



Western Australia

Local Government Legislation Amendment Act 2019

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Local Government Legislation Amendment Act 2019

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Western Australia

Local Government Legislation Amendment Act 2019

No. 16 of 2019

An Act to amend the *Local Government Act 1995*, the *Local Government (Miscellaneous Provisions) Act 1960* and certain other Acts.

[Assented to 5 July 2019]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Local Government Legislation Amendment Act 2019*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) sections 5, 13 to 17, 20, 22, 24, 25 to 44, 48 to 51, 57, 61, 64 to 68, 74 and Part 4 — on a day fixed by proclamation, and different days may be fixed for different provisions;
- (c) the rest of the Act — on the day after assent day.

Part 2 — *Local Government Act 1995* amended

3. Act amended

This Part amends the *Local Government Act 1995*.

4. Section 1.4 amended

In section 1.4 delete the definition of *75% majority*.

5. Sections 1.7 and 1.8 replaced

Delete sections 1.7 and 1.8 and insert:

1.7. Local public notice

Where under this Act local public notice of a matter is required to be given, notice of the matter must be —

- (a) published on the official website of the local government concerned in accordance with the regulations; and
- (b) given in at least 3 of the ways prescribed for the purposes of this section.

1.8. Statewide public notice

Where under this Act Statewide public notice of a matter is required to be given, notice of the matter must be given in accordance with section 1.7(a) and (b) and the requirements prescribed for the purposes of this section.

6. Section 1.10 deleted

Delete section 1.10.

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7. Section 2.11 amended

In the footnote to section 2.11(2) delete “* *Special*” and insert:

* *Absolute*

8. Section 3.12 amended

(1) In section 3.12(3)(a) delete “Statewide” and insert:

local

(2) Delete section 3.12(3a).

(3) Delete section 3.12(6)(c) and insert:

(c) advising that the local law is published on the local government’s official website and that copies of the local law may be inspected at or obtained from the local government’s office.

9. Section 3.16 amended

(1) In section 3.16(2) delete “Statewide” and insert:

local

(2) Delete section 3.16(2a).

10. Section 3.17 amended

After section 3.17(4) insert:

- (5) The reference in the *Interpretation Act 1984* section 42(8)(b) to local laws includes local laws made under this section by the Governor.

11. Section 3.59 amended

- (1) In section 3.59(4):

(a) in paragraph (b) delete “notice.” and insert:

notice; and

(b) after paragraph (b) insert:

(c) publish a copy of the business plan on the local government’s official website.

- (2) Delete section 3.59(5a).

12. Section 4.32 amended

In section 4.32(3) delete “section 4.31(1)(c)” and insert:

section 4.31(1C)

13. Section 4.39 amended

Delete section 4.39(2) and insert:

- (2) Statewide public notice of the time and date of the close of enrolments must be given on or after the

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70th day, but not later than on the 56th day, before election day by —

- (a) the Electoral Commissioner if the Electoral Commissioner is responsible for the conduct of the election; or
- (b) the CEO in any other case.

14. Section 4.47 amended

Delete section 4.47(1) and insert:

- (1) Statewide public notice calling for nominations of candidates for the election must be given on or after the 56th day, but not later than on the 45th day, before election day by —
 - (a) the Electoral Commissioner if the Electoral Commissioner is responsible for the conduct of the election; or
 - (b) the returning officer in any other case.

15. Section 4.48 amended

- (1) In section 4.48(1):
 - (a) in paragraph (c) delete “day.” and insert:

day; and
 - (b) after paragraph (c) insert:

 - (d) the person has completed the course of induction prescribed for the purposes of this subsection.

(2) Delete section 4.48(2) and insert:

- (2) If the election is to fill the office of elector mayor or president, a person can only be a candidate if —
- (a) the person was an elector of the district who, as at the close of enrolments and at the time of nomination, was qualified under section 2.19 to be elected as a member of the council; and
 - (b) at the time of nomination, the person has completed the course of induction prescribed for the purposes of this subsection.

16. Section 4.52 amended

(1) In section 4.52(1) delete “exhibited to the public (with the details and profiles of any other candidates) on a notice board at the local government’s offices.” and insert:

published (with the details and profiles of any other candidates) on the local government’s official website.

(2) In section 4.52(2) delete “remain on exhibition —” and insert:

be kept on the local government’s official website —

Note: The heading to amended section 4.52 is to read:

Candidates’ details and profiles to be published on website

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17. Section 4.64 amended

- (1) In section 4.64(1):
- (a) delete “the returning officer is to give”;
 - (b) after “about the election” insert:

must be given
- (2) After section 4.64(1) insert:
- (1A) The Statewide public notice must be given by —
- (a) the Electoral Commissioner if the Electoral Commissioner is responsible for the conduct of the election; or
 - (b) the returning officer in any other case.

18. Section 5.10 amended

In section 5.10(3) delete “local government.” and insert:

council.

19. Section 5.17 amended

In section 5.17(1)(a)(i) delete “or a 75% majority of the local government; and” and insert:

of the council; and

20. Section 5.29 amended

In section 5.29(2) delete “of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c)” and insert:

the notice is first given and is to continue in the prescribed way

21. Section 5.38 replaced

Delete section 5.38 and insert:

5.38. Annual review of employees’ performance

- (1) A local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year.
- (2) The CEO must ensure that the performance of each other employee who is employed for more than 1 year is reviewed.
- (3) A review under subsection (1) or (2) must be conducted at least once in relation to each year of the person’s employment.

22. Sections 5.39A to 5.39C inserted

After section 5.39 insert:

5.39A. Model standards for CEO recruitment, performance and termination

- (1) Regulations must prescribe model standards for local governments in relation to the following —
 - (a) the recruitment of CEOs;

- (b) the review of the performance of CEOs;
 - (c) the termination of the employment of CEOs.
- (2) Regulations may amend the model standards.

5.39B. Adoption of model standards

- (1) In this section —
model standards means the model standards prescribed under section 5.39A(1).
- (2) Within 3 months after the day on which regulations prescribing the model standards come into operation, a local government must prepare and adopt* standards to be observed by the local government that incorporate the model standards.

