



WESTERN
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LOCAL GOVERNMENT ACT 1995

**LOCAL GOVERNMENT (CONSTITUTION)
REGULATIONS 1996**

**LOCAL GOVERNMENT (FUNCTIONS AND GENERAL)
REGULATIONS 1996**

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SCHEDULE 1 — FORMS

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (CONSTITUTION) REGULATIONS 1996

Made by His Excellency the Governor in Executive Council.

Citation

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

Interpretation

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

“**commencement day**” means the day of coming into operation of the Act;

“**Schedule**” means a Schedule to the Act;

“**section**” means a section of the Act.

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

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

3. A proposal by electors under section 2.12 to change the method of filling the office of mayor or president of a local government to the other method mentioned in section 2.11 (1) (a) or (b) is to be in the form of Form 1.

Disqualification for membership: serious local government offences — s. 2.22

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

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

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

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

6. (1) An oath, affirmation or declaration required by section 2.29 to be taken or made by a person elected as a mayor or president is to be taken or made before —
- (a) the immediate predecessor of the person in the office of mayor or president; or
 - (b) an authorized person.
- (2) An oath, affirmation or declaration required by section 2.29 to be taken or made by a person elected as a councillor, deputy mayor or deputy president is to be taken or made before an authorized person.
- (3) An oath, affirmation or declaration required by section 2.42 to be taken or made by a person appointed as a commissioner is to be taken or made before an authorized person.

(4) In this regulation —

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

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

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

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

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

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

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

Transitional provisions as to petitions — s. 9.71

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

- (a) a resolution passed under section 10A (4) (a) of the *Local Government Act 1960*; or
- (b) a petition delivered under section 10A (4) (b) of the *Local Government Act 1960*,

on or after 9 January 1996, but the proposal has not been submitted to a poll of electors under section 10A (4) of the *Local Government Act 1960* before the

commencement day, the resolution or petition has no effect on or after the commencement day.

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

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

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

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

- (a) the establishment of a ward system for the local government's district; or
- (b) changes to the existing ward system for the local government's district,

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

*** *Absolute majority required***

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

SCHEDULE 1 — FORMS

Form 1

[reg. 3]

Local Government Act 1995

Local Government (Constitution) Regulations 1996

PROPOSAL TO CHANGE THE METHOD OF FILLING THE OFFICE OF ⁽¹⁾MAYOR/PRESIDENT*

TO: The ⁽¹⁾Mayor/President of ⁽²⁾

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

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

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

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

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

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

Form 2

[reg. 5]

Local Government Act 1995

Local Government (Constitution) Regulations 1996

OATH OF ALLEGIANCE

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

Sworn at on 19 ...

by

Before me

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

Form 3

[reg. 5]

Local Government Act 1995

Local Government (Constitution) Regulations 1996

AFFIRMATION OF ALLEGIANCE

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

Affirmed at on 19 ..

by

Before me

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

Form 4

[reg. 5]

Local Government Act 1995

Local Government (Constitution) Regulations 1996

DECLARATION BY ELECTED MEMBER

I,, of,
 having been elected to the office of ⁽¹⁾Mayor/ Deputy Mayor/ President/ Deputy
 President/ Councillor of ⁽²⁾,
 declare that I take the office upon myself, and will duly and faithfully fulfil the
 duties of the office for the people in the district according to the best of my
 judgment and ability, and will observe the code of conduct adopted by ⁽²⁾,
 under section 5.103 of the *Local Government Act*
1995.⁽³⁾

Declared at on 19 ..

by

Before me

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

10

Form 5

[reg. 5]

Local Government Act 1995

Local Government (Constitution) Regulations 1996

DECLARATION BY COMMISSIONER

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

Declared at on 19 ..

by

Before me

(1) insert name of local government

Form 6

[reg. 7]

Local Government Act 1995

Local Government (Constitution) Regulations 1996

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

TO: The Local Government Advisory Board.

1. The affected electors whose names, details and signatures are set out in the attached list propose that an order should be made under section 2.1 of the *Local Government Act 1995* in relation to the district of ⁽¹⁾
2. A summary of the purposes of the proposed order is as follows —
.
.
.
3. The following documents are attached to and form part of this proposal —
d • a statement setting out clearly the nature of the proposal and the effects of the proposal on local governments; and
 • a plan illustrating any proposed changes to the boundaries of a district.
4. This proposal is served on behalf of the listed signatories by —
Name
Signature Date
Contact address Phone No.
.

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

* Under clause 2 (1) (d) of Schedule 2.1 to the *Local Government Act 1995* a proposal that an order be made under section 2.1 of the Act to create, change the boundaries of, or abolish a district can be made to the Local Government Advisory Board by affected electors who —

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

“affected electors” are —

- electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the proposal; or
- people who could be electors if the area directly affected by the proposal became, or became part of, a district.

Form 7

[reg. 8]

Local Government Act 1995

Local Government (Constitution) Regulations 1996

REQUEST FOR A POLL ON A RECOMMENDED AMALGAMATION*

TO: The Minister for Local Government.

1. The electors of the district of ⁽¹⁾ whose names, details and signatures are set out in the attached list request that the recommendation of the Local Government Advisory Board that the districts of ⁽²⁾ and be abolished and amalgamated, be put to a poll of electors of the districts.

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

Name

Signature Date

Contact address Phone No.

.

(1) insert name of district whose electors are making the request

(2) insert names of the 2 or more districts to be abolished and amalgamated

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

• at least 250; or

• at least 10%,

of the electors of one of the districts.

Form 8

[reg. 9]

Local Government Act 1995

Local Government (Constitution) Regulations 1996

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

TO: The ⁽¹⁾Mayor/President of ⁽²⁾

1. The electors of the district of ⁽³⁾ whose names, details and signatures are set out in the attached list submit that an order should be made under the *Local Government Act 1995* for the following purpose —

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

for the following reasons —

.....

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

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

Name

Signature Date

Contact address Phone No.

.....

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

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

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

“affected electors” are those whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the submission.

WESTERN AUSTRALIA

**LOCAL GOVERNMENT (FUNCTIONS
AND GENERAL) REGULATIONS 1996**

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SCHEDULE 1 — FORMS

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (FUNCTIONS AND GENERAL)
REGULATIONS 1996

Made by His Excellency the Governor in Executive Council.

PART 1 — PRELIMINARY**Citation**

1. These regulations may be cited as the *Local Government (Functions and General) Regulations 1996*.

Commencement

2. These regulations come into operation on 1 July 1996.

PART 2 — THOROUGHFARES**Additional persons who are to be notified of proposal to make private thoroughfare public — s. 3.49**

3. The persons prescribed for the purposes of section 3.49 of the Act are —
 - (a) any person providing a service by means of pipes, cables, or anything else under, on, or above the land used for the thoroughfare; and
 - (b) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Land Act 1993*.

Persons who are to be notified of road closure — s. 3.50

4. (1) The persons prescribed for the purposes of section 3.50 of the Act are —

- (a) any person providing a service by means of pipes, cables, or anything else under, on, or above the land used for the thoroughfare whose access for purposes connected with the provision of that service would be impeded by the proposed closure;
- (b) the person having principal responsibility in the locality for ambulance services;
- (c) the person having principal responsibility in the locality for fire services; and
- (d) the occupier of land that will lose its access.

(2) The land that is prescribed for the purposes of section 3.50 of the Act is land that will lose its access.

(3) In this regulation —

“land that will lose its access” means land that abuts the thoroughfare at any point to which access would be precluded as a result of the closure.

Additional persons who are to be notified of certain other proposals — s. 3.51

5. The persons prescribed for the purposes of section 3.51 of the Act are —

- (a) if the land to which that section applies is occupied, the occupier; and
- (b) in relation to fixing or altering the level of, or the alignment of, a public thoroughfare, any person providing a service by means of pipes, cables, or anything else under, on, or above the land used for the thoroughfare.

Transitional provisions about road closures

6. (1) If, when the Act comes into operation, a thoroughfare —
- (a) has been obstructed by a local government under the former section 331B; or
 - (b) has been temporarily closed under the former section 334 on the application of a local government,

the local government is to be regarded as having ordered under section 3.50 that the thoroughfare be closed, either wholly or partially, as required to continue the obstruction or closure in effect as if the Act had not come into operation.

(2) Subregulation (1) does not apply so as to continue the obstruction or closure beyond the time when it would have continued if the Act had not come into operation, nor so as to continue it beyond 30 June 2002.

(3) The local government may, by local public notice, order that the closure be revoked or that it be varied in such a way as to be less restrictive.

(4) In this regulation —

“former section” means a section of the *Local Government Act 1960* as in force before the day on which the *Local Government Act 1995* comes into operation.

**PART 3 — COMMERCIAL ENTERPRISES BY
LOCAL GOVERNMENTS (s. 3.59)****Minimum value of “major land transaction”**

7. For a land transaction to be a major land transaction the total value of —
- (a) the consideration under the transaction; and
 - (b) anything done by the local government for achieving the purpose of the transaction,

has to be more, or worth more, than either \$500 000 or 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.

