

## LOCAL GOVERNMENT (No. 4).

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No. 103 of 1982.

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**AN ACT to amend the Local Government Act  
1960-1982 and for related purposes.**

[Assented to 24 November 1982.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Local Government Amendment Act (No. 4) 1982*. Short title and citation.

(2) In this Act the Local Government Act 1960-1982 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Local Government Act 1960-1982.

Commence-  
ment.

2. (1) Subject to subsections (2) and (3) of this section the provisions of this Act shall come into operation on the day on which this Act is assented to by the Governor.

(2) Sections 5 and 6 of this Act shall come into operation on a day to be fixed by proclamation.

(3) Sections 4, 7, 8, 9, 10, 11, 12 and 13 of this Act shall come into operation on a day to be fixed by proclamation being a day that is later than the day fixed for the purposes of subsection (2) of this section.

Section 266  
repealed and  
sections 266,  
266A, 266B  
and 266C  
substituted.

3. Section 266 of the principal Act is repealed and the following sections are substituted—

Sale or  
disposal of  
land  
generally.

“ 266. (1) Subject to subsection (2) of this section a council may sell or otherwise dispose of an estate in fee simple, or any lesser estate, in land which is vested in or held by it and which is not, in the opinion of the council, required for the purposes for which the land was acquired.

(2) Unless the Governor directs otherwise, a council may dispose of land under this section only by selling it to—

(a) the highest bidder at public auction;

(b) the person who at public tender called by the council makes what is, in the opinion of the council, the most acceptable tender, whether his tender is or is not the highest; or

- (c) a State government department, instrumentality or agency.

(3) This section does not apply to land vested in or held by a council on a trust.

266A. (1) Subject to subsections (2) and (4) of this section a council may sell or otherwise dispose of an estate in fee simple, or any lesser estate, in land vested in or held by it on a trust other than land vested in it by the Governor.

Sale or disposal of trust land.

(2) A council may sell land under this section if and only if—

- (a) the council has power to do so in accordance with the trust in respect of the land (whether that power was conferred when the trust was created or has been conferred by variation of the trust pursuant to section 265 (c));
- (b) in the opinion of the council, the land is no longer required for the purpose for which it is held; and
- (c) unless the Governor directs otherwise, the sale is to—
- (i) the highest bidder at public auction;
  - (ii) the person who at public tender called by the council makes what is, in the opinion of the council, the most acceptable tender, whether his tender is or is not the highest; or
  - (iii) a State government department, instrumentality or agency.

(3) Where a council sells land under this section the proceeds (including any property received by the council by way of exchange)

shall, subject to section 265 (c), be held and applied by the council for the purpose for which the land was held immediately before its sale.

(4) A council may dispose of land, otherwise than by way of sale, under this section if and only if—

(a) the council has power to do so in accordance with the trust in respect of the land (whether that power was conferred when the trust was created or has been conferred by variation of the trust pursuant to section 265 (c)); and

(b) the person to whom the land is to be disposed of executes a declaration of trust declaring that he will hold the land for the purpose for which it was held by the council immediately before its disposal.

No subdivi-  
sion unless  
Governor  
directs.

266B. Unless the Governor directs otherwise, a council shall not subdivide land under the Town Planning and Development Act 1928 for the purpose of selling or otherwise disposing of the land as so subdivided, or any of it, under section 266 or 266A.

Effect of  
directions by  
Governor.

266C. Any direction made or given by the Governor under section 266 (2), 266A (2) (c) or 266B does not have effect until notice of the making or giving thereof has been published in the *Gazette*. ” .

Section 633A  
inserted.

4. After section 633 of the principal Act the following section is inserted—

Minister  
may give  
directions as  
to audits.

“ 633A. (1) The Minister may from time to time—

(a) give directions to be complied with by auditors of municipalities in relation to the exercise or performance by them of their powers and duties under this Part;

- (b) require auditors of municipalities to provide him with such information as to audits carried out by them under this Part as is specified in the requirement.