** Absolute majority required.*

- (3) Within 3 months after the day on which regulations amending the model standards come into operation, the local government must amend* the adopted standards to incorporate the amendments made to the model standards.

** Absolute majority required.*

- (4) A local government may include in the adopted standards provisions that are in addition to the model standards, but any additional provisions are of no effect to the extent that they are inconsistent with the model standards.
- (5) The model standards are taken to be a local government's adopted standards until the local government adopts standards under this section.
- (6) The CEO must publish an up-to-date version of the adopted standards on the local government's official website.

- (7) Regulations may provide for —
 - (a) the monitoring of compliance with adopted standards; and
 - (b) the way in which contraventions of adopted standards are to be dealt with.

5.39C. Policy for temporary employment or appointment of CEO

- (1) A local government must prepare and adopt* a policy that sets out the process to be followed by the local government in relation to the following —
 - (a) the employment of a person in the position of CEO for a term not exceeding 1 year;
 - (b) the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

** Absolute majority required.*

- (2) A local government may amend* the policy.

** Absolute majority required.*

- (3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (4) The CEO must publish an up-to-date version of the policy on the local government's official website.

23. Section 5.43 amended

In section 5.43(a) delete “or a 75% majority of the local government;” and insert:

of the council;

24. Section 5.50 amended

- (1) In section 5.50(1):
 - (a) in paragraph (b) delete “amount,” and insert:

amount.
 - (b) delete “and cause local public notice to be given in relation to the policy.”.
- (2) After section 5.50(4) insert:
 - (5) The CEO must publish the policy prepared under subsection (1) and adopted by the local government on the local government’s official website.

25. Section 5.51A inserted

At the end of Part 5 Division 4 insert:

5.51A. Code of conduct for employees

- (1) The CEO must prepare and implement a code of conduct to be observed by employees of the local government.
- (2) The CEO may amend the code of conduct.
- (3) The CEO must publish an up-to-date version of the code of conduct on the local government’s official website.
- (4) Regulations may prescribe the content of, and other matters in relation to, codes of conduct under this section.

- (5) A code of conduct under this section is of no effect to the extent that it is inconsistent with regulations made for the purposes of subsection (4).

26. Part 5 Division 6 heading amended

In the heading to Part 5 Division 6 after “**interests**” insert:

and gifts

27. Part 5 Division 6 Subdivision 1A inserted

At the beginning of Part 5 Division 6 insert:

Subdivision 1A — Preliminary

5.57. Terms used

In this Division, unless the contrary intention appears —

gift means —

- (a) a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money’s worth passes from the person in whose favour the conferral is made to the person who makes the conferral; or
- (b) a travel contribution;

travel includes accommodation incidental to a journey;

travel contribution means a financial or other contribution made by 1 person to travel undertaken by another person.

5.58. Provisions about gifts

- (1) For the purposes of this Division —
 - (a) the amount of a gift comprising the conferral of a financial benefit is taken to be an amount equal to the value of the financial benefit at the time the gift was made; and
 - (b) the amount of a gift comprising a travel contribution (other than a financial contribution) is taken to be an amount equal to the value of the contribution at the time the gift was made.
- (2) For the purposes of this Division, a gift made to a relevant person (as defined in section 5.59) by 2 or more related bodies corporate (as defined in the *Corporations Act 2001* (Commonwealth) section 9) is taken to have been made by a single corporation.

28. Section 5.59 amended

- (1) In section 5.59 insert in alphabetical order:

interest relating to a gift means an interest that a relevant person has because of the operation of section 5.60 when read with section 5.62(1)(ea), (eb) or (ec);

- (2) In section 5.59 in the definition of *relevant person* delete “5.70 or 5.71” and insert:

5.70, 5.71 or 5.71A

29. Section 5.62 amended

(1) In section 5.62(1):

(a) in paragraph (ea)(i) and (ii) delete “a notifiable” and insert:

an electoral

(b) delete paragraph (eb) and insert:

(eb) the relevant person is a council member and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last elected; or

(ec) the relevant person is a CEO and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last employed (or appointed to act) in the position of CEO; or

(2) After section 5.62(1) insert:

(1A) Subsection (1)(eb) and (ec) apply to a gift if —

(a) either —

(i) the amount of the gift exceeds the amount prescribed for the purposes of this subsection; or

(ii) the gift is 1 of 2 or more gifts made by 1 person to the relevant person at any time during a year and the sum of the amounts of those 2 or more gifts exceeds the amount prescribed for the purposes of this subsection;

and

- (b) the gift is not an excluded gift under subsection (1B).
- (1B) A gift is an excluded gift —
 - (a) if —
 - (i) the gift is a ticket to, or otherwise relates to the relevant person's attendance at, an event as defined in section 5.90A(1); and
 - (ii) the local government approves, in accordance with the local government's policy under section 5.90A, the relevant person's attendance at the event;
 - or
 - (b) if the gift is in a class of gifts prescribed for the purposes of this subsection.
- (3) In section 5.62(2) in the definition of *notifiable gift* delete "*notifiable*" and insert:

electoral

30. Section 5.68 amended

- (1) After section 5.68(1) insert:
 - (1A) Subsection (1) does not apply if —
 - (a) the interest disclosed is an interest relating to a gift; and
 - (b) either —
 - (i) the amount of the gift exceeds the amount prescribed for the purposes of this subsection; or

- (ii) the gift is 1 of 2 or more gifts made by 1 person to the disclosing member at any time during a year and the sum of the amounts of those 2 or more gifts exceeds the amount prescribed for the purposes of this subsection.

- (2) In section 5.68(2) delete “together with the extent of any participation allowed by the council or committee.” and insert:

together with —

- (a) the extent of any participation allowed by the council or committee; and
- (b) if the decision concerns an interest relating to a gift, the information prescribed for the purposes of this paragraph.

31. Section 5.69 amended

After section 5.69(4) insert:

- (5) A decision under this section must be recorded in the minutes of the meeting relating to the matter.