Transactions that cannot be major land transactions

8. (1) A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if the local government enters into it —

- (a) without intending to produce profit to itself; and
- (b) without intending that another person will be sold, or given joint or exclusive use of, all or any of the land involved in the transaction.

(2) For the purposes of subregulation (1) (b) a person is given joint use of land if the land is to be jointly used for a common purpose by the local government and that person (whether or not other persons are also given joint use of the land).

Minimum expenditure involved in a “major trading undertaking”

9. (1) For a trading undertaking to be a major trading undertaking the expenditure by the local government that —

- (a) the undertaking involved in the last completed financial year; or
- (b) the undertaking is likely to involve in the current financial year or the financial year after the current financial year,

has to be more than either \$250 000 or 10% of the lowest operating expenditure described in subregulation (2).

(2) The lowest operating expenditure referred to in subregulation (1) is the lowest of —

- (a) the operating expenditure incurred by the local government from its municipal fund in the last completed financial year;
- (b) the operating expenditure likely to be incurred by the local government from its municipal fund in the current financial year; and
- (c) the operating expenditure likely to be incurred by the local government from its municipal fund in the financial year after the current financial year.

Other matters of which details to be given in business plan

10. (1) If a local government is required to prepare a business plan because of a major trading undertaking or major land transaction that it is to carry on or enter into jointly with another person —

- (a) the business plan is to include details of the whole undertaking or transaction, even though the local government is not the only joint venturer; and
- (b) the business plan is to include details of —
 - (i) the identity of each joint venturer other than the local government;
 - (ii) the ownership of, and any other interests in, property that is involved in, or acquired in the course of, the joint venture;
 - (iii) any benefit to which a joint venturer other than the local government may become entitled under or as a result of the joint venture; and
 - (iv) anything to which the local government may become liable under or as a result of the joint venture.

(2) In subregulation (1) —

“joint venture” means the major trading undertaking or major land transaction that is to be jointly carried on or entered into;

“joint venturer” means the local government or another person with whom the local government is to carry on or enter into the joint venture.

PART 4 — TENDERS FOR PROVIDING GOODS OR SERVICES (s. 3.57)**Tenders to be invited for certain contracts**

11. (1) Tenders are to be publicly invited according to the requirements of this Part before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$50 000 unless subregulation (2) states otherwise.

(2) Tenders do not have to be publicly invited according to the requirements of this Part if —

- (a) the supply of the goods or services is obtained from expenditure authorized in an emergency under section 6.8 (1) (c) of the Act;
- (b) the supply of the goods or services is obtained through the Council Purchasing Service of WAMA;
- (c) within the last 6 months —
 - (i) the local government has, according to the requirements of this Part, publicly invited tenders for the supply of the goods or services but no tender was submitted that was thought to be satisfactory; or
 - (ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;
- (d) the contract is entered into by auction after being expressly authorized by a resolution of the council of the local government;
- (e) the goods or services are supplied by the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or
- (f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier.

Anti-avoidance provision

12. If a local government enters into 2 or more contracts in circumstances such that the desire to avoid the requirements of regulation 11(1) is a significant reason for not dealing with the matter in a single contract, tenders are to be publicly invited according to the requirements of this Part before entering into any of the contracts regardless of the consideration.

Procedure when local government invites tenders though not required to do so

13. If a local government, although not required by this Part to invite tenders before entering into a contract for another person to supply goods or services, decides to invite tenders, the tenders are to be publicly invited according to the requirements of this Part.

Requirements for publicly inviting tenders

14. (1) When regulation 11(1), 12 or 13 requires tenders to be publicly invited, Statewide public notice of the invitation is to be given.

(2) If the local government has, under regulation 23(4), prepared a list of acceptable tenderers, instead of giving Statewide public notice the local government is required to give notice of the invitation to each acceptable tenderer listed.

(3) The notice, whether under subregulation (1) or (2), is required to include —

- (a) a brief description of the goods or services required;
- (b) particulars identifying a person from whom more detailed information as to tendering may be obtained;
- (c) information as to where and how tenders may be submitted; and
- (d) the date and time after which tenders cannot be submitted.

Minimum time to be allowed for submitting tenders

15. (1) If the notice is published in the newspaper as part of giving Statewide public notice, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is first published in the newspaper as part of giving Statewide public notice.

(2) If the notice is given to a person listed as an acceptable tenderer, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is given.

Receiving and opening tenders

16. (1) The CEO is responsible for keeping any tender submitted in safe custody, and for ensuring that it remains confidential.

(2) Tenders are not to be opened until the time after which further tenders cannot be submitted.

(3) When tenders are opened —

- (a) at least one and, if practicable, more than one employee of the local government is required to be present;
- (b) members of the public are entitled to be present; and
- (c) details of the tenders are to be immediately recorded in a register to be known as the tenders register.

Tenders register

17. (1) The CEO is responsible for keeping the tenders register and making it available for public inspection.

(2) The tenders register is to include, for each invitation to tender —

- (a) a brief description of the goods or services required;
- (b) particulars of the making of —
 - (i) the decision to invite tenders; and
 - (ii) if applicable, the decision to seek expressions of interest under regulation 21(1);
- (c) particulars of —
 - (i) any notice by which expressions of interests from prospective tenderers was sought;
 - (ii) any person who submitted an expression of interest; and
 - (iii) any list of acceptable tenderers that was prepared under regulation 23(4);

- (d) a copy of the notice of the invitation to tender;
- (e) the name of each tenderer whose tender has been opened and the amount of the consideration sought in the tender; and
- (f) the name of any successful tenderer.

Choice of tender

18. (1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.

(2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.

(3) If, under regulation 23(4), the local government has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.

(4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be considered by the local government and it is to decide which of them it thinks it would be most advantageous to the local government to accept.

(5) The local government may decline to accept any tender.

Tenderers to be notified of outcome

19. The local government is to give each tenderer notice in writing containing particulars of the successful tender or advising that no tender was accepted.

Variation of requirements before entry into contract

20. (1) If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.

(2) If —

- (a) the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or
- (b) the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,

that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.

(3) In subregulation (1) —

“minor variation” means a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.

Limitation may be placed on who can tender

21. (1) If a local government thinks that there is good reason to make a preliminary selection from amongst prospective tenderers, it may seek expressions of interest with respect to the supply of the goods or services.

(2) There is good reason to make a preliminary selection if, because of —

- (a) the nature of the goods or services required; or
- (b) the cost of preparing plans, specifications or other information for the purpose of adequately describing the goods or services required,

it would be advantageous to the local government if tenders were invited only from persons it considers to be capable of satisfactorily supplying the goods or services.

(3) If a local government decides to seek expressions of interest before inviting tenders, Statewide public notice that expressions of interest are sought is to be given.

(4) The notice is required to include —

- (a) a brief description of the goods or services required;

- (b) particulars identifying a person from whom more detailed information may be obtained;
- (c) information as to where and how expressions of interest may be submitted; and
- (d) the date and time after which expressions of interest cannot be submitted.

Minimum time to be allowed for submitting expressions of interest

22. The time specified in the notice as the time after which expressions of interest cannot be submitted has to be at least 14 days after the notice is first published in the newspaper as part of giving Statewide public notice.

Choice of acceptable tenderers

23. (1) An expression of interest is required to be rejected unless it is submitted at a place, and within the time, specified in the notice.

(2) An expression of interest that is submitted at a place, and within the time, specified in the notice but that fails to comply with any other requirement specified in the notice may be rejected without considering its merits.

(3) Expressions of interest that have not been rejected under subregulation (1) or (2) are to be considered by the local government and it is to decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.

(4) The local government is to list each of those persons as an acceptable tenderer.

Persons expressing interest to be notified of outcome

24. The local government is to give each person who submitted an expression of interest notice in writing —

- (a) containing particulars of the persons it has listed as acceptable tenderers;
- (b) advising that it has decided not to invite tenders because no expression of interest that it considered was from a person who it

thinks would be capable of satisfactorily supplying the goods or services; or

- (c) informing the person of any other outcome if neither paragraph (a) nor (b) is appropriate.

PART 5 — OWNER ONUS AND INFRINGEMENT NOTICES

Form of notice to put onus on vehicle owner — s. 9.13

25. The form of a notice that may be given under section 9.13 of the Act to the owner of a vehicle that is involved in an offence against a regulation is the form set out in Form 1 in Schedule 1.

Form of infringement notice — s. 9.16

26. (1) The form of an infringement notice that may be given under section 9.16 of the Act for a prescribed offence against a regulation is the form set out in Form 2 in Schedule 1.

(2) Subregulation (1) applies whether the offence is made a prescribed offence by regulations or by a local law.

Form of withdrawal of infringement notice — s. 9.20

27. (1) The form of the notice that may be given under section 9.20 of the Act to withdraw an infringement notice for a prescribed offence against a regulation is the form set out in Form 3 in Schedule 1.

(2) Subregulation (1) applies whether the offence is made a prescribed offence by regulations or by a local law.

Transitional provision

28. (1) If, before 1 July 1996, a modified penalty was fixed for an offence by a continuing local law, then until 30 June 1998 —

- (a) the offence is taken to be prescribed for the purposes of regulation 9.16 of the Act, unless otherwise expressly provided; and

(b) section 9.17 (3) does not apply to the modified penalty that was fixed.

