup> .....

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

2. The electors of <sup>(3)</sup> ..... whose names, details and signatures are set out in the attached list propose that the method of electing the <sup>(1)</sup>mayor/president of <sup>(2)</sup> ..... be changed to <sup>(1)</sup>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

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\* 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 2**

[reg. 5]

*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 <sup>(1)</sup>  
....., <sup>(2)</sup>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**

[reg. 5]

*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  
<sup>(1)</sup> ....., <sup>(2)</sup>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**

[reg. 5]

*Local Government Act 1995*

*Local Government (Constitution) Regulations 1996*

**DECLARATION BY ELECTED MEMBER**

I, ....., of .....,  
 having been elected to the office of <sup>(1)</sup>Mayor/ Deputy Mayor/ President/ Deputy  
 President/ Councillor of <sup>(2)</sup> .....,  
 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 <sup>(2)</sup> .....,  
 ..... under section 5.103 of the *Local Government Act*  
*1995*.<sup>(3)</sup>

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

10

**Form 5**

[reg. 5]

*Local Government Act 1995*

*Local Government (Constitution) Regulations 1996*

**DECLARATION BY COMMISSIONER**

I, ....., of .....  
having been appointed to the office of Commissioner of <sup>(1)</sup> .....  
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**

[reg. 7]

*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 <sup>(1)</sup> . . . . .
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  
       • 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

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\* 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.



**Form 7**

[reg. 8]

*Local Government Act 1995*

*Local Government (Constitution) Regulations 1996*

**REQUEST FOR A POLL ON A RECOMMENDED AMALGAMATION\***

TO: The Minister for Local Government.

1. The electors of the district of <sup>(1)</sup> . . . . . 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 <sup>(2)</sup> . . . . . 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 8**

[reg. 9]

*Local Government Act 1995*

*Local Government (Constitution) Regulations 1996*

**SUBMISSION ABOUT CHANGES TO WARDS, NAME  
OR REPRESENTATION\***

TO: The <sup>(1)</sup>Mayor/President of <sup>(2)</sup> .....

1. The electors of the district of <sup>(3)</sup> ..... 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.