32. Section 5.70 amended

- (1) At the end of section 5.70(2) insert:

Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.

(2) After section 5.70(2) insert:

(2A) Subsection (2) applies to a CEO even if the advice or report is provided in accordance with a decision made under section 5.71B(2) or (6).

(3) In section 5.70(3) delete the Penalty and insert:

Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.

33. Sections 5.71A and 5.71B inserted

After section 5.71 insert:

5.71A. CEOs to disclose interests relating to gifts in connection with advice or reports

(1) A CEO who has an interest relating to a gift in a matter in respect of which the CEO proposes to provide advice or a report, directly or indirectly, to the council or a committee must disclose the nature of the interest in a written notice given to the council.

Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.

(2) A CEO who makes a disclosure under subsection (1) must not provide the advice or report unless the CEO is allowed to do so under section 5.71B(2) or (6).

Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.

(3) A CEO who has an interest relating to a gift in a matter in respect of which another employee is providing advice or a report directly to the council or a committee

must disclose the nature of the interest when the advice or report is provided.

Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.

5.71B. Council or Minister may allow CEOs to provide advice or reports

- (1) In this section —
relevant gift means the gift to which the interest disclosed under section 5.71A(1) relates.
- (2) The council may allow the CEO to provide the advice or report to which a disclosure under section 5.71A(1) relates if —
 - (a) the amount of the relevant gift does not exceed the amount prescribed for the purposes of this section; and
 - (b) the council decides that the nature of the interest disclosed is unlikely to influence the CEO in the provision of the advice or report.
- (3) A decision of the council under subsection (2) must be recorded in the minutes of the council meeting at which the decision is made.
- (4) The council may apply to the Minister to allow the CEO to provide the advice or report to which a disclosure under section 5.71A(1) relates if the amount of the relevant gift exceeds the amount prescribed for the purposes of this section.
- (5) An application under subsection (4) must include —
 - (a) details of the nature of the interest disclosed; and
 - (b) any other information required by the Minister for the purposes of the application.

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- (6) On an application under subsection (4), the Minister may allow, on any condition determined by the Minister, the CEO to provide the advice or report if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (7) A decision of the Minister under subsection (6) must be recorded in the minutes of the council meeting at which the decision is considered.
- (8) For the purposes of subsections (2)(a) and (4), if the relevant gift is 1 of 2 or more gifts made by 1 person to the CEO at any time during a year, the amount of the relevant gift is the sum of the amounts of those 2 or more gifts.

34. Section 5.72 amended

In section 5.72 delete “5.70 or 5.71” and insert:

5.70(2), 5.71 or 5.71A(1) or (3)

35. Section 5.73 amended

In section 5.73 delete “5.65 or 5.70” and insert:

5.65, 5.70 or 5.71A(3)

36. Section 5.74 amended

In section 5.74(3):

- (a) delete “gifts or contributions to travel given,”;
- (b) delete “is to be treated as having been given,” and insert:

are taken to have been

37. Sections 5.82 and 5.83 deleted

Delete sections 5.82 and 5.83.

38. Part 5 Division 6 Subdivision 2A inserted

After Part 5 Division 6 Subdivision 2 insert:

Subdivision 2A — Disclosure of gifts

5.87A. Council members to disclose gifts

- (1) A council member must disclose, in accordance with subsection (2) and section 5.87C, a gift received by the council member.

Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.

- (2) The disclosure must be made in writing to the CEO.

- (3) A person does not commit an offence against subsection (1) if —

- (a) the amount of the gift does not exceed the amount prescribed for the purposes of this paragraph; or
(b) the gift is not received by the person in their capacity as a council member.

- (4) For the purposes of subsection (3)(a), if the gift is 1 of 2 or more gifts made by 1 person to the council member at any time during a year, the amount of the gift is the sum of the amounts of those 2 or more gifts.

- (5) For the purposes of subsection (3)(b), the gift is not received by the person in their capacity as a council member if it is a gift that the person would have received even if the person were not a council member.

5.87B. CEOs to disclose gifts

- (1) A CEO must disclose, in accordance with subsection (2) and section 5.87C, a gift received by the CEO.
Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.
- (2) The disclosure must be made in writing to the mayor or president.
- (3) A person does not commit an offence against subsection (1) if —
 - (a) the amount of the gift does not exceed the amount prescribed for the purposes of this paragraph; or
 - (b) the gift is not received by the person in their capacity as the CEO.
- (4) For the purposes of subsection (3)(a), if the gift is 1 of 2 or more gifts made by 1 person to the CEO at any time during a year, the amount of the gift is the sum of the amounts of those 2 or more gifts.
- (5) For the purposes of subsection (3)(b), the gift is not received by the person in their capacity as the CEO if it is a gift that the person would have received even if the person were not the CEO.

5.87C. Provisions about disclosure

- (1) This section applies to a disclosure under section 5.87A or 5.87B.
- (2) The disclosure must be made within 10 days after receipt of the gift.
- (3) The disclosure must include the following —
 - (a) a description of the gift;

- (b) the name and address of the person who made the gift;
- (c) the date on which the gift was received;
- (d) the estimated value of the gift at the time it was made;
- (e) the nature of the relationship between the person who made the gift and the person who received the gift;
- (f) in the case of a travel contribution —
 - (i) a description of the travel; and
 - (ii) the date of the travel.

39. Section 5.88 amended

- (1) In section 5.88(2)(b) delete “5.70 and 5.71,” and insert:

5.70, 5.71 and 5.71A,

- (2) After section 5.88(2) insert:

- (2A) The CEO must publish an up-to-date version of the register on the local government’s official website.

40. Section 5.89A amended

- (1) In section 5.89A(1) delete “gifts and contributions to travel.” and insert:

gifts.

