



Western Australia

Local Government Amendment Act (No. 2) 1998

No. 64 of 1998

An Act to amend and affect the *Local Government Act 1995* and for related purposes.

[Assented to 12 January 1999]

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Local Government Amendment Act (No. 2) 1998*.

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2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3. The Act amended

The amendments in this Act are to the *Local Government Act 1995**.

[* *Act No. 74 of 1995.*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 138, and Act No. 1 of 1998.]

4. Section 2.36A inserted and consequential amendments

(1) After section 2.36 the following section is inserted —

“

2.36A. Power to declare offices vacant if district is to be abolished

- (1) If an order abolishing a district is made so as to take effect on a day other than the day on which that order is published in the *Gazette*, the Governor may, by order, declare all the offices of members of the council to be vacant.
- (2) A declaration under this section —
 - (a) has no effect if it is made more than 2 years before the date on which the district is to be abolished; and
 - (b) takes effect from the time specified in it.

(3) When a declaration has been made under this section the Governor may, by order, appoint a person as commissioner of the local government until the district is abolished.

”

(2) Section 1.4 is amended in the definition of “commissioner” by inserting after “2.6(4),” —

“ 2.36A(3), ”.

(3) Section 2.37A(1) is amended by deleting “2.37(4)” and inserting instead —

“ 2.36A(1), 2.37(1) or (2) ”.

(4) Section 2.39 is amended by inserting after “2.6(4),” —

“ 2.36A(3), ”.

(5) Section 8.31(2) is amended by inserting after “section” —

“ 2.36A or ”.

(6) Clause 2 of Schedule 2.4 is amended by inserting after “2.6(4),” —

“ 2.36A(3), ”.

5. Section 3.5 amended

Section 3.5 is amended after subsection (4) by inserting the following subsection —

“

(5) Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4).

”

6. Section 3.12 amended

- (1) Section 3.12(3)(a) is amended as follows:
 - (a) by deleting “on at least 2 days,”;
 - (b) in subparagraph (iii) by deleting “first”.
- (2) After section 3.12(3) the following subsection is inserted —
“
 - (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.”.

7. Section 3.16 amended

- (1) Section 3.16(2) is amended as follows:
 - (a) by deleting “, on at least 2 days,”;
 - (b) in paragraph (c) by deleting “first”.
- (2) After section 3.16(2) the following subsection is inserted —
“
 - (2a) A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.”.

8. Section 3.38 amended

Section 3.38 is amended as follows:

- (a) by moving the definitions of “alleged offender” and “contravention that can lead to impounding” to their correct alphabetical positions;
- (b) in the definition of “goods” —
 - (i) at the end of paragraph (a) by deleting “or”;

- (ii) after paragraph (a) by inserting the following paragraph —
 - “ (ab) an animal; or ”;
- (c) by inserting the following definition in the appropriate alphabetical position —

“

“**non-perishable goods**” includes animals;

”.

9. Section 3.42 amended

Section 3.42 is amended as follows:

- (a) after the section designation “**3.42**” by inserting the subsection designation “(1)”;
- (b) at the end of the section by inserting the following subsection —

“

- (2) If after 7 days after the goods were removed, a local government has been unable to give the alleged offender a notice under subsection (1)(b) because it has been unable, after making reasonable efforts to do so, to find the alleged offender, the local government is to be taken to have given that notice .

”.

10. Section 3.46 replaced

Section 3.46 is repealed and the following section is inserted instead —

“

3.46. Goods may be withheld until costs paid

- (1) A local government may refuse to allow goods impounded under section 3.39 to be collected until the costs of removing, impounding and keeping them have been paid to the local government.
- (2) A local government may refuse to allow goods removed under section 3.40 to be collected until the costs of removing and keeping them have been paid to the local government.