(2) A direction or requirement under subsection (1) may be given or made—

- (a) in respect of municipalities generally or of municipalities of a class specified in the direction or requirement, in which case the Minister shall cause notice of the direction or requirement to be given to all auditors who, in the opinion of the Minister, are likely to be affected by it; or
- (b) in respect of a municipality specified in the direction or requirement, in which case the Minister shall cause notice of the direction or requirement to be given to the auditor of that municipality. ” .

5. The heading to Division 2a of Part XXVII of the principal Act is amended by inserting before “*Appointment*” the following—

Heading to  
Part XXVII,  
Division  
2a amended.

“ *Registration and* ” .

6. Before section 636 of the principal Act the following sections are inserted—

Sections  
635A, 635B,  
635C and  
635D  
inserted.

“ 635A. In this Division—

Interpreta-  
tion of  
this  
Division.

“the Board” means the Local Government Auditors Board referred to in section 635B;

“the regulations” means the regulations made for the purposes of this Division.

Local  
Government  
Auditors  
Board.

635B. (1) For the purposes of this Act a board to be known as the Local Government Auditors Board shall be established.

(2) The Board shall be constituted in accordance with the regulations.

(3) The functions of the Board shall be to—

- (a) register persons as local government auditors; and
- (b) cancel the registration of persons as local government auditors,

for the purposes of this Act in accordance with the regulations.

Appeal  
against  
de-registra-  
tion.

635C. Where the registration of a person as a local government auditor for the purposes of this Act is cancelled by the Board the person may appeal to the Minister against the decision of the Board in the manner and within the time prescribed, and the Minister may uphold or reverse the decision.

Regulations  
for the  
purposes of  
this  
Division.

635D. The Governor may make regulations—

- (a) as to the constitution, powers and duties of the Board;
- (b) as to the terms and conditions of appointment of persons constituting the Board;
- (c) as to the procedure of the Board;
- (d) as to the manner in which an application may be made to the Board for registration as a local government auditor;
- (e) as to the qualifications for registration of local government auditors and other matters to be considered by the Board in the performance of its functions under section 635B (3);

- (f) prescribing the manner in which and the time within which an appeal may be made under section 635C; and
- (g) prescribing such other matters as are necessary or convenient to be prescribed for giving effect to the purposes of the preceding provisions of this Division. ” .

7. Section 635A of the principal Act, as inserted by section 6 of this Act, is amended by inserting before the definition of “the Board” the following definition—

Section 635A amended.

“ “registered local government auditor” means a person who is for the time being registered by the Board as a local government auditor for the purposes of this Act; ” .

8. After section 635D of the principal Act, as inserted by section 6 of this Act, the following sections are inserted—

Sections 635E and 635F inserted.

“ 635E. (1) This section applies to the financial year next commencing after section 8 of the Local Government Amendment Act (No. 4) 1982 comes into operation and to each financial year thereafter.

Appointment of registered auditors.

(2) Subject to section 636 the books, accounts, records and statements of a municipality for a financial year to which this section applies shall be audited by a registered local government auditor appointed by the council.

(3) Subject to section 636 a council shall appoint a person to be the auditor of the municipality in accordance with subsection (2) of this section and section 635F as soon

as is practicable after the coming into operation of section 8 of the Local Government Amendment Act (No. 4) 1982 and from time to time thereafter whenever such an appointment is necessary or expedient.

(4) The council may appoint one or more persons as auditor of the municipality under this section.

Terms and conditions of appointment.

635F. (1) Subject to subsections (2) and (3) of this section the appointment of an auditor of a municipality under section 635E shall have effect in respect of the audit of the books, accounts, records and statements of the municipality for 3 consecutive financial years.

(2) Subject to subsection (4) of this section the appointment of an auditor of a municipality under section 635E shall cease to have effect if—

- (a) his registration as a local government auditor is cancelled by the Board;
- (b) he dies; or
- (c) his appointment is terminated by the council by notice in writing given with the prior consent in writing of the Minister.