(2) In subregulation (1) —

“continuing local law” means a by-law under any Act that, on 1 July 1996, becomes a local law.

PART 6 — MISCELLANEOUS

Contraventions that may lead to impounding of goods — s. 3.37

29. (1) A contravention of a regulation or local law made under the Act can lead to the impounding of goods involved in the contravention if —

- (a) it occurs in a public place; and
- (b) the presence of the goods —
 - (i) presents a hazard to public safety; or
 - (ii) obstructs the lawful use of any place.

(2) In subregulation (1) —

“public place” includes a place that is on private property that the public are allowed to use.

Dispositions of property to which section 3.58 of Act does not apply

30. (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.

(2) A disposition of land is an exempt disposition if —

- (a) the land is disposed of to an owner of adjoining land (in this paragraph called **“the transferee”**) and —
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;

- (b) the land is disposed of to a body, whether incorporated or not —
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
 - (c) the land is disposed of to —
 - (i) the Crown in right of the State or the Commonwealth;
 - (ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or
 - (iii) another local government or a regional local government;
 - (d) it is the leasing of land to an employee of the local government for use as the employee's residence; or
 - (e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land.
- (3) A disposition of property other than land is an exempt disposition if —
- (a) its market value is less than \$20 000; or
 - (b) it is disposed of as part of the consideration for other property that the local government is acquiring for a consideration the total value of which is not more, or worth more, than \$50 000.

Anti-avoidance provision about dispositions

31. If a local government disposes of property by means of 2 or more dispositions in circumstances such that the desire to exclude the application of section 3.58 of the Act is a significant reason for not dealing with the matter in a single disposition, the dispositions are not exempt dispositions.

Local government permitted to form incorporated association — s. 3.60

32. A local government may form or take part in forming an association that is to be incorporated under the *Associations Incorporation Act 1987* and may do things for the purpose of the incorporation of the association under that Act.

Objections made to local government — s. 9.5

33. (1) The form in which an objection may be made under section 9.5 of the Act is the form set out in Form 4 in Schedule 1.

(2) The manner in which the objection may, within the time permitted by section 9.5 of the Act, be lodged with the local government is by giving a copy of it to the CEO.

Appeals made to Minister or Local Court — s. 9.7

34. (1) The form in which an appeal may be made under section 9.7 of the Act is the form set out in Form 5 in Schedule 1.

(2) The manner in which the appeal may, within the time permitted by section 9.7 of the Act, be lodged is by giving a copy of it to the Minister or the Local Court, according to who is to deal with it.

Certain persons protected from liability for wrongdoing — s. 9.56

35. The functions in the performance of which a person appointed or engaged by a local government is a protected person under section 9.56 (1) (c) of the Act are —

- (a) any function expressly provided for in a written law that the person was appointed or engaged to perform; and
- (b) any function that the person is authorized to perform on behalf of the local government.

Form of warrant to enter — ss. 3.33 (1) and 8.8 (1)

36. The form in which a warrant may be granted under section 3.33 (1) or 8.8 (1) of the Act is the form set out in Form 6 in Schedule 1.

PART 7 — OTHER TRANSITIONAL PROVISIONS**By-laws resolved to be made but not published by 1 July 1996**

37. (1) If, when the Act comes into operation —
- (a) a local government has —
 - (i) resolved that a by-law be made under the former section 190; and
 - (ii) caused a notice of intention to submit the by-law for confirmation by the Governor to be published;
 - but
 - (b) the by-law has not been published in the *Gazette*,

the process of making, confirming, and publishing the by-law may be completed as if the Act had not come into operation.

(2) A by-law that is made, confirmed, or published in accordance with subregulation (1) becomes a local law as soon as it is published in the *Gazette*.

- (3) If, when the Act comes into operation —
- (a) a local government has resolved that a by-law be made under the former section 190; but
 - (b) a notice of intention to submit the by-law for confirmation by the Governor has not been published,

the resolution ceases to have effect as a resolution to make a by-law and instead has effect as if it were a resolution under the Act proposing to make a local law to the same effect.

- (4) In this regulation —

“**former section**” means a section of the *Local Government Act 1960* as in force before 1 July 1996.

- (5) This regulation has no effect after 31 December 1996.

Adoption of former model by-laws as local laws

38. (1) Unless a model local law dealing with the same subject matter has been published under section 3.9 of the Act, the text of a former draft model by-law may be adopted by a local law made under this Act.

(2) Section 3.8 (2) and (3) of the Act apply to the adoption of the text of a former draft model by-law.

(3) In the text adopted, a description of, or reference to, a provision of the text is to be read as if it had been modified to accord with the adoption of the text by a local law.

(4) In this regulation —

“former draft model by-law” means a draft model by-law published under section 258 of the *Local Government Act 1960* as in force before 1 July 1996.

SCHEDULE 1 — FORMS

Form 1

[reg. 25]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

Date . . / . . / . . .

City/Town/Shire of

To: ⁽¹⁾

of: ⁽²⁾

It is alleged that on . . / . . / . . at ⁽³⁾
at ⁽⁴⁾ your vehicle ⁽⁵⁾
was involved in the commission of the following offence —

.
.
.
contrary to regulation of the ⁽⁶⁾

You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless —

- (a) within 28 days after being served with this notice —
 - (i) you inform the chief executive officer, or another authorized officer, of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or
 - (ii) you satisfy the chief executive officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed;

or

- (b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

Name and title of authorized person giving the notice

Signature

- (1) Name of owner or "owner of (*vehicle identification*)"
- (2) Address of owner (not required if owner not named)
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Vehicle identification
- (6) Name of the regulations

Form 2

[reg. 26(1)]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

INFRINGEMENT NOTICE

Serial No

Date . . / . . /

City/Town/Shire of

To: ⁽¹⁾
of: ⁽²⁾

It is alleged that on . . / . . / . . at ⁽³⁾
at ⁽⁴⁾
you committed the following offence —
.
.
contrary to regulation of the ⁽⁵⁾

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorized person at ⁽⁶⁾ within a period of 28 days after the giving of this notice.

Name and title of authorized person giving the notice

Signature

- (1) Name of alleged offender [“owner of (*vehicle identification*)” suffices if notice given with a notice under section 9.13 of the Act]
- (2) Address of alleged offender [not required if notice given with a notice under section 9.13 of the Act]
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Name of the regulations
- (6) Place where modified penalty may be paid

Form 3

[reg. 27(1)]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No

Date . . / . . / . .

City/Town/Shire of

To: ⁽¹⁾

of: ⁽²⁾

Infringement Notice No. dated . . / . . / . . for the alleged offence
of
.
has been withdrawn.

The modified penalty of \$

- * has been paid and a refund is enclosed.
- * has not been paid and should not be paid.
- * Delete as appropriate

Name and title of authorized person giving this notice

Signature

(1) Name of alleged offender to whom infringement notice was given
 (2) Address of alleged offender

Form 4

[reg. 33(1)]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

OBJECTION UNDER SECTION 9.5 OF THE ACT

To the ⁽¹⁾

I, ⁽²⁾

of ⁽³⁾

.....

hereby object to the ⁽⁴⁾

.....

to ⁽⁵⁾

.....

.....

.....

The grounds of my objection are as follows:

⁽⁶⁾

.....

.....

.....

In support of my objection I attach the following:

⁽⁷⁾

.....

.....

.....

Dated the day of 19

⁽⁸⁾

Person objecting

- (1) name of local government
- (2) full name of person objecting
- (3) postal address of person objecting
- (4) identify decision to which objection is made
- (5) give details of decision
- (6) give details of grounds of objection
- (7) plans, specifications, letters, notices, or other documents (if appropriate)
- (8) signature of person objecting

Form 5

[reg. 34(1)]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

APPEAL UNDER SECTION 9.7 OF THE ACT

To the ⁽¹⁾ Minister for Local Government/Clerk of the Court
 I, ⁽²⁾
 of ⁽³⁾

 hereby appeal against the ⁽⁴⁾

 to ⁽⁵⁾

The grounds of my appeal are as follows:

⁽⁶⁾

In support of my appeal I attach the following:

⁽⁷⁾

Dated the day of 19

⁽⁸⁾
Appellant

- (1) delete whichever does not apply
- (2) full name of appellant
- (3) postal address of appellant
- (4) identify decision against which appeal is made
- (5) give details of decision
- (6) give details of grounds of appeal
- (7) plans, specifications, letters, notices, or other documents (if appropriate)
- (8) signature of appellant

Form 6

[reg. 36]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

WARRANT TO ENTER

I, ⁽¹⁾

of ⁽²⁾

in the State of Western Australia, Justice of the Peace, being satisfied that the entry is reasonably required but —

⁽³⁾ (a) entry has been refused or is opposed or prevented;

⁽³⁾ (b) entry cannot be obtained; or

⁽³⁾ (c) notice cannot be given under section ⁽³⁾ 3.32 / 8.6 (3) (b) of the Act without unreasonable difficulty or without unreasonably delaying entry,

hereby authorize ⁽⁴⁾ ⁽³⁾ by its employees, together with ⁽⁵⁾ or any police officer to enter ⁽⁶⁾ for the purpose of ⁽⁷⁾ using such force as is necessary.