”

11. Section 3.47 amended

- (1) Section 3.47(1) and (2) are repealed and the following subsections are inserted instead —

“

- (1) The local government may sell or otherwise dispose of any goods that have been ordered to be confiscated under section 3.43.
- (2) The local government may sell or otherwise dispose of any vehicle that has not been collected within 2 months of a notice having been given under section 3.40(3).
- (2a) The local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in subsection (2b) of —
 - (a) a notice having been given under section 3.42(1)(b) or 3.44; or

- (b) being impounded if the local government has been unable, after making reasonable efforts to do so, to give that notice to the alleged offender.
- (2b) The period after which goods may be sold or otherwise disposed of under subsection (2a) is —
 - (a) for perishable goods — 3 days;
 - (b) for animals — 7 days; and
 - (c) for other non-perishable goods — 2 months.”
- (2) Section 3.47(4) is repealed and the following subsection is inserted instead —
“
 - (4) Money received by a local government from the sale of goods under subsection (2a) is to be credited to its trust fund except to the extent required to meet the costs and expenses incurred by the local government in removing, impounding and selling the goods.”
- (3) Section 3.47(5) is amended as follows:
 - (a) by deleting “(1)(c)” and inserting instead —
“ (2) ”;
 - (b) by deleting “3.46(1)” and inserting instead —
“ 3.46 ”.

12. Section 3.47A inserted

After section 3.47 the following section is inserted —

“

3.47A. Disposal of sick or injured animals

- (1) If an impounded animal is ill or injured to such an extent that treating it is not practicable the local government may humanely destroy the animal and dispose of the carcass.
- (2) A local government must not destroy an animal under subsection (1) unless —
 - (a) because of the state of the animal, destroying it is urgent; or
 - (b) the local government has —
 - (i) taken reasonable steps to notify the owner; and
 - (ii) whether or not notice has been given under subparagraph (i), allowed the owner a reasonable opportunity to collect the animal.
- (3) Subsection (2)(b) does not justify the destruction of an animal before it has been impounded for at least 7 days.

”.

13. Section 3.48 amended

Section 3.48(c) is amended by inserting after “3.47(4)” —

“ or (5), as the case requires ”.

14. Section 3.49 repealed, consequential amendment and saving

- (1) Section 3.49 is repealed.
- (2) Section 3.22(5)(c) is amended by deleting “3.49 or”.
- (3) The amendments made by this section have no effect in relation to a notice given under section 3.49 before the commencement of this section or anything done in consequence of such a notice.

15. Section 3.50 amended

- (1) Section 3.50(5) is amended by deleting “Traffic Board constituted under the *Road Traffic Act 1974*” and inserting instead —

“

Commissioner of Main Roads appointed under the
Main Roads Act 1930

”.

- (2) Section 3.50(7) is amended by deleting “This section does” and inserting instead —

“ Subsections (4) and (5) do ”.

16. Section 3.50A inserted

After section 3.50 the following section is inserted —

“

3.50A. Partial closure of thoroughfare for repairs or maintenance

Despite section 3.50, a local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure —

- (a) is for the purpose of carrying out repairs or maintenance; and

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- (b) is unlikely to have a significant adverse effect on users of the thoroughfare.

”

17. Section 3.51 amended

Section 3.51(4) is repealed and the following subsection is inserted instead —

“

- (4) The notice is to be given —
 - (a) in writing to each person having an interest; and
 - (b) if any land is likely to be adversely affected by the doing of the thing, by local public notice.

”

18. Section 3.59 amended and consequential amendment

- (1) Section 3.59(4)(a) is amended as follows:
 - (a) by deleting “on at least 2 days,”;
 - (b) in subparagraph (iii) by deleting “first”.
- (2) Before section 3.59(6) the following subsection is inserted —

“

- (5a) A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.

”

- (3) Section 1.7(3) is repealed.

19. Section 4.20 amended and consequential amendment

- (1) Section 4.20(3), (5) and (6) are amended by deleting “70th” in each place where it occurs and inserting instead —
- “ 80th ”.
- (2) Section 2.13(3) is amended by deleting “70th” and inserting instead —
- “ 80th ”.

20. Section 4.32 amended

Section 4.32(4) is amended by deleting “7” and inserting instead —

“ 14 ”.