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- (2) In section 5.89A(2) delete “5.82 and 5.83.” and insert:
- 5.87A and 5.87B.
- (3) After section 5.89A(2) insert:
- (2A) The CEO must record a disclosure made under section 5.87A or 5.87B in the register within 10 days after the disclosure is made.
- (2B) If a gift disclosed under section 5.87A or 5.87B is an excluded gift under section 5.62(1B)(a), the CEO must record in the register —
- (a) the date of the approval referred to in section 5.62(1B)(a)(ii); and
 - (b) the reasons for that approval; and
 - (c) any prescribed information.
- (4) Delete section 5.89A(4).
- (5) In section 5.89A(5) after “publish” insert:
- an up-to-date version of
- (6) After section 5.89A(5) insert:
- (5A) The version of the register published under subsection (5) must not, in the case of a disclosure about a gift made by an individual, include the address disclosed under section 5.87C(3)(b) and must instead include the town or suburb mentioned in the address.

- (7) In section 5.89A(6) delete “5.82 or 5.83” and insert:

5.87A or 5.87B

- (8) In section 5.89A(7) delete the passage that begins with “Disclosures made” and ends with “required under section 5.82 or 5.83” and insert:

If records relating to a person are removed from the register under subsection (6), a copy of the records is, for a period of at least 5 years after the person ceases to be a person required under section 5.87A or 5.87B

Note: The heading to amended section 5.89A is to read:

Register of gifts

41. Section 5.89B deleted

Delete section 5.89B.

42. Section 5.89 amended

In section 5.89 delete “5.82 or 5.83” and insert:

5.71A, 5.87A or 5.87B

43. Section 5.90 amended

- (1) In section 5.90(1)(a) and (b) after “interests” insert:

or register of gifts

- (2) In section 5.90(2) delete the definition of *publish* and insert:

publish has the meaning that the term has in the law of tort (as modified by the *Defamation Act 2005*) relating to defamation.

44. Part 5 Division 6A inserted

After Part 5 Division 6 insert:

Division 6A — Attendance at events

5.90A. Policy for attendance at events

- (1) In this section —
event includes the following —
- (a) a concert;
 - (b) a conference;
 - (c) a function;
 - (d) a sporting event;
 - (e) an occasion of a kind prescribed for the purposes of this definition.
- (2) A local government must prepare and adopt* a policy that deals with matters relating to the attendance of council members and the CEO at events, including —
- (a) the provision of tickets to events; and
 - (b) payments in respect of attendance; and
 - (c) approval of attendance by the local government and criteria for approval; and
 - (d) any prescribed matter.

* *Absolute majority required.*

- (3) A local government may amend* the policy.

** Absolute majority required.*

- (4) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (5) The CEO must publish an up-to-date version of the policy on the local government's official website.

45. Section 5.94 amended

In section 5.94:

- (a) delete paragraph (aa);
- (b) after paragraph (b) insert:
- (ba) any register of gifts;
- (c) delete paragraph (e) and insert:
- (e) any list of fees and charges imposed under section 6.16;
- (d) in paragraphs (g) and (j)(ii) delete "Statewide" and insert:
- local
- (e) in paragraph (m) delete "rates" and insert:
- rate
- (f) delete paragraph (t).

46. Section 5.95 amended

(1) In section 5.95(3):

(a) delete “refers —” and insert:

refers was closed to members of the public.

(b) delete paragraphs (a) and (b).

(2) Delete section 5.95(5).

47. Section 5.96A inserted

After section 5.96 insert:

5.96A. Information published on official website

(1) The CEO must publish the following information on the local government’s official website, unless it would be contrary to subsection (2) to do so —

- (a) a map of the district showing the district boundaries and, if the district is divided into wards, the ward boundaries;
- (b) an up-to-date consolidated version of any local law made by the local government in accordance with section 3.12 that is in force;
- (c) the annual budget;
- (d) an up-to-date list of fees and charges imposed under section 6.16;
- (e) current plans for the future of the district made under section 5.56;
- (f) confirmed minutes of council or committee meetings;
- (g) minutes of electors’ meetings;

- (h) notice papers and agenda relating to council or committee meetings and reports and other documents that have been —
 - (i) tabled at a council or committee meeting; or
 - (ii) produced by the local government or a committee for presentation at a council or committee meeting and that have been presented at the meeting;
 - (i) information of a kind prescribed for the purposes of this subsection or required by another provision of this Act to be published on the website.
- (2) The CEO must not publish information referred to in subsection (1)(f) or (h) if the meeting or that part of the meeting to which the information refers was closed to members of the public.
 - (3) Subsection (2) does not apply to information —
 - (a) that is a record of decisions made at a council or committee meeting; or
 - (b) of a kind prescribed as being information that can be published despite subsection (2).
 - (4) The CEO must ensure that the following information is not published on the local government's official website —
 - (a) rate records;
 - (b) the register of owners and occupiers under section 4.32(6) and electoral rolls;
 - (c) information of a kind prescribed for the purposes of this subsection.
 - (5) Regulations may specify the period for which information referred to in subsection (1) must be kept

on the local government's official website, and may specify different periods for different kinds of information.

48. Part 5 Division 9 heading amended

In the heading to Part 5 Division 9 delete “**of certain officials**”.

49. Section 5.102A amended

- (1) In section 5.102A delete the definition of *rules of conduct*.
- (2) In section 5.102A insert in alphabetical order:

candidate means a candidate for election as a council member;

model code means the model code of conduct prescribed for the purposes of section 5.103(1);

rule of conduct means a provision of the model code that is specified in the model code to be a rule of conduct;

50. Sections 5.103 and 5.104 replaced

Delete sections 5.103 and 5.104 and insert:

5.103. Model code of conduct for council members, committee members and candidates

- (1) Regulations must prescribe a model code of conduct for council members, committee members and candidates.
- (2) The model code of conduct must include —
 - (a) general principles to guide behaviour; and

- (b) requirements relating to behaviour; and
 - (c) provisions specified to be rules of conduct.
- (3) The model code of conduct may include provisions about how the following are to be dealt with —
- (a) alleged breaches of the requirements referred to in subsection (2)(b);
 - (b) alleged breaches of the rules of conduct by committee members.
- (4) The model code of conduct cannot include a rule of conduct if contravention of the rule would, in addition to being a minor breach under section 5.105(1)(a), also be a serious breach under section 5.105(3).
- (5) Regulations may amend the model code of conduct.