Signed
Justice of the Peace

Dated

- (1) name of Justice of the Peace
- (2) address of Justice of the Peace
- (3) delete if not applicable
- (4) name of local government or authorized person to whom warrant is issued
- (5) name or description of any person authorized to assist in executing the warrant
- (6) address or description of land, premises, or thing to be entered
- (7) purpose for which entry may be made

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.

WESTERN AUSTRALIA

**LOCAL GOVERNMENT
(ADMINISTRATION)
REGULATIONS 1996**

ARRANGEMENT

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5. Question time for the public at certain meetings —
s. 5.24 (1) (b)
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15. Matters for discussion at general electors'
meetings — s. 5.27 (3)
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20. Shareholders who are "closely associated persons" — s. 5.62 (d) (ii)
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22. Form for primary returns — s. 5.75 (1) and (2)
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SCHEDULE 1 — FORMS

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996

Made by His Excellency the Governor in Executive Council.

Citation

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

Commencement

2. These regulations come into operation on 1 July 1996.

Interpretation

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

“**committee**” means a committee of a council;

“**Schedule**” means Schedule to the Act;

“**section**” means section of the Act.

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

Resignation of committee members

4. A committee member may resign from membership of the committee by giving the CEO or the committee's presiding member written notice of the resignation.

Question time for the public at certain meetings — s. 5.24 (1) (b)

5. For the purposes of section 5.24 (1) (b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are —

- (a) every special meeting of a council;
- (b) every meeting of a committee to which the local government has delegated a power or duty.

Minimum question time for the public — s. 5.24 (2)

6. (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.

(2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

Procedures for question time for the public — s. 5.24 (2)

7. (1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined —

- (a) by the person presiding at the meeting; or
- (b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members,

having regard to the requirements of subregulations (2) and (3).

(2) The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.

(3) Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.

(4) Nothing in subregulation (3) requires —

- (a) a council to answer a question that does not relate to a matter affecting the local government;
- (b) a council at a special meeting to answer a question that does not relate to the purpose of the meeting; or
- (c) a committee to answer a question that does not relate to a function of the committee.

Procedure where no quorum at council or committee meetings — s. 5.25

(c)

8. If a quorum has not been established within the 30 minutes after a council or committee meeting is due to begin then the meeting can be adjourned —

- (a) in the case of a council, by the mayor or president or if the mayor or president is not present at the meeting, by the deputy mayor or deputy president;
- (b) in the case of a committee, by the presiding member of the committee or if the presiding member is not present at the meeting, by the deputy presiding member;
- (c) if no person referred to in paragraph (a) or (b), as the case requires, is present at the meeting, by a majority of members present;
- (d) if only one member is present, by that member; or
- (e) if no member is present or if no member other than the CEO is present, by the CEO or a person authorized by the CEO.

Voting at council or committee meetings — s. 5.25 (d)

9. Voting at a council or committee meeting is to be conducted so that no voter's vote is secret.

Revoking or changing decisions made at council or committee meetings — s. 5.25 (e)

10. (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —

- (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
- (b) in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee,

inclusive of the mover.

(2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —

- (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
- (b) in any other case, by an absolute majority.

(3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

Content of minutes of council or committee meetings — s. 5.25 (f)

11. The content of minutes of a meeting of a council or a committee is to include —

- (a) the names of the members present at the meeting;
- (b) where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting;
- (c) details of each motion moved at the meeting, the mover and the outcome of the motion;
- (d) details of each decision made at the meeting;

- (e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question; and
- (f) in relation to each disclosure made under section 5.65 or 5.70 in relation to the meeting, where the extent of the interest has also been disclosed, the extent of the interest.

Public notice of council or committee meetings — s. 5.25 (g)

12. (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —

- (a) the ordinary council meetings; and
- (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public,

are to be held in the next 12 months.

(2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).

(3) Subject to subregulation (4), if a special meeting of a council is to be open to members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting.

(4) If a special meeting of a council is to be open to members of the public but, in the CEO's opinion, it is not practicable to give local public notice of the matters referred to in subregulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the CEO's opinion, is practicable.

Public inspection of unconfirmed minutes of council or committee meetings — s. 5.25 (i)

13. A local government is to ensure that unconfirmed minutes of each council and committee meeting are available for inspection by members of the public —

- (a) in the case of a council meeting, within 10 business days after the meeting; and
- (b) in the case of a committee meeting, within 5 business days after the meeting.

Public inspection of certain documents relating to council or committee meetings — s. 5.25 (j)

14. (1) A local government is to ensure that notice papers and agenda relating to any council or committee meeting and reports and other documents which —

- (a) are to be tabled at the meeting; or
- (b) have been produced by the local government or a committee for presentation at the meeting,

and which have been made available to members of the council or committee for the meeting are available for inspection by members of the public from the time the notice papers, agenda or documents were made available to the members of the council or committee.

(2) Nothing in subregulation (1) entitles members of the public to inspect the information referred to in that subregulation if, in the CEO's opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public.

Matters for discussion at general electors' meetings — s. 5.27 (3)

15. For the purposes of section 5.27 (3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.

Requests for electors' special meetings — s. 5.28 (2)

16. A request for a special meeting of the electors of a district is to be in the form of Form 1.

Voting at electors' meetings — s. 5.31

17. (1) Each elector who is present at a general or special meeting of electors is entitled to one vote on each matter to be decided at the meeting but does not have to vote.

(2) All decisions at a general or special meeting of electors are to be made by a simple majority of votes.

(3) Voting at a general or special meeting of electors is to be conducted so that no voter's vote is secret.

Procedures at electors' meetings — s. 5.31

18. Subject to regulations 15 and 17, the procedure to be followed at a general or special meeting of electors is to be determined by the person presiding at the meeting.

Records to be kept by delegates — s. 5.46 (3)

19. Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —

- (a) how the person exercised the power or discharged the duty;
- (b) when the person exercised the power or discharged the duty; and
- (c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

Shareholders who are "closely associated persons" — s. 5.62 (d) (ii)

20. (1) The amount prescribed for the purposes of section 5.62 (d) (ii) (I) is \$2 000.

(2) The percentage prescribed for the purposes of section 5.62 (d) (ii) (II) is 1%.

Interests that need not be disclosed — s. 5.63 (1) (h)

21. (1) An interest in the payment by the local government of money that the local government is legally obliged to pay is an interest for the purposes of section 5.63 (1) (h).

(2) Nothing in subregulation (1) affects the application of section 5.63 (1) (a) to (g).

Form for primary returns — s. 5.75 (1) and (2)

22. For the purposes of section 5.75 (1) and (2), the form of a primary return is set out in Form 2.

Form for annual returns — s. 5.76 (1) and (2)

23. For the purposes of section 5.76 (1) and (2), the form of an annual return is set out in Form 3.

Amount of income up to which disclosure of the income's source is not required — s. 5.80 (3)

24. The amount of income prescribed for the purposes of section 5.80 (3) is \$500.

Amount of gift up to which disclosure of the gift is not required — s. 5.82 (2) (a)

25. The amount of a gift prescribed for the purposes of section 5.82 (2) (a) is \$500.

Amount of contribution to travel up to which disclosure of the contribution is not required — s. 5.83 (2) (d)

26. The amount of a contribution to travel prescribed for the purposes of section 5.83 (2) (d) is \$500.

Amount of debt up to which disclosure of the liability to pay the debt is not required — s. 5.85 (2) (a)

27. The amount of debt to be paid prescribed for the purposes of section 5.85 (2) (a) is \$500.

Register of financial interests — s. 5.88 (2)

28. The register of financial interests is to be in a form that sets out —

- (a) in relation to each disclosure made under section 5.65, 5.70 or 5.71 —
 - (i) the date of the disclosure; and
 - (ii) the nature of the interest disclosed;
- (b) in relation to each disclosure made under section 5.65 or 5.70 where the extent of the interest has also been disclosed, the extent of the interest; and
- (c) in relation to each disclosure made under section 5.65 or 5.70 —
 - (i) the date of the meeting at which the matter will be or was discussed; and
 - (ii) the number and details of the matter's agenda item at the meeting.

Information to be available for public inspection — s. 5.94

29. (1) Subject to subregulation (2), the information prescribed for the purposes of section 5.94 (u) (ii) is —

- (a) the information contained in a register to which section 5.18 applies;
- (b) the information contained in a register to which section 5.46 (1) applies;
- (c) unconfirmed minutes of council or committee meetings;
- (d) notice papers and agenda relating to any council or committee meeting and reports and other documents which —
 - (i) are to be tabled at the meeting; or
 - (ii) have been produced by the local government or a committee for presentation at the meeting,

and which have been made available to members of the council or committee for the meeting;

- (e) the information contained in a tenders register kept under the *Local Government (Functions and Miscellaneous) Regulations 1996*.