21. Section 4.33 amended

- (1) Section 4.33(1) is repealed and the following subsections are inserted instead —
- “
- (1) If an enrolment eligibility claim made by a person on the basis of ownership of rateable property within the electorate is accepted under section 4.32(4) or (8), the claim expires when the person ceases to own the property to which the claim relates.
- (1a) Unless subsection (2) or (3) applies, an enrolment eligibility claim made by a person on the basis of occupation of rateable property within the electorate expires on the day 6 months after the holding of the second ordinary elections of the local government after the claim is accepted under section 4.32(4) or (8).

”.

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- (2) Section 4.33(2) is amended as follows:
- (a) by inserting after “eligibility claim” —
“
 made on the basis of occupation of rateable property
 within the electorate
”.
 - (b) by inserting after “on the day” —
“ 6 months after ”.
- (3) After section 4.33(2) the following subsection is inserted —
“
(3) If the day on which an enrolment eligibility claim
would expire under subclause (1a) is less than 50 days
before an election at which the occupier would be
eligible to vote, the enrolment eligibility claim does not
expire until the day after that election day.
”.

22. Section 4.39 amended

Section 4.39(1) is amended by deleting “6 p.m.” and inserting
instead —

“ 5 p.m. ”.

23. Section 4.43 amended

- (1) Section 4.43(3) is amended as follows:
- (a) by deleting “, with the approval of the Electoral
Commissioner,”;
 - (b) at the end of paragraph (c) by deleting the comma and
inserting a full stop instead;
 - (c) by deleting “but no alteration is to be made after the
22nd day before election day.”.

(2) After section 4.43(3) the following subsections are inserted —

“

- (3a) If the returning officer is not the CEO, the returning officer may direct the CEO to make the alterations to the rolls described in subsections (1) and (3) and the CEO is to comply with that direction.
- (3b) If a roll is altered after it has been supplied under section 4.42(2) to members of the council and candidates, the returning officer is to supply details of the alteration to those members and candidates in accordance with regulations.

”

24. Section 4.52 replaced and consequential amendment

(1) Section 4.52 is repealed and the following section is inserted instead —

“

4.52. Exhibition of candidates' details and profiles

- (1) If a nomination is accepted, the returning officer is to ensure that the details and profile of the candidate are exhibited to the public (with the details and profiles of any other candidates) on a notice board at the local government's offices.
- (2) The details and profiles are to remain on exhibition —
 - (a) if section 4.55 or 4.57(2)(a) apply, until the result is declared under section 4.77; or
 - (b) otherwise, until 6 p.m. on election day.
- (3) In this section —

“details”, in relation to a candidate, means —

 - (a) the candidate's name;

- (b) the name to appear on the ballot paper;
- (c) the ward (if any) in respect of which the candidate has nominated;
- (d) the office for which the candidate has nominated; and
- (e) the type of election in which the candidate has nominated.

”.

- (2) Section 4.53(3) is amended by deleting “nomination paper” and inserting instead —

“ details ”.

25. Section 4.61 amended

Section 4.61(3) and (5) are amended by deleting “70th” in each place where it occurs and inserting instead —

“ 80th ”.

26. Section 4.73 amended

Section 4.73(2) is repealed and the following subsections are inserted instead —

“

- (2) If the election is to fill an office or offices of councillor and any candidate has been elected to fill the office of mayor or president on the council at an election held on the same election day, that candidate cannot be elected to an office of councillor.

- (3) When subsection (2) applies, if the number of other candidates is equal to the number of offices to be filled at the election —
 - (a) the other candidate or candidates is or are elected unopposed; and
 - (b) the votes are to be counted —
 - (i) only if 2 or more of the councillors elected at that election will retire on different days; and
 - (ii) only for the purpose of applying the provisions of Schedule 4.2 about the order of retirement of councillors.
- (4) When subsection (2) applies, if the number of other candidates is greater than the number of offices to be filled at the election, the counting of votes is to proceed.
- (5) When votes are counted under subsection (3)(b) or (4), any vote marked for the candidate who has been elected to fill the office of mayor or president is to be disregarded.