5.104. Adoption of model code of conduct

- (1) Within 3 months after the day on which regulations prescribing the model code come into operation, a local government must prepare and adopt* a code of conduct to be observed by council members, committee members and candidates that incorporates the model code.

** Absolute majority required.*

- (2) Within 3 months after the day on which regulations amending the model code come into operation, the local government must amend* the adopted code of conduct to incorporate the amendments made to the model code.

** Absolute majority required.*

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- (3) A local government may include in the adopted code of conduct requirements in addition to the requirements referred to in section 5.103(2)(b), but any additional requirements —
 - (a) can only be expressed to apply to council members or committee members; and
 - (b) are of no effect to the extent that they are inconsistent with the model code.
- (4) A local government cannot include in the adopted code of conduct provisions in addition to the principles referred to in section 5.103(2)(a) or the rules of conduct.
- (5) The model code is taken to be a local government's adopted code of conduct until the local government adopts a code of conduct.
- (6) An alleged breach of a local government's adopted code of conduct by a candidate cannot be dealt with under this Division or the adopted code of conduct unless the candidate has been elected as a council member.
- (7) The CEO must publish an up-to-date version of a local government's adopted code of conduct on the local government's official website.

51. Section 5.105 amended

Delete section 5.105(1) and insert:

- (1) A council member commits a minor breach if the council member —
 - (a) contravenes a rule of conduct; or
 - (b) contravenes a local law under this Act, contravention of which the regulations specify to be a minor breach.

- (1A) Subsection (1) extends to the contravention of a rule of conduct that occurred when the council member was a candidate.
- (1B) Regulations cannot specify that contravention of a local law under this Act is a minor breach if contravention of the local law would, in addition to being a minor breach under subsection (1), also be a serious breach under subsection (3).

52. Section 5.107 amended

In section 5.107(4) delete “2 years” and insert:

6 months

53. Section 5.108 amended

In section 5.108(3) delete “2 years” and insert:

6 months

54. Section 5.109 amended

In section 5.109(2) delete “2 years” and insert:

6 months

55. Section 5.110 amended

(1) After section 5.110(3A) insert:

(3B) A standards panel may —

- (a) request the parties to participate in mediation to resolve behavioural matters related to the complaint; and
- (b) if the parties agree to the request, defer the making of a finding under subsection (2) pending the outcome of the mediation.

(2) After section 5.110(5) insert:

(5A) When determining how the breach should be dealt with under subsection (6), the standards panel may take into account —

- (a) the outcome of mediation requested under subsection (3B); or
- (b) a refusal by the council member to participate in mediation requested under subsection (3B).

(3) In section 5.110(6):

(a) delete paragraph (a) and insert:

(a) ordering that no sanction be imposed; or

(b) in paragraph (b)(iii) delete “order;” and insert:

order; or

(c) after paragraph (b)(iii) insert:

- (iv) the person against whom the complaint was made pay to the local government specified in the order an amount equal to the amount of remuneration and allowances payable by the local government in relation to the complaint under Schedule 5.1 clause 9;

(4) After section 5.110(7) insert:

- (8) Regulations may provide for or regulate matters relating to mediation under this section including —
 - (a) the appointment of mediators; and
 - (b) the procedures to be followed when mediation is undertaken; and
 - (c) the time allowed for mediation; and
 - (d) payment and recovery of the costs of mediation.

56. Section 5.118 amended

(1) In section 5.118(2) delete “5.117” and insert:

5.117(1)

(2) After section 5.118(2) insert:

- (3) Without limiting subsections (1) and (2), the CEO of the local government concerned must publish on the local government’s official website any censure

ordered under section 5.110(6), 5.113 or 5.117(1) in respect of a person who is a council member.

57. Section 5.120 replaced

Delete section 5.120 and insert:

5.120. Complaints officer

- (1) The CEO may designate an employee of the local government to be its complaints officer.
- (2) If an employee is not designated under subsection (1), the CEO is the local government's complaints officer.

58. Section 5.121 amended

- (1) In section 5.121(1) delete "action under section 5.110(6)(b) or (c)." and insert:

a finding under section 5.110(2)(a) that a minor breach has occurred.

- (2) In section 5.121(2)(d) delete "section 5.110(6)(b) or (c)." and insert:

section 5.110(6).

- (3) After section 5.121(2) insert:

- (3) The CEO must publish an up-to-date version of the register of complaints on the local government's official website.

59. Section 5.123 amended

- (1) Delete section 5.123(1) and insert:
 - (1A) Subsection (1) applies to a person —
 - (a) who makes a complaint; or
 - (b) against whom a complaint is made; or
 - (c) who performs a function under this Act in respect of a complaint; or
 - (d) who, as a result of anything done under this Division, becomes aware of any detail of a complaint knowing it to be relevant to the complaint.
 - (1) A person to whom this subsection applies commits an offence if the person discloses information that the complaint has been made or information about any detail of the complaint.
- (2) In section 5.123(2):
 - (a) after paragraph (b) insert:
 - (ba) the disclosure is made by the Departmental CEO in circumstances where —
 - (i) the complaint to which the information relates is a complaint sent to the Departmental CEO under section 5.114(1) or 5.115(1); and
 - (ii) the Departmental CEO has made a decision about whether to make an allegation under section 5.116(2) in relation to the complaint; and

(iii) the Departmental CEO considers that the disclosure is in the public interest;

or

(b) in paragraph (c) delete “section 5.110(6)(b) or (c); or” and insert:

section 5.110(6); or

(c) delete paragraph (d) and insert:

(d) the complaint to which the information relates is a complaint of a recurrent breach or serious breach and the State Administrative Tribunal has made an order described in section 5.117(1) in relation to the breach.

(3) Delete section 5.123(3).

60. Section 5.125 amended

In section 5.125(2) delete the definition of *decision* and insert:

decision means a decision to make an order under section 5.110(6).