(2) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in subregulation (1) (c) if the meeting or that part of the meeting to which the information refers —

- (a) was closed to members of the public; or
- (b) in the CEO's opinion, could have been closed to members of the public but was not closed,

unless the information to be inspected is a record of a decision made at the meeting.

(3) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in subregulation (1) (d) if, in the CEO's opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public.

Meeting attendance fees — s. 5.98 (1)

30. (1) For the purposes of section 5.98 (1), subject to subregulation (3) —

- (a) the minimum fee for a council member other than —
 - (i) the mayor or president; or
 - (ii) in the case of a regional local government, the chairman, attending a council meeting is \$50 for each meeting; and
- (b) the maximum fee for a council member other than —
 - (i) the mayor or president; or
 - (ii) in the case of a regional local government, the chairman, attending a council meeting is \$100 for each meeting.

(2) For the purposes of section 5.98 (1), subject to subregulation (3) or (5), as the case requires —

- (a) the minimum fee for a council member attending a meeting of a committee of which he or she is also a member is \$25 for each meeting; and
- (b) the maximum fee for a council member attending a meeting of a committee of which he or she is also a member is \$50 for each meeting.

(3) The total of fees paid to a council member other than —

- (a) the mayor or president; or
- (b) in the case of a regional local government, the chairman,

for attending meetings (whether of the council or of any committee) in each year is not to exceed \$5 000.

(4) For the purposes of section 5.98 (1), subject to subregulation (5) —

- (a) the minimum fee —
 - (i) for the mayor or president; or
 - (ii) in the case of a regional local government, for the chairman, attending a council meeting is \$100 for each meeting; and
- (b) the maximum fee —
 - (i) for the mayor or president; or
 - (ii) in the case of a regional local government, for the chairman, attending a council meeting is \$200 for each meeting.

(5) The total of fees paid —

- (a) to the mayor or president; or
- (b) in the case of a regional local government, to the chairman,

for attending meetings (whether of the council or of any committee) in each year is not to exceed \$10 000.

Expenses that are to be reimbursed — s. 5.98 (2) (a) and (3)

31. (1) For the purposes of section 5.98 (2) (a), the kinds of expenses that are to be reimbursed by all local governments are —

- (a) rental charges incurred by a council member in relation to one telephone and one facsimile machine; and
- (b) child care and travel costs incurred by a council member because of the member's attendance at a council meeting or a meeting of a committee of which he or she is also a member.

(2) The extent to which an expense referred to in subregulation (1) (a) can be reimbursed is the actual amount.

(3) The extent to which child care costs referred to in subregulation (1) (b) can be reimbursed is the actual cost per hour or \$10.00 per hour, whichever is the lesser amount.

(4) The extent to which travel costs referred to in subregulation (1) (b) can be reimbursed —

- (a) if the person lives or works in the local government district or an adjoining local government district, is the actual cost for the person to travel from the person's place of residence or work to the meeting and back; or
- (b) if the person does not live or work in the local government district or an adjoining local government district, is the actual cost, in relation to a journey from the person's place of residence or work and back —
 - (i) for the person to travel from the person's place of residence or work to the meeting and back; or
 - (ii) if the distance travelled referred to in subparagraph (i) is more than 100 km, for the person to travel from the outer boundary of an adjoining local government district to the meeting and back to that boundary.

(5) For the purposes of subregulations (2) to (4), actual amounts and actual costs are to be verified by sufficient information.

Expenses that may be approved for reimbursement — s. 5.98 (2) (b) and (3)

32. (1) For the purposes of section 5.98 (2) (b), the kinds of expenses that may be approved by any local government for reimbursement by the local government are —

- (a) an expense incurred by a council member in performing a function under the express authority of the local government;
- (b) an expense incurred by a council member to whom paragraph (a) applies by reason of the council member being accompanied by not more than one other person while performing the function if, having regard to the nature of the function, the local government considers that it is appropriate for the council member to be accompanied by that other person; and
- (c) an expense incurred by a council member in performing a function in his or her capacity as a council member.

(2) The extent to which an expense referred to in subregulation (1) can be reimbursed is the actual amount, verified by sufficient information.

Annual entertainment allowance for mayors or presidents — s. 5.98 (5)

33. (1) For the purposes of section 5.98 (5) —

- (a) the minimum annual entertainment allowance for a mayor or president is \$500; and
- (b) the maximum annual entertainment allowance for a mayor or president is —
 - (i) \$10 000; or
 - (ii) 0.002 of the local government's operating revenue,whichever is the greater amount.

(2) In this regulation —

“operating revenue” has the meaning that it has in the *Local Government (Financial Management) Regulations 1996*.

Annual attendance fees — s. 5.99

34. (1) For the purposes of section 5.99 —
- (a) the minimum annual fee for a council member other than —
 - (i) the mayor or president; or
 - (ii) in the case of a regional local government, the chairman,
attending meetings (whether of the council or of any committee) is \$2 000; and
 - (b) the maximum annual fee for a council member other than —
 - (i) the mayor or president; or
 - (ii) in the case of a regional local government, the chairman,
attending meetings (whether of the council or of any committee) is \$5 000.
- (2) For the purposes of section 5.99 —
- (a) the minimum annual fee —
 - (i) for the mayor or president; or
 - (ii) in the case of a regional local government, for the chairman,
attending meetings (whether of the council or of any committee) is \$5 000; and
 - (b) the maximum annual fee —
 - (i) for the mayor or president; or
 - (ii) in the case of a regional local government, for the chairman,
attending meetings (whether of the council or of any committee) is \$10 000.

Electors' general meeting for 1996-7 financial year — s. 5.27

35. (1) In this regulation —

“financial statements” means the financial statements for the financial year from 1 July 1995 to 30 June 1996 of the council of the relevant continuing authority, within the meaning given by clause 1 of Schedule 9.3 to the Act;

“1996-7 general meeting” means the general meeting of the electors of a district to be held in the financial year from 1 July 1996 to 30 June 1997.

(2) Section 5.27 (2) and (3) and regulation 15 do not apply to a 1996-7 general meeting.

(3) The 1996-7 general meeting is to be held on a day selected by the local government but not more than 60 days after the local government receives a copy of the auditor's report on the financial statements.

(4) At the 1996-7 general meeting, the order of business is —

- (a) the receiving of the financial statements;
- (b) the reading of the auditor's report on the financial statements;
- (c) the reading of the report of the mayor or president;
- (d) dealing with such other general business as the person presiding at the meeting thinks fit.

Annual report for 1996-7 financial year — s. 5.53

36. Paragraphs (c), (d) and (e) of section 5.53 (2) do not apply to an annual report for the financial year from 1 July 1996 to 30 June 1997.

“Start day” for certain council members — s. 5.74

37. (1) The definition of “start day” in section 5.74 (1) applies with the modification referred to in subregulation (2) in the case of a person —

- (a) who continues to be a member because of Schedule 9.3 clause 6 (1);
or

- (b) who becomes a member of a council after 1 July 1996 but before 3 May 1997,

if the term of the office held by the person does not expire until after 3 May 1997.

(2) The “**start day**” for a person referred to in subregulation (1) is 3 May 1997.

Council members need not lodge a primary return before 3 May 1997 — s. 5.75

38. (1) Section 5.75 (1) does not apply to a person —

- (a) who continues to be a member of a council because of Schedule 9.3 clause 6 (1); or
- (b) who becomes a member of a council after 1 July 1996,

if the office held by the person becomes vacant before 3 May 1997.

(2) Nothing in subregulation (1) prevents section 5.75 (1) from applying to a person referred to in that subregulation if the person becomes a member of a council on or after 3 May 1997.

Annual returns need not be lodged in 1996 and 1997 — s. 5.76

39. Section 5.76 (1) and (2) do not apply so as to require any person who is —

- (a) a member of a council; or
- (b) a designated employee within the meaning of section 5.74 (1),

to lodge an annual return in 1996 or in 1997.

SCHEDULE 1 — FORMS

Form 1

[reg. 16]

Local Government Act 1995

Local Government (Administration) Regulations 1996

REQUEST FOR A SPECIAL MEETING OF ELECTORS

TO: The ⁽¹⁾Mayor/President of ⁽²⁾

1. Under section 5.28 of the *Local Government Act 1995*, the electors of ⁽³⁾ whose names, addresses and signatures are set out in the attached list and who comprise ⁽¹⁾100 electors/5% of the number of electors request that a special meeting of the electors of the district be held.

2. The details of the matter to be discussed at the special meeting are —

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

Name

Signature

Contact details

Date

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

Form 2

[reg. 22]

Local Government Act 1995

Local Government (Administration) Regulations 1996

PRIMARY RETURN

Surname Other names

Office held

Start day

1. Real property

Section 5.79 of the Act

Addresses	Nature of Interest

2. Income sources

Section 5.80 of the Act

(a) income from an occupation

Description of the occupation	Name and address of employer	Description of office held	Name of the partnership

20

(b) income from a trust

Name of trust	Name and address of settlor	Name and address of trustee

(c) sources of other income

Identity of persons
Describe circumstances

3. Trusts

Section 5.81 of the Act

Trusts in which the relevant person holds a beneficial interest

Name of trust	Name and address of settlor	Name and address of trustee

Discretionary trusts of which the relevant person is a trustee or an object

Name of trust	Name and address of settlor	Name and address of trustee

4. Interests and positions in corporations

Section 5.84 of the Act

Name & address of corporation	Nature of interest/ position held	Principal business (if required)

5. Debts

Section 5.85 of the Act

Name of lender/creditor	Address of lender/creditor

6. Discretionary disclosures

Section 5.87 of the Act

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.....
.....