”

27. Section 4.89 amended

Section 4.89 is amended as follows:

- (a) after the section designation “**4.89.**” by inserting the subsection designation “(1)”;
- (b) at the end of the section by inserting the following subsection —

“

- (2) It is a defence to a charge under subsection (1) to prove that the accused person was within 6 metres of the

entrance to a polling place with the approval of the presiding officer.

”.

28. Section 5.25 amended

Section 5.25 is amended as follows:

- (a) after the section designation “**5.25.**” by inserting the subsection designation “(1)”;
- (b) after paragraph (b) by inserting the following paragraph —

“

- (ba) the holding of council or committee meetings by telephone, video conference or other electronic means;

”.

- (c) at the end of the section by inserting the following subsection —

“

- (2) Regulations providing for meetings to be held by telephone, video conference or other electronic means may modify the application of this Act in relation to those meetings to the extent necessary or convenient to facilitate the holding of those meetings in that way.

”.

29. Section 5.50 amended

- (1) After section 5.50(1) the following subsection is inserted —

“

- (1a) A local government must not make any payment of the kind described in subsection (1)(a) unless the local

government has adopted a policy prepared under subsection (1).

”

- (2) Section 5.50(2)(b) is amended by deleting “by the local government under subsection (1),” and inserting instead —

“

under subsection (1) and adopted by the local government,

”

- (3) After section 5.50(2) the following subsections are inserted —

“

(3) The value of a payment or payments made to a person under this section is not to exceed such amount as is prescribed or provided for by regulations.

(4) In this section a reference to a payment to a person includes a reference to the disposition of property in favour of, or the conferral of any other financial benefit on, the person.

”

30. Section 5.60 replaced

Section 5.60 is repealed and the following sections are inserted instead —

“

5.60. When a person has an “interest”

For the purposes of this Subdivision, a relevant person has an interest in a matter if either —

- (a) the relevant person; or

- (b) a person with whom the relevant person is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

5.60A. Financial interest

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government in a particular way, result in a financial gain, loss, benefit or detriment for the person.

5.60B. Proximity interest

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
 - (a) a proposed change to a planning scheme affecting land that adjoins the person's land;
 - (b) a proposed change to the zoning or use of land that adjoins the person's land; or
 - (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
- (2) In this section, land ("**the proposal land**") adjoins a person's land if —
 - (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land;
 - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or

- (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

”.

31. Section 5.62 amended

Section 5.62 is amended as follows:

- (a) after the section designation “5.62.” by inserting the subsection designation “(1)”;
- (b) by deleting “the person”;
- (c) at the beginning of paragraphs (a) to (f) by inserting —
“ the person ”;
- (d) at the end of paragraph (e), by deleting “or”;
- (e) after paragraph (e) by inserting —

“

- (ea) the relevant person is a council member and the person —
 - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;

or

”.

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- (f) at the end of the section by inserting the following subsection —

“

- (2) In subsection (1)(ea) —

“**notifiable gift**” means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election.

”.

32. Section 5.63 amended

- (1) Section 5.63(1) is amended as follows:

- (a) after paragraph (d) by inserting the following paragraph —

“

- (e) an interest arising only because the relevant person is, or may become, a member of the council of a regional local government;

”.

- (b) in paragraph (f) by deleting “a member” and inserting instead —

“ , or intends to become, a member or office bearer ”;

- (c) in paragraph (g) by deleting “a member,” and inserting instead —

“ , or intends to become, a member, office bearer, ”.

- (2) Section 5.63(2), (3) and (4) are amended by deleting “an interest” in the first places where it occurs and inserting instead —

“ a financial interest ”.

33. Section 5.66 amended

Section 5.66(b) is amended by inserting after “notice” —
“ and its contents ”.

34. Section 5.69A inserted and consequential amendments

(1) After section 5.69 the following section is inserted —

“

5.69A. Minister may exempt committee members from disclosure requirements

- (1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.
- (2) An application under subsection (1) is to include —
 - (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

”.

- (2) Section 9.25(1) is amended by inserting after “5.69(4),” —
“ 5.69A(4), ”.