(3) Notwithstanding subsection (1) of this section, where the appointment of an auditor of a municipality under section 635E ceases to have effect by operation of subsection (2) of this section the council may, if it has already made an appointment under section 635E in respect of the audit of the books, accounts, records and statements of the municipality for the 3 financial years next

succeeding the financial years in respect of which the first-mentioned appointment was made, make an appointment under section 635E to have effect in respect of the audit or audits that had not been completed when the first-mentioned appointment ceased to have effect.

(4) Notwithstanding subsection (2) (a) of this section where the Board cancels the registration of a person as a local government auditor for the purposes of this Act, any appointment that he holds as an auditor of a municipality shall cease to have effect if, and only if—

- (a) he does not appeal against the decision within the prescribed time; or
- (b) the decision is upheld by the Minister on appeal,

but while the decision is subject to appeal, or an appeal is pending, he shall not act as, or exercise or perform any of the powers or duties of, the auditor of a municipality.

(5) Subject to this section the appointment of a person as auditor of a municipality under this section may be made on such terms and conditions, including the remuneration and expenses of the person to be appointed, as he and the council agree.

(6) The terms and conditions agreed upon pursuant to subsection (5) of this section shall be commensurate with the duties and responsibilities imposed on the auditor of a municipality by or under this Part.

(7) The remuneration and expenses payable to an auditor of a municipality appointed under section 635E shall be payable by the council.

(8) A municipality shall give notice in writing to the Minister setting out details of—

- (a) any appointment of an auditor made by the municipality under section 635E and the terms and conditions on which the appointment is made;
- (b) any change in the terms and conditions of appointment of an auditor appointed by the municipality under section 635E,

as soon as practicable after the appointment or change is made. ” .

Section 636  
amended.

9. Section 636 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“ (1) Subject to subsection (6) of this section, this section shall apply to a municipality if—

(a) the council satisfies the Minister that it is unable to obtain the services of a registered local government auditor on reasonable terms and conditions; and

(b) the Minister, by notice in writing served on the council and on the Auditor General, declares that this section shall apply to the municipality. ” ;  
and

(b) by inserting after subsection (4) the following subsections—

“ (5) The Minister may from time to time direct a municipality to which this section applies to endeavour to appoint an auditor under section 635E and the council shall comply with that direction

and shall make an appointment under that section if it is able to obtain the services of a registered local government auditor on reasonable terms and conditions.

(6) If, of its own motion or in compliance with a direction given under subsection (5) of this section, the council of a municipality to which this section applies appoints a person as auditor of the municipality under section 635E the council shall, in addition to giving the notice required by section 635F (8), give notice in writing of the appointment to the Auditor General and this section shall not apply to the municipality in relation to the audits in respect of which the appointment is made, or in respect of any subsequent audit of the books, accounts, records and statements of the municipality, unless a further declaration is made by the Minister under subsection (1) of this section. " .

10. Section 637 of the principal Act is amended Section 637 amended. by repealing subsection (2).

11. Section 638 of the principal Act is repealed. Section 638 repealed.

12. Section 725 of the principal Act is amended— Section 725 amended.

(a) in subsection (1) by deleting “, other than section 638, ” ; and

(b) by repealing subsections (2) and (3).

13. The Twenty-seventh Schedule to the principal Act is repealed. 27th Schedule repealed.

Existing provisions apply to current and previous financial years.

14. The provisions of this Act as in force before the coming into operation of sections 7, 8, 9, 10, 11, 12 and 13 of this Act shall continue to apply to and in relation to audits of books, accounts, records and statements of municipalities or regional councils for the financial year during which those sections come into operation or any preceding financial year and any such audit may be carried out or continued, as the case may require, by the person appointed by or under the first-mentioned provisions to be the auditor of the municipality, or to carry out the functions of auditor for the municipality or regional council, in relation to the financial year concerned.

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