61. Part 5 Division 10 inserted

At the end of Part 5 insert:

Division 10 — Training and development

5.126. Training for council members

- (1) Each council member must complete training in accordance with regulations.
- (2) Regulations may —
 - (a) prescribe a course of training; and
 - (b) prescribe the period within which training must be completed; and
 - (c) prescribe circumstances in which a council member is exempt from the requirement in subsection (1); and
 - (d) provide that contravention of subsection (1) is an offence and prescribe a fine not exceeding \$5 000 for the offence.

5.127. Report on training

- (1) A local government must prepare a report for each financial year on the training completed by council members in the financial year.
- (2) The CEO must publish the report on the local government's official website within 1 month after the end of the financial year to which the report relates.

5.128. Policy for continuing professional development

- (1) A local government must prepare and adopt* a policy in relation to the continuing professional development of council members.

** Absolute majority required.*

- (2) A local government may amend* the policy.

** Absolute majority required.*

- (3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (4) The CEO must publish an up-to-date version of the policy on the local government's official website.
- (5) A local government —
- (a) must review the policy after each ordinary election; and
 - (b) may review the policy at any other time.

62. Section 6.36 amended

- (1) Delete section 6.36(3)(c) and insert:

- (c) is to advise electors and ratepayers that the document referred to in subsection (3A) —
- (i) may be inspected at a time and place specified in the notice; and
 - (ii) is published on the local government's official website.

- (2) After section 6.36(3) insert:

- (3A) The local government is required to prepare a document describing the objects of, and reasons for, each proposed rate and minimum payment and to publish the document on the local government's official website.

63. Section 6.41 amended

After section 6.41(3) insert:

- (4) The rate notice may be given by email if the local government has obtained the consent of the owner or occupier, as the case requires, to giving the rate notice in that way.

64. Section 9.10 replaced

Delete section 9.10 and insert:

9.10. Appointment of authorised persons

- (1) In this section —

law means any of the following —

- (a) this Act;
- (b) the *Caravan Parks and Camping Grounds Act 1995*;
- (c) the *Cat Act 2011*;
- (d) the *Cemeteries Act 1986*;
- (e) the *Control of Vehicles (Off-road Areas) Act 1978*;
- (f) the *Dog Act 1976*;
- (g) subsidiary legislation made under an Act referred to in any of paragraphs (a) to (f);
- (h) a written law prescribed for the purposes of this section;

specified means specified in the instrument of appointment.

- (2) The CEO may, in writing, appoint persons or classes of persons to be authorised persons for the purposes of

- 1 or more specified laws or specified provisions of 1 or more specified laws.
- (3) An appointment under subsection (2) is subject to any specified conditions or limitations.
- (4) The CEO must give to each person appointed under subsection (2) an identity card that —
- (a) on the front of the card, sets out —
 - (i) the name and official insignia of the local government; and
 - (ii) the name of the person; and
 - (iii) a recent photograph of the person;and
 - (b) on the back of the card, specifies each law to which the person's appointment relates.
- (5) A person appointed under subsection (2) (the *authorised person*) must —
- (a) carry their identity card at all times when performing functions under a specified law; and
 - (b) produce their identity card for inspection when required to do so by a person in respect of whom the authorised person has performed or is about to perform a function under a specified law.
- (6) A person who, without reasonable excuse, fails to return their identity card to the CEO within 14 days after their appointment ceases to have effect commits an offence.

65. Section 9.13 amended

In section 9.13(1) in the definition of *authorised person* delete “by the local government” and insert:

under section 9.10(2)

66. Section 9.15 amended

In section 9.15 in the definition of *authorised person* delete “section 9.10(1) by the local government” and insert:

section 9.10(2)

67. Section 9.25 amended

Delete section 9.25(1) and insert:

- (1) Proceedings for an offence against a provision of this Act listed in the Table may be commenced at any time.

Table

s. 4.85(1) and (2)	s. 4.86
s. 4.91(1)	s. 5.65(1)
s. 5.67	s. 5.69(4)
s. 5.69A(4)	s. 5.70(2) and (3)
s. 5.71	s. 5.71A(1), (2) and (3)
s. 5.75	s. 5.76
s. 5.78(1)	s. 5.87A(1)

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s. 4.85(1) and (2)	s. 4.86
s. 5.87B(1)	s. 5.89
s. 5.93	

68. Section 9.49A amended

- (1) Delete section 9.49A(3)(b) and insert:

(b) the CEO,

- (2) In section 9.49A(4) delete “chief executive officer,” and insert:

CEO,

69. Section 9.57A inserted

At the end of Part 9 Division 4 insert:

9.57A. Local government protected from liability for defamation: council proceedings on website

- (1) In this section —
council proceedings means proceedings at a meeting of the council or a committee of the council;
matter has the meaning given in the *Defamation Act 2005* section 4.
- (2) A local government is not liable to an action for defamation in relation to matter published on its official website as part of a broadcast, audio recording, or video recording, of council proceedings.

70. Schedule 2.4 amended

In Schedule 2.4 clause 6(3) delete “or a special majority”.

71. Schedule 2.5 amended

- (1) In Schedule 2.5 clause 2(c) delete “Managers Australia WA Division” and insert:

Professionals Australia (WA)

- (2) In Schedule 2.5 clause 4(2) delete “Managers Australia WA Division” and insert:

Professionals Australia (WA)

- (3) In Schedule 2.5 clause 11(2)(c) delete “Managers Australia WA Division” and insert:

Professionals Australia (WA)

72. Schedule 5.1 amended

In Schedule 5.1 clause 11(2) delete “section 5.110(6)(b) or (c).” and insert:

section 5.110(6).

73. Schedule 6.3 amended

In Schedule 6.3 delete clause 1(1)(c) and insert:

- (c) to be published on the local government's official website and kept on the website for not less than 35 days.

74. Schedule 9.3 amended

(1) In Schedule 9.3 clause 1:

- (a) in the definition of *former provisions* delete "day;" and insert:

day.

- (b) delete the definition of *senior employee*.