35. Section 5.84 amended

Section 5.84(1) is amended as follows:

- (a) in paragraph (a) by deleting “and address”;
- (b) by deleting paragraph (c) and inserting the following paragraph instead —

“

- (c) for each corporation to which paragraph (a) applies, other than corporations whose shares are listed for quotation on a stock market in Australia —

- (i) its address; and
- (ii) a description of its principal business.

”.

36. Section 5.98 amended

Section 5.98(5) is amended by deleting “entertainment” in the 3 places where it occurs and inserting instead —

“ local government ”.

37. Section 5.98A inserted

After section 5.98 the following section is inserted —

“

5.98A. Allowance for deputy mayor or deputy president

- (1) A local government may decide* to pay the deputy mayor or deputy president of the local government an allowance of up to the prescribed percentage of the annual local government allowance to which the mayor or president is entitled under section 5.98(5).

** Absolute majority required.*

- (2) An allowance under subsection (1) is to be paid in addition to any amount to which the deputy mayor or deputy president is entitled under section 5.98.

”

38. Section 5.99A inserted

After section 5.99 the following section is inserted —

“

5.99A. Allowances for council members in lieu of reimbursement of expenses

A local government may decide* that instead of reimbursing council members under section 5.98(2) for all of a particular type of expense it will instead pay all council members —

- (a) the prescribed minimum annual allowance for that type of expense; or

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- (b) where the local government has set an allowance within the prescribed range for annual allowances for that type of expense, an allowance of that amount,

and only reimburse the member for expenses of that type in excess of the amount of the allowance.

** Absolute majority required.*

”

39. Section 6.12 amended

Section 6.12(1)(b) and (c) are amended by deleting the asterisks.

40. Section 7.13 amended

Section 7.13(i) is amended by deleting “in the manner and form prescribed” and inserting instead —

“

, in the prescribed manner and in a form approved by the Minister,

”

41. Section 8.3 amended

After section 8.3(5) the following subsection is inserted —

“

- (6) If 2 or more people are authorized to conduct an inquiry —
 - (a) a reference in section 8.4, 8.12, 8.13, 8.14 or 8.15A to “the authorized person” or “an authorized person” is a reference to those people; and

- (b) a reference in section 8.5, 8.6, 8.8, 8.9, 8.10 or 8.11 to “an authorized person” is a reference to any of those people.

”

42. Section 8.14 amended

Section 8.14(2) is amended as follows:

- (a) by deleting “is to” and inserting instead —
“ may ”;
- (b) after paragraph (b) by deleting “or”;
- (c) at the end of paragraph (c) by deleting the full stop and inserting instead —

“

; or

- (d) the Executive Director considers ought, for any other reason, to be removed.

”

43. Section 8.15A inserted

After section 8.15 the following section is inserted —

“

8.15A. Local government may have to meet inquiry costs

If —

- (a) an authorized person makes findings adverse to a local government, or to its council or any member, or to any of its employees; or

- (b) an inquiry by an authorized person was instituted at the request of a local government,

the Minister may order the local government to pay all or part of the costs of the inquiry and the local government is to comply with that order.

”.

44. Section 8.16 amended and consequential amendments

- (1) Section 8.16(1) is amended by inserting after “consisting of” —

“ one person or ”.

- (2) Schedule 8.1 is amended as follows:

- (a) in clause 1(1) by deleting “Of the 3 persons appointed as members of an Inquiry Panel —” and inserting instead —

“

If an Inquiry Panel consists of 3 people then of the people appointed as members of the Panel —

”.

- (b) after clause 1(1) by inserting the following subclause —

“

- (1a) If an Inquiry Panel consists of one person, that person is to be a legal practitioner who the Minister and WAMA agree should be appointed.

”.

- (c) in clause 1(2) by inserting after “subclause (1)(b)” —
“ or (1a) ”;

- (d) in clause 3(1) by deleting “All of the members of an Inquiry Panel” and inserting instead —

“ If an Inquiry Panel consists of 3 people, all 3 members ”.