Signature Date

Form 3

[reg. 23]

Local Government Act 1995

Local Government (Administration) Regulations 1996

ANNUAL RETURN

Surname Other names

Office held

Disclosure of interests for the return period from to 30 June ..

1. Real property

Section 5.79 of the Act

Address	Nature of interest

2. Income sources

Section 5.80 of the Act

(a) income from an occupation

Description of the occupation	Name and address of employer	Description of office held	Name of the partnership

23

(b) income from a trust

Name of trust	Name and address of settlor	Name and address of trustee

(c) sources of other income

Identity of persons
Describe circumstances

3. Trusts

Section 5.81 of the Act

Trusts in which the relevant person holds a beneficial interest

Name of trust	Name and address of settlor	Name and address of trustee

Discretionary trusts of which the relevant person is a trustee or an object

Name of trust	Name and address of settlor	Name and address of trustee

4. Gifts

Section 5.82 of the Act

Description of gift	Name and address of giver

5. Contributions to travel

Section 5.83 of the Act

Name of contributor	Address of contributor

6. Interests and positions in corporations

Section 5.84 of the Act

Name and address of corporation	Nature of interest/ position held	Principal business (if required)

7. Debts

Section 5.85 of the Act

Name of lender/creditor	Address of lender/creditor

8. Disposition of property

Section 5.86 of the Act

(a) section 5.86 (1)

Address of property	Manner of disposition	Date of disposition	Nature of interest retained

(b) section 5.86 (2)

Address of property	Person by whom property disposed	Person to whom property disposed	Manner of disposition	Date of disposition	Nature of interest obtained

9. Discretionary disclosures

Section 5.87 of the Act

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Signature Date

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996

Made by His Excellency the Governor in Executive Council.

Citation

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

Commencement

2. These regulations come into operation on 1 July 1996.

Interpretation

3. In these regulations, unless the contrary intention appears —

“**Australian Accounting Standards**” means the “Statements of Accounting Standards” issued by the Australian Accounting Research Foundation;

“**section**” means section of the Act.

Prescribed amount of debt which disqualifies person as auditor — s. 7.4 (2) (b)

4. The amount prescribed for the purposes of section 7.4 (2) (b) is \$5 000.

Prescribed entity, employment or membership of which disqualifies person as auditor — s. 7.4 (2) (c)

5. The prescribed entities for the purposes of section 7.4 (2) (c) are, in relation to a local government —

- (a) a regional local government in which the local government is a participant; and

- (b) an incorporated association which the local government has formed or taken part in forming under the *Associations Incorporation Act 1987*.

Prescribed class of persons, membership of which disqualifies person as auditor — s. 7.4 (2) (d)

6. (1) The prescribed classes of persons for the purposes of section 7.4 (2) (d) are —

- (a) persons who are disqualified for membership of a council under section 2.22;
- (b) persons who are insolvents under administration within the meaning of the Corporations Law; and
- (c) persons who are closely associated with a relevant person.

(2) For the purposes of subregulation (1) (c) a person is to be treated as being closely associated with a relevant person if the person —

- (a) is in partnership with the relevant person;
- (b) is an employer of the relevant person;
- (c) is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee;
- (d) is a body corporate —
 - (i) of which the relevant person is a director, secretary or executive officer; or
 - (ii) in which the relevant person holds shares having a total nominal value exceeding —
 - (I) the amount prescribed for the purposes of section 5.62; or
 - (II) the percentage of the total nominal value of the issued share capital of the company prescribed for the purposes of section 5.62,

whichever is less;

- (e) is the spouse or a child of the relevant person and is living with the relevant person; or
 - (f) has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse if the spouse is living with the relevant person.
- (3) In this regulation —

“relevant person” in relation to a local government, means a member of the council of the local government or an employee of the local government.

Audit agreements

7. An agreement between a local government and an auditor is to include —
- (a) the objectives of the audit;
 - (b) the scope of the audit;
 - (c) a plan for the audit;
 - (d) details of the remuneration and expenses to be paid to the auditor; and
 - (e) the method to be used by the local government to communicate with, and supply information to, the auditor.

Notification required on termination of audit agreement

8. (1) Where an agreement between a local government and an auditor is terminated —
- (a) the local government is to, within a period of 30 days from the termination, give to the Executive Director —
 - (i) notice of the termination; and
 - (ii) the reasons for the termination;
- and

- (b) the auditor is to, within a period of 30 days from the termination, advise the Executive Director of the termination.

(2) Notwithstanding any provision of an agreement between a local government and an auditor to the contrary, an auditor is to be given notice in writing of the termination of his or her appointment.

Performance of the audit

9. (1) An audit is to be carried out in accordance with the "Auditing Standards" and "Auditing Guidance Statements" adopted from time to time by the Australian Society of Certified Practising Accountants and The Institute of Chartered Accountants in Australia.

(2) An auditor is to carry out such work as is necessary to form an opinion as to whether —

- (a) the accounts are properly kept; and
- (b) the annual financial report —
 - (i) is prepared in accordance with the financial records; and
 - (ii) represents fairly the results of the operations of the local government and the financial position of the local government at 30 June in accordance with the *Australian Accounting Standards* and the Act.

Report by auditor

10. (1) An auditor's report is to be forwarded to the persons specified in section 7.9 (1) within 30 days of completing the audit.

(2) The report is to give the auditor's opinion on —

- (a) the financial position of the local government; and
- (b) the results of the operations of the local government.

(3) The report is to include —

- (a) any material matters that in the opinion of the auditor indicate significant adverse trends in the financial position or the financial management practices of the local government;

- (b) any matters indicating non-compliance with Part 6 of the Act, the *Local Government (Financial Management) Regulations 1996* or applicable financial controls in any other written law;
- (c) details of whether information and explanations were obtained by the auditor; and
- (d) a report on the conduct of the audit.

(4) Where it is considered by the auditor to be appropriate to do so, the auditor is to prepare a management report to accompany the auditor's report and to forward a copy of the management report to the persons specified in section 7.9 (1) with the auditor's report.

Statement of hours and fees

11. An auditor is to provide to the Minister with the auditor's report a detailed statement of —

- (a) the hours worked on the audit; and
- (b) the remuneration and expenses due to the auditor by the local government.

Auditor's conflict of interest

12. An auditor is to report a possible conflict of interest to the Minister as soon as possible after the auditor becomes aware of the possible conflict of interest.

Transitional provision for audit for 1995-1996 financial year — s. 9.71

13. An audit of the annual financial report for the financial year ending on 30 June 1996 is to be carried out —

- (a) in accordance with any directions given by the Minister under section 633A of the *Local Government Act 1960* as in force before 1 July 1996; and

- (b) having regard to the requirement in the *Local Government (Financial Management) Regulations 1996* that the annual financial report be prepared in accordance with the *Local Government Accounting Directions 1994**.

[* *Published in Gazette 29 June 1994, pp. 3143-56.*]

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.

WESTERN AUSTRALIA

**LOCAL GOVERNMENT (UNIFORM
LOCAL PROVISIONS)
REGULATIONS 1996**

ARRANGEMENT

1. Citation
2. Commencement
3. These regulations operate as local laws
4. Interpretation
5. Disturbing local government land or anything on it — Sch. 9.1, cl. 2
6. Obstructing public thoroughfare — Sch. 9.1, cl. 3 (1)
7. Encroaching on public thoroughfare — Sch. 9.1, cl. 3 (2)
8. Separating land from public thoroughfare — Sch. 9.1, cl. 4
9. Permission to have gate across public thoroughfare — Sch. 9.1, cl. 5 (1)
10. Gate across thoroughfare not to be left open — Sch. 9.1, cl. 5 (2)
11. Dangerous excavation in or near public thoroughfare — Sch. 9.1, cl. 6
12. Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1, cl. 7 (2)
13. Requirement to construct or repair crossing — Sch. 9.1, cl. 7 (3)
14. Role of Commissioner of Main Roads in some cases — Sch. 9.1, cl. 7 (2)
15. Contribution to cost of crossing — Sch. 9.1, cl. 7 (4)
16. Objections and appeals against decisions about crossings
17. Private works on, over, or under public places — Sch. 9.1, cl. 8

18. Protection of watercourses, drains, tunnels and bridges —
Sch. 9.1, cl. 9
19. Protection of thoroughfares from water damage — Sch. 9.1, cl.
10
20. Works required for supply of gas or water — Sch. 9.1, cl. 11
21. Wind erosion and sand drifts — Sch. 9.1, cl. 12

LOCAL GOVERNMENT ACT 1995
**LOCAL GOVERNMENT (UNIFORM LOCAL PROVISIONS)
REGULATIONS 1996**

Made by His Excellency the Governor in Executive Council under section 9.60.