(2) At the end of Schedule 9.3 insert:

**Division 5 — Provisions for the *Local Government
Legislation Amendment Act 2019***

55. Authorised persons

- (1) This clause applies to a person who, immediately before the day on which the *Local Government Legislation Amendment Act 2019* section 64 comes into operation, was a person appointed under section 9.10(1) for the purposes of performing particular functions.
- (2) The person is taken to be an authorised person appointed under section 9.10(2) for the purposes of this Act on the terms and conditions that were applicable to the person's appointment under section 9.10(1) immediately before the day referred to in subclause (1).

- (3) At the end of Schedule 9.3 Division 5 insert:

56. Register of gifts

- (1) In this clause —

commencement day means the day on which the *Local Government Legislation Amendment Act 2019* section 40 comes into operation;

former provisions means sections 5.82 and 5.83 as in force immediately before the day on which the *Local Government Legislation Amendment Act 2019* section 37 comes into operation;

former section 5.89A(7) means section 5.89A(7) as in force immediately before commencement day.

- (2) In addition to the record required by section 5.89A(2), the register of gifts kept under section 5.89A(1) must contain a record of disclosures made under the former provisions that were recorded in the register immediately before commencement day.
- (3) Former section 5.89A(7) continues to apply in relation to disclosures made under the former provisions that, immediately before commencement day, were being kept by the CEO and made available for public inspection under that subsection.

Part 3 — *Local Government (Miscellaneous Provisions) Act 1960* amended

75. Act amended

This Part amends the *Local Government (Miscellaneous Provisions) Act 1960*.

76. Section 450 amended

In section 450 after “cause” insert:

local

77. Section 451 amended

In section 451(2) after “cause” insert:

local

78. Section 463 amended

(1) In section 463(2)(b):

(a) after “14 days’” insert:

local public

(b) delete “land,” and insert:

land and

- (c) delete “published in the *Gazette*, or in a newspaper circulating in the locality;” and insert:

given,

- (2) After section 463(2) insert:

- (3) If, for the purposes of subsection (2)(b), the owner or occupier of the land requests the local government of the district in which the land is situated to publish a notice on the local government’s official website, the local government must comply with the request.

79. Section 464 amended

In section 464 delete “the local government has caused notice of the increase or variation to be published in the *Gazette*.” and insert:

local public notice of the increase or variation is first given by the local government.

80. Section 469 amended

In section 469(5) delete the passage that begins with “a notice of” and continues to the end of the subsection and insert:

local public notice of the impounding to be given in the form in Schedule 5.

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81. Section 470 amended

In section 470(1)(b) delete “publishing the notice of impounding in the *Gazette*, or the newspaper; and” and insert:

giving local public notice of the impounding; and

82. Section 474 amended

In section 474(1):

- (a) in paragraph (b) delete “the notice” (1st occurrence) and insert:

notice of the impounding

- (b) delete paragraph (c) and insert:

(c) where local public notice of the impounding has been given, within 7 days after the notice was first given,

- (c) delete the passage that begins with “auction,” and continues to the end of the subsection and insert:

auction if local public notice of the time and place of the sale and the cattle to be sold has been given at least 3 days before the day of the sale.

Part 4 — Other Acts amended

Division 1 — *Caravan Parks and Camping Grounds Act 1995* amended

83. Act amended

This Division amends the *Caravan Parks and Camping Grounds Act 1995*.

84. Section 5 amended

In section 5(1) delete the definition of *authorised person* and insert:

authorised person means a person appointed to be an authorised person under —

- (a) section 17(1)(a); or
- (b) the *Local Government Act 1995* section 9.10(2) for the purposes of this Act;

85. Section 17 amended

(1) In section 17(1):

- (a) delete “Department or a local government —” and insert:

Department —

- (b) in paragraph (a) delete “or the local government”.

(2) In section 17(2):

(a) delete “An authorised person is to” and insert:

A person appointed under subsection (1)(a) must

(b) delete “authorised” (2nd occurrence).

(3) Delete section 17(4).

86. Section 17A inserted

After section 17 insert:

17A. Assistance from member of Police Force

A member of the Police Force must, at the request of an authorised person, assist the authorised person in enforcing compliance with this Act and has, while assisting the authorised person, all the powers of an authorised person.

87. Section 23 amended

(1) In section 23(1) delete “under subsection (11) to be an authorised person” and insert:

to be an authorised person under the *Local Government Act 1995* section 9.10(2)

(2) Delete section 23(11) and (12) and insert:

(11) A person who is authorised to give infringement notices under subsection (2) cannot be an authorised person for the purposes of subsection (3), (5) or (7).

88. Part 6 heading inserted

Before section 34 insert:

Part 6 — Transitional provisions

89. Section 35 inserted

After section 34 insert:

35. Transitional provision for *Local Government Legislation Amendment Act 2019*

- (1) This section applies to a person who, immediately before the day on which the *Local Government Legislation Amendment Act 2019* section 85 comes into operation, was a person appointed by a local government under section 17(1).
- (2) The person is taken to be an authorised person appointed under the *Local Government Act 1995* section 9.10(2) for the purposes of this Act on the terms and conditions that were applicable to the person's appointment under section 17(1) immediately before the day referred to in subsection (1).

Division 2 — *Cat Act 2011* amended

90. Act amended

This Division amends the *Cat Act 2011*.

91. Section 3 amended

In section 3(1) in the definition of *authorised person* delete paragraph (b) and insert:

- (b) a person appointed under the *Local Government Act 1995* section 9.10(2) to be an authorised person for the purposes of this Act;

92. Part 4 Division 3 Subdivision 1 deleted

Delete Part 4 Division 3 Subdivision 1.

93. Section 62 amended

After section 62(2) insert:

- (3) A person who is not an employee of a local government cannot be appointed to be an authorised person for the purposes of this section.

94. Part 7 inserted

After section 86 insert:

Part 7 — Transitional provisions

87. Transitional provision for *Local Government Legislation Amendment Act 2019*

- (1) This section applies to a person who, immediately before the day on which the *Local Government Legislation Amendment Act 2019* section 92 comes into operation, was a person appointed under section 48(1).