45. Section 8.20 replaced

Section 8.20 is repealed and the following section is inserted instead —

“

8.20. Powers of Inquiry Panel

For the purposes of an inquiry and report under this Division —

- (a) an Inquiry Panel has the powers of a Royal Commission; and
- (b) the person appointed to preside at meetings of the Inquiry Panel, or if the Inquiry Panel consists of one person that person, has the powers of the chairman of a Royal Commission,

whether under the *Royal Commissions Act 1968* or otherwise, and the provisions of that Act have effect as if they were enacted in this Act with such modifications as are required and in terms made applicable to the inquiry and report by the Inquiry Panel.

”.

46. Section 8.21 amended

Section 8.21 is amended by deleting “inquiry panel” and inserting instead —

“ Inquiry Panel ”.

47. Section 8.23 amended

After section 8.23(4) the following subsection is inserted —

“

- (5) If the council is suspended each council member may, within 35 days after receiving the report or such longer period as the Minister allows, give the Minister written advice setting out the member’s comments on the recommendations in the report.

”

48. Section 9.2 amended

Section 9.2 is amended in the definition of “authorization” by inserting after “anything” —

“

, other than one that has been excluded by regulations from being an authorization for the purposes of this definition

”

49. Section 9.8 amended

- (1) Section 9.8(1) is repealed and the following subsections are inserted instead —

“

- (1) Subject to subsection (1a), an appeal against a decision that adversely affects the business or livelihood of the appellant is to be dealt with by a Local Court or the Minister, as the appellant elects in the appeal.

- (1a) An appeal that —

- (a) is against a decision that adversely affects the business or livelihood of the appellant; and

- (b) relates to a notice given under section 3.25(1) requiring a person to do anything specified under clause 10 of Division 1 of Schedule 3.1, is to be dealt with by the Minister.
- (1b) All other appeals are to be dealt with by the Minister. ”
- (2) After section 9.8(3) the following subsection is inserted —
“
 - (3a) When hearing and determining an appeal the Minister —
 - (a) is to conduct the proceedings in such manner as the Minister thinks fit; and
 - (b) may make such orders as to costs as the Minister thinks fit. ”

50. Section 9.9 amended

- (1) Section 9.9(1)(b) is deleted and the following paragraph is inserted instead —
“
 - (b) the local government considers that —
 - (i) there are urgent reasons why the effect of the decision should not be suspended; or
 - (ii) suspension of the effect of the decision is reasonably likely to endanger the safety of any person, cause damage to property, or to create a serious public nuisance. ”

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- (2) Section 9.9(2) is repealed and the following subsection is inserted instead —

“

- (2) A council or committee cannot order, under subsection (1)(a), that the suspension of a decision be revoked unless it considers that —
- (a) there are urgent reasons why the effect of the decision should not be suspended; or
 - (b) suspension of the effect of the decision is reasonably likely to endanger the safety of any person, cause damage to property, or to create a serious public nuisance.

”

- (3) Section 9.9(3) is amended by deleting “decides that there are urgent reasons why the effect of the decision should not be suspended,” and inserting instead —

“ makes a decision under subsection (1)(b), ”.

51. Section 9.13A inserted

After section 9.13 the following section is inserted —

“

9.13A. Notice to prevent continuing contravention

- (1) If the Minister considers that a local government, a member of a council, a CEO, an employee or an authorized person is contravening a provision of this Act contravention of which is not an offence, the Minister may give the person a notice directing the person to cease contravening that provision.

- (2) A person who continues to contravene a provision of this Act after being given a notice under subsection (1) in relation to that contravention commits an offence.

”

52. Schedule 2.1 amended

- (1) The amendments in this section are to Schedule 2.1.
- (2) Clause 3(2) is repealed and the following subclause is inserted instead —

“

- (2) The Advisory Board may, in a written report to the Minister, recommend* that the Minister reject a proposal if, in the Board's opinion —

- (a) the proposal is substantially similar in effect to a proposal on which the Board has made a recommendation to the Minister within the period of 2 years immediately before the proposal is made; or
- (b) the proposal is frivolous or otherwise not in the interests of good government.