Citation

1. These regulations may be cited as the *Local Government (Uniform Local Provisions) Regulations 1996*.

Commencement

2. These regulations come into operation on 1 July 1996.

These regulations operate as local laws

3. Under section 9.60 of the Act, these regulations apply as if they were local laws made by each local government.

Interpretation

4. In these regulations, unless the contrary intention appears —

“lawful authority” means —

- (a) the consent in writing of the local government; or
- (b) authority conferred by an Act.

Disturbing local government land or anything on it — Sch. 9.1, cl. 2

5. A person who, without lawful authority —

- (a) interferes with the soil of, or anything on, land that is local government property; or

(b) takes anything from land that is local government property,
commits an offence the penalty for which is a fine of \$1 000.

Obstructing public thoroughfare — Sch. 9.1, cl. 3 (1)

6. (1) A person who, without lawful authority, places on a public thoroughfare anything that obstructs it commits an offence if the person fails to remove the obstruction when requested by the local government to do so.

(2) If anything falls from land, or from anything on land, onto a public thoroughfare and obstructs it, a person who is the owner or occupier of the land commits an offence if the person fails to remove the obstruction when requested by the local government to do so.

(3) The penalty for an offence against subregulation (1) or (2) is a fine of \$1 000.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 1. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Encroaching on public thoroughfare — Sch. 9.1, cl. 3 (2)

7. (1) A person who is the owner or occupier of land and, without lawful authority —

(a) erects on the land a structure that encroaches upon a public thoroughfare; or

(b) permits a tree or other plant growing on the land to encroach upon a public thoroughfare,

commits an offence if the person fails to remove the structure or plant, to the extent that it is encroaching, when requested by the local government to do so.

(2) The penalty for an offence against subregulation (1) is a fine of \$1 000 and a further \$50 for each day or part of a day during which the offence continues.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 1. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

See also Schedule 3.1, Division 1, items 7, 8, and 9 which may allow a similar notice relating to vegetation to be given even when no offence has been committed.

Schedule 3.2, item 7, could also be relevant.]

Separating land from public thoroughfare — Sch. 9.1, cl. 4

8. (1) A person who is the owner or occupier of land commits an offence if any fence or gate that separates the land from a public thoroughfare is not kept in good repair.

(2) The penalty for an offence against subregulation (1) is \$1 000.

[Note: See also Schedule 3.1, Division 1, item 4, which, for related reasons, allows a person to be given a notice under section 3.25 (1) (a) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the person.]

Permission to have gate across public thoroughfare — Sch. 9.1, cl. 5 (1)

9. (1) A person may apply to the local government for permission to have across a public thoroughfare under the control or management of the local government a gate or other device that enables motor traffic to pass across the public thoroughfare and prevents livestock from straying.

(2) The local government may, before dealing with the application, require the applicant to publish notice of the application in such manner as the local government thinks fit.

(3) Permission granted by the local government under this regulation is required to specify the period for which it is granted and may be renewed from time to time.

(4) The local government may impose such conditions as it thinks fit on the construction, placement and maintenance of the gate or other device across the public thoroughfare and may, when renewing the permission or at any other time, vary any condition.

(5) The local government may at any time withdraw permission granted under this regulation and request the person responsible for the gate or other device to remove it within a time specified in the request.

(6) A person to whom a request is made under subregulation (5) commits an offence if the person fails to comply with the request.

(7) The penalty for an offence under subregulation (6) is \$1 000.

(8) A local government is required to keep a register of gates and other devices constructed under this regulation.

[Note: Subregulation (6) is of a kind prescribed in Schedule 3.1, Division 2, item 1A. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Gate across thoroughfare not to be left open — Sch. 9.1, cl. 5 (2)

10. (1) A person who leaves open a gate registered under regulation 9(8) commits an offence.

(2) The penalty for an offence against subregulation (1) is \$1 000.

Dangerous excavation in or near public thoroughfare — Sch. 9.1, cl. 6

11. (1) If there is, in a public thoroughfare or land adjoining a public thoroughfare, an excavation that the local government considers to be dangerous, the local government may —

(a) fill in or fence the excavation; or

(b) in writing request the owner or occupier of the land to fill in or securely fence the excavation.

(2) If a person who is the owner or occupier of land in which there is a dangerous excavation fails to fill in or securely fence the excavation when requested under subregulation (1) to do so, the person commits an offence.

(3) The penalty for an offence against subregulation (2) is \$1 000.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 2. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1, cl. 7 (2)

12. (1) Upon the application of the sole owner, or a majority of the owners, of private land the local government may, subject to regulation 14(2) —

(a) approve the construction, under the supervision of, and to the satisfaction of, the local government, of a crossing giving access from a public thoroughfare to —

(i) the land; or

(ii) a private thoroughfare serving the land;

or

(b) agree to construct for the applicant a crossing giving access from a public thoroughfare to —

(i) the land; or

(ii) a private thoroughfare serving the land.

(2) A person is not to construct a crossing for vehicles from a public thoroughfare that is a Government road as defined in section 5 (1) of the *Road Traffic Act 1974* to —

(a) land on which premises have been or are about to be constructed; or

(b) a private thoroughfare serving the land,

unless the construction of the crossing has been approved by the local government under subregulation (1) and the crossing is constructed in accordance with the approval.

Penalty: \$1 000.

[Note: Subregulation (2) is of a kind prescribed in Schedule 3.1, Division 2, item 2A (a). This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Requirement to construct or repair crossing — Sch. 9.1, cl. 7 (3)

13. (1) A local government may, subject to regulation 14(2), give a person who is the owner or occupier of private land a notice in writing requiring the person to construct or repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land.

(2) If the person fails to comply with the notice, the local government may construct or repair the crossing as the notice required and recover 50% of the cost of doing so as a debt due from the person.

(3) A person to whom a notice is given under subregulation (1) commits an offence if the person fails to comply with the notice.

(4) The penalty for an offence under subregulation (3) is \$1 000.

Role of Commissioner of Main Roads in some cases — Sch. 9.1, cl. 7 (2)

14. (1) This regulation applies to a crossing for vehicles from a public thoroughfare that is a Government road as defined in section 5 (1) of the *Road Traffic Act 1974* to —

- (a) land on which premises have been or are about to be constructed; or
- (b) a private thoroughfare serving the land.

(2) A local government cannot —

- (a) under regulation 12 construct or approve the construction of; or
- (b) under regulation 13(1) require the construction of,

a crossing to which this regulation applies unless the local government has consulted with the Commissioner and the Commissioner has approved the construction of the crossing.

(3) If a person —

- (a) constructs a crossing to which this regulation applies other than in accordance with approval given by the Commissioner under this regulation; or
- (b) modifies a crossing to which this regulation applies in such a way that it is not in accordance with approval given by the Commissioner under this regulation,

the Commissioner may, by notice in writing, require the person to bring the crossing into accordance with the approval, if approval was given, or remove the crossing and restore the place where the crossing was to its former condition.

(4) If the person fails to comply with the notice, the Commissioner may do anything required by the notice to be done and recover the cost of doing it as a debt due from the person.

(5) A person to whom a notice is given under subregulation (3) commits an offence if the person fails to comply with the notice.

(6) The penalty for an offence under subregulation (5) is \$1 000.

(7) In this regulation —

“**Commissioner**” means the Commissioner of Main Roads.

[Note: Subregulation (5) is of a kind prescribed in Schedule 3.1, Division 2, item 2A (b). This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Contribution to cost of crossing — Sch. 9.1, cl. 7 (4)

15. (1) Where —

(a) a local government —

- (i) under regulation 12 constructs or approves the construction of; or
- (ii) under regulation 13(1) requires the construction of,

a crossing giving access from a public thoroughfare to private land or a private thoroughfare serving the land;

- (b) the crossing is the first crossing in respect of the land; and
- (c) the crossing is a standard crossing or is of a type that is superior to a standard crossing,

the local government is obliged to bear 50% of the cost, as estimated by the local government, of a standard crossing, but otherwise the local government is not obliged to bear, nor prevented from bearing, any of the cost.

- (2) In subregulation (1) —

“first crossing”, in respect of land, means the first crossing to the land or a private thoroughfare serving the land constructed under regulation 12 or section 358 of the *Local Government Act 1960* as in force at any time before 1 July 1996;

“standard crossing” means, subject to any local law as to what is or is not a standard crossing, a crossing of a kind that the local government, by resolution, decides is a standard crossing.

Objections and appeals against decisions about crossings

16. Part 9, Division 9.1, applies to —

- (a) a decision of a local government made upon an application under regulation 12 or a decision by the Commissioner of Main Roads under regulation 14(2) relating to the application;
- (b) a notice given by a local government under regulation 13(1); or
- (c) a notice given by the Commissioner of Main Roads under regulation 14(3),

and the applicant or person to whom the notice was given, as the case requires, is an affected person for the purposes of applying that Division.

Private works on, over, or under public places — Sch. 9.1, cl. 8

17. (1) A person who constructs anything on, over, or under a public thoroughfare or other public place that is local government property without first obtaining written permission from the local government commits an offence.