- (2) The person is taken to be an authorised person appointed under the *Local Government Act 1995* section 9.10(2) for the purposes of this Act on the terms and conditions that were applicable to the person's appointment under section 48(1) immediately before the day referred to in subsection (1).

Division 3 — *Cemeteries Act 1986* amended

95. Act amended

This Division amends the *Cemeteries Act 1986*.

96. Section 3 amended

In section 3(1) delete the definition of *authorised person* and insert:

authorised person means a person —

- (a) authorised under section 64 to give infringement notices; or
- (b) appointed under the *Local Government Act 1995* section 9.10(2) for the purposes of section 63.

97. Section 64 amended

Delete section 64(2) and insert:

- (2) A Board must give to each person authorised under subsection (1) an identity card that —
- (a) on the front of the card, sets out —
 - (i) the name and official insignia of the Board; and
 - (ii) the name of the person; and

- (iii) a recent photograph of the person;
and
 - (b) on the back of the card, specifies that the person is authorised to give infringement notices.
- (3) A person authorised under subsection (1) must —
 - (a) carry their identity card at all times when performing functions under this Act; and
 - (b) produce their identity card for inspection when required to do so by a person to whom the authorised person has given or is about to give an infringement notice.
- (4) References in this section to a Board do not include a Board that is a local government.

98. Schedule 2 amended

- (1) At the beginning of Schedule 2 insert:

Division 1 — Provisions for repealed Act

- (2) In Schedule 2 clause 1 delete “Schedule —” and insert:

Division —

- (3) After Schedule 2 clause 9 insert:

Division 2 — Provision for *Local Government Legislation Amendment Act 2019*

10. Authorised persons

- (1) This clause applies to a person who, immediately before the day on which the *Local Government Legislation Amendment Act 2019* section 97 comes into operation, was a person authorised under section 64(1) by a Board that is a local government.
- (2) The person is taken to be an authorised person appointed under the *Local Government Act 1995* section 9.10(2) for the purposes of section 63 on the terms and conditions that were applicable to the person's authorisation under section 64(1) immediately before the day referred to in subclause (1).

Division 4 — *Control of Vehicles (Off-road Areas) Act 1978* amended

99. Act amended

This Division amends the *Control of Vehicles (Off-road Areas) Act 1978*.

100. Section 3 amended

In section 3(1) in the definition of *authorised officer* delete "*officer*" and insert:

person

101. Section 5 amended

Delete section 5(5).

102. Section 38 amended

- (1) In section 38(1)(b) and (c) delete “pursuant to” and insert:

under

- (2) Delete section 38(3) and insert:

- (3) A person is appointed as an authorised person under this subsection if the person is appointed under the *Local Government Act 1995* section 9.10(2) to be an authorised person for the purposes of this Act either in respect of the whole of a district or any part of a district specified in the appointment.

- (3) In section 38(4) delete “officer pursuant to subsection (2) or subsection (3) —” and insert:

person under subsection (2) or (3) —

- (4) After section 38(4) insert:

- (4A) Subsection (4)(d) does not apply in the case of a person appointed as an authorised person under subsection (3).

- (5) In section 38(7):

- (a) delete “the officer” (each occurrence) and insert:

the authorised person

(b) delete “that officer” (each occurrence) and insert:

the authorised person

(6) In section 38(9) delete “officer pursuant to” and insert:

person under

(7) In section 38(11)(b) delete “officer,” and insert:

authorised person,

(8) In section 38(15) delete “officer” and insert:

authorised person

(9) In section 38(18) delete “officer appointed by a local government under subsection (3) is to be taken to be detained by the local government.” and insert:

person appointed under subsection (3) is taken to be detained by the local government concerned.

Note: The heading to amended section 38 is to read:

Authorised persons

103. Section 49 inserted

After section 48 insert:

49. Transitional provision for *Local Government Legislation Amendment Act 2019*

- (1) This section applies to a person who, immediately before the day on which the *Local Government Legislation Amendment Act 2019* section 102 comes into operation, was a person appointed under section 38(3).
- (2) The person is taken to be an authorised person appointed under the *Local Government Act 1995* section 9.10(2) for the purposes of this Act on the terms and conditions that were applicable to the person's appointment under section 38(3) immediately before the day referred to in subsection (1).

104. Various references to “authorised officer” amended

In the provisions listed in the Table delete “authorised officer” and insert:

authorised person

Table

s. 8(1)(c)	s. 36(b)
s. 37(1)	s. 38(1), (2), (4)(a) and (d), (6), (7), (8), (11), (13) and (17)(b)
s. 40	

Division 5 — *Dog Act 1976* amended

105. Act amended

This Division amends the *Dog Act 1976*.

106. Section 3 amended

In section 3(1) in the definition of *authorised person* delete paragraph (a) and insert:

- (a) a person appointed under the *Local Government Act 1995* section 9.10(2) to be an authorised person for the purposes of this Act; or

107. Section 11 amended

After section 11(4) insert:

- (5) Subsection (3) does not apply to a person appointed under the *Local Government Act 1995* section 9.10(2) to be an authorised person for the purposes of this Act.

108. Section 11A inserted

After section 11 insert:

11A. Authorised persons

The chief executive officer of a local government must, under the *Local Government Act 1995* section 9.10(2), appoint persons to be authorised persons for the purposes of this Act.

109. Section 29 amended

Delete section 29(1).

110. Part XI Division 1 heading amended

In the heading to Part XI Division 1 delete “**arising from certain amendments made by**” and insert:

for

111. Part XI Division 2 inserted

At the end of Part XI insert:

Division 2 — Transitional provision for the *Local Government Legislation Amendment Act 2019*

61. Authorised persons

- (1) This section applies to a person who, immediately before the day on which the *Local Government Legislation Amendment Act 2019* section 109 comes into operation, was a person appointed under section 29(1).
- (2) The person is taken to be an authorised person appointed under the *Local Government Act 1995* section 9.10(2) for the purposes of this Act on the terms and conditions that were applicable to the person’s appointment under section 29(1) immediately before the day referred to in subsection (1).