** Absolute majority required.*

”

- (3) Clause 8(3) is amended by deleting “electors of the districts,” and inserting instead —

“ electors of that district, ”.

(4) After clause 10 the following clause is inserted —

“

10A. Recommendations regarding names, wards and representation

- (1) The Advisory Board may —
- (a) when it makes its recommendations under clause 3 or 6; or
 - (b) after the Minister has accepted its recommendations under clause 10,

in a written report to the Minister, recommend the making of an order to do any of the things referred to in section 2.2(1), 2.3(1) or (2) or 2.18(1) or (3) that the Board considers appropriate.

- (2) In making its recommendations under subclause (1) the Advisory Board —
- (a) may consult with the public and interested parties to such extent as it considers appropriate; and
 - (b) is to take into account the matters referred to in clause 8(c) to (g) of Schedule 2.2 so far as they are applicable.

”

(5) Clause 11(1) is amended as follows:

- (a) at the end of paragraph (f) by deleting the full stop and inserting a semicolon instead;
- (b) after paragraph (f) by inserting the following paragraph —

“

- (g) the continuation of any act, matter or thing being done under another written law by, or involving, a local government.

”

- (6) Clause 11(6) is amended by deleting “in a district” and inserting instead —
“ in a particular district ”.

53. Schedule 2.2 amended

The heading to Schedule 2.2 is amended by inserting after “ABOUT” —

“ NAMES, ”.

54. Schedule 2.3 amended

- (1) The amendments in this section are to Schedule 2.3.
(2) Clause 8(2) is repealed and the following subclause is inserted instead —

“

- (2) The election is to be conducted by the mayor or president, or if he or she is not present, by the CEO.

”.

- (3) Clause 8(3) and (4) are amended by deleting “mayor or president” in each place where it occurs and inserting instead —

“ person conducting the election ”.

- (4) Clauses 8(5) and 9(3) are amended by deleting “councillors” and inserting instead —

“ council members ”.

55. Schedule 2.4 amended

- (1) Clause 6(2)(a) of Schedule 2.4 is amended by inserting after “majority” —

“ unless subclause (3) applies ”.

- (2) After clause 6(2) of Schedule 2.4 the following subclause is inserted —

“

- (3) If 5 commissioners are appointed and a decision to be made on a question is one that would require an absolute majority or a special majority of a council, the decision is to be made by an absolute majority of those commissioners.

”

56. Extension of time for Joondalup and Wanneroo inaugural elections

- (1) In this section —
“**inaugural election**” has the meaning given by section 4.2(2) of the *Local Government Act 1995*.
- (2) Despite section 4.3(2) of the *Local Government Act 1995*, the day fixed for any poll needed for the inaugural election for the City of Joondalup established on 1 July 1998 may be any day that is not later than 31 December 1999.
- (3) Despite section 4.3(2) of the *Local Government Act 1995*, the day fixed for any poll needed for the inaugural election for the Shire of Wanneroo established on 1 July 1998 may be any day that is not later than 31 December 1999.

57. Quarterly reports by Joondalup and Wanneroo commissioners

- (1) In this section —
“**commissioners**” has the meaning given by clause 7 of the *Joondalup and Wanneroo Order 1998* published in the *Gazette* on 26 June 1998.

- (2) Within 14 days after the end of each quarter, the commissioners of the City of Joondalup are to report to the Minister about the performance of their functions.
- (3) Within 14 days after the end of each quarter, the commissioners of the Shire of Wanneroo are to report to the Minister about the performance of their functions.
- (4) The first reports under subsections (2) and (3) are to be given to the Minister after the quarter ending on 31 March 1999.
- (5) The Minister is to cause each report to be laid before each House of Parliament on the next sitting day of that House after the Minister receives it.
- (6) If because a House of Parliament is not sitting, a report can not be laid before that House within 7 days after the Minister receives it, the Minister, within that time, is to —
 - (a) give a copy of the report to the Clerk of that House; and
 - (b) cause the report to be printed and made available to the public.
- (7) A copy of the report given to the Clerk of a House under subsection (6) is to be laid before that House on its next sitting day.

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