- (2) A local government may —
- (a) grant permission to construct anything on, over, or under a public thoroughfare or other public place that is local government property; and
 - (b) impose conditions in respect of the permission, which may include a condition imposing a charge for any damage to the public thoroughfare or public place resulting from the construction.
- (3) It is a condition of the permission that the ordinary and reasonable use of the public thoroughfare or public place for the purpose to which it is dedicated is not to be permanently or unreasonably obstructed.
- (4) A person who fails to comply with a condition of the permission commits an offence.
- (5) A person who constructs anything in accordance with permission under this section is required to —
- (a) maintain it; and
 - (b) obtain from an insurance company approved by the local government an insurance policy, in the joint names of the local government and the person, indemnifying the local government against any claim for damages which may arise in, or out of, its construction, maintenance or use.
- (6) A person who fails to comply with subregulation (5) commits an offence.
- (7) The penalty for an offence under subregulation (1), (4), or (6) is \$1 000.

[Note: Subregulations (1) and (4) are of the kind prescribed in Schedule 3.1, Division 2, item 3. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender. Schedule 9.1, item 8 (4) is relevant.]

See also Schedule 3.1, Division 1, item 3 which allows a similar notice to be given even when no offence has been committed.]

Protection of watercourses, drains, tunnels and bridges — Sch. 9.1, cl. 9

18. (1) A person who, without lawful authority, alters, obstructs, or interferes with, any watercourse, drain, tunnel, or bridge that is local government property, commits an offence.

(2) A person who, wilfully or negligently, causes or permits tree material that is, or has been, growing on land occupied by that person, to fall into a watercourse that is local government property commits an offence.

(3) The penalty for an offence under subregulation (1) or (2) is \$1 000.

(4) In this regulation —

“tree material” means leaves, timber, logs, and brushwood.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 4. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Protection of thoroughfares from water damage — Sch. 9.1, cl. 10

19. (1) A person who, without lawful authority, alters, obstructs, or interferes with the natural flow of surface water across any thoroughfare or other land in such a way as is likely to damage any thoroughfare that is local government property commits an offence.

(2) The penalty for an offence under subregulation (1) is \$1 000.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 5. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Works required for supply of gas or water — Sch. 9.1, cl. 11

20. (1) A local government that is responsible for supplying water or gas may carry out any works that are necessary for the purpose of providing, maintaining, or modifying the supply system.

(2) Before a local government carries out works under this regulation in a public thoroughfare or other public place that is not local government property, it is required to give at least 3 days' notice of its intention to carry out the works to the local government or other person having the management or control of the place.

(3) Notice is not required to be given under subregulation (2) if it is not practicable to give it because of exceptional circumstances and in that case notice of the works is required to be given as soon as is practicable after deciding to carry them out, but the works may be commenced before the notice is given.

(4) This regulation —

- (a) does not authorize a local government to interfere with a supply system that is not local government property without the consent of a person who has authority to consent; and
- (b) does not authorize a local government to carry out works in a public thoroughfare or other public place that is not local government property unless the person having the management or control of the place, or a representative of that person, is present while the work is being carried out.

Wind erosion and sand drifts — Sch. 9.1, cl. 12

21. (1) A local government may give a notice under this regulation to a person who is the owner or occupier of land (in this regulation called "**the person's land**") if the local government considers that clearing the person's land might cause land having a common boundary with it that is local government property to be adversely affected by wind erosion or sand drift.

(2) The notice may forbid the person, to the extent specified in the notice, to clear the person's land of vegetation without the consent of the local government.

(3) The notice cannot forbid the clearing of land that is more than 60 metres from the common boundary of the person's land with the land that is local government property.

(4) A person who is given a notice under subregulation (1) and contravenes the notice commits an offence the penalty for which is a fine of \$1 000.

(5) A person who is given a notice under subregulation (1) may object or appeal against the notice in accordance with Part 9.1, Division 1, of the Act, as if —

- (a) the person were an “affected person” as defined in that Division; and
- (b) the giving of the notice were the making of a “decision” as defined in that Division,

and the provisions of that Division are adopted accordingly.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 6. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

See also Schedule 3.1, Division 1, item 6 which allows a similar notice to be given even when no offence has been committed.]

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.

LOCAL GOVERNMENT ACT 1995
LOCAL GOVERNMENT (AMENDMENT AND REPEAL)
REGULATIONS 1996

Made by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Local Government (Amendment and Repeal) Regulations 1996*.

Commencement

2. These regulations come into operation on 1 July 1996.

Local Government (Appeals to Building Referees) Regulations 1961
amended

3. (1) In this regulation the *Local Government (Appeals to Building Referees) Regulations 1961** are referred to as the principal regulations.

[* *Published in Gazette 29 June 1961, p. 2064.*
For amendments to 10 June 1996 see 1995 Index to Legislation of
Western Australia, Table 4, p. 176.]

(2) Regulation 2 of the principal regulations is amended —

(a) by deleting “Local Government Act, 1960” in both places where it occurs in the Form, and in the other place where it occurs in the regulation, and substituting the following —

“ *Local Government (Miscellaneous Provisions) Act 1960* ”;

(b) by deleting “Clerk of the Council” and substituting the following —

“ CEO of the local government ”;

(c) in the Form, by deleting “Town/Shire Clerk” and substituting the following —

“ CEO ”; and

(d) by deleting "Council" and substituting the following —

" (local government) ".

(3) Regulations 4, 6, and 7 of the principal regulations are each amended by deleting "Council" and substituting the following —

" local government ".

(4) Regulations 7 and 8 of the principal regulations are each amended by deleting "Clerk" and substituting the following —

" CEO ".

(5) Regulation 8 of the principal regulations is amended by deleting "council's" and substituting the following —

" local government's ".

Local Government (Appeals to Minister) Regulations 1961 amended

4. (1) In this regulation the *Local Government (Appeals to Minister) Regulations 1961** are referred to as the principal regulations.

[* *Published in Gazette 22 June 1961, pp. 1879-80.*
For amendments to 10 June 1996 see 1995 Index to Legislation of
Western Australia, Table 4, p. 176.]

(2) Regulation 2 of the principal regulations is amended —

- (a) by deleting the definition of "council"; and
 (b) by deleting the definition of "the Act" and substituting the following definition —

"
 "the Act" means the *Local Government (Miscellaneous Provisions) Act 1960*.
 "

(3) Regulation 3 of the principal regulations is amended —

- (a) by deleting "secretary" in both places where it occurs and substituting the following —

" chief executive officer "; and

- (b) in paragraph (b), by deleting “Council” and substituting the following —
- “ local government ”.
- (4) Regulation 4 of the principal regulations is amended —
- (a) by deleting “secretary” and substituting the following —
- “ chief executive officer ”; and
- (b) by deleting “clerk of the council” and substituting the following —
- “ CEO of the local government ”.
- (5) Regulation 5 of the principal regulations is amended —
- (a) by deleting “clerk of the council” and substituting the following —
- “ CEO of the local government ”; and
- (b) by deleting “council” in both of the other places where it occurs and substituting the following —
- “ local government ”.
- (6) Regulations 6 and 7 of the principal regulations are each amended by deleting “council” and substituting the following —
- “ local government ”.
- (7) The Schedule to the principal regulations is amended in Form No. 1 —
- (a) by deleting “Local Government Act, 1960” in both places where it occurs and substituting the following —
- “ *Local Government (Miscellaneous Provisions) Act 1960* ”;
- (b) by deleting “(b)” in the second place where it occurs in the body of the Form and substituting the following —
- “ (f) ”;
- (c) by deleting “Council” where it occurs in the body of the Form; and

- (d) by deleting "Council" in both places where it occurs in the notes to the Form and substituting the following —

" local government ".

Local Government (Prohibition on Dealings in Land) Regulations 1973 amended

5. (1) In this regulation the *Local Government (Prohibition on Dealings in Land) Regulations 1973** are referred to as the principal regulations.

[* *Published in Gazette 2 March 1973, p. 627.*]

- (2) Regulation 2 of the principal regulations is amended by deleting "Local Government Act, 1960" and substituting the following —

" *Local Government (Miscellaneous Provisions) Act 1960* ".

- (3) The Form in the Schedule to the principal regulations is amended —

- (a) by deleting "LOCAL GOVERNMENT ACT, 1960 (AS AMENDED)." and substituting the following —

"

***LOCAL GOVERNMENT (MISCELLANEOUS
PROVISIONS) ACT 1960***

”;

- (b) by deleting "Local Government Act, 1960, as amended," and substituting the following —

" *Local Government (Miscellaneous Provisions) Act 1960* ";

- (c) by deleting "197" and substituting the following —

" 19 ";

- (d) by deleting "Town or Shire Clerk." and substituting the following —

" chief executive officer ".

Local Government (Qualification of Municipal Officers) Regulations 1984
amended

6. (1) In this regulation the *Local Government (Qualification of Municipal Officers) Regulations 1984** are referred to as the principal regulations.

[* *Published in Gazette 24 August 1984, pp. 2601-7.*
For amendments to 10 June 1996 see 1995 Index to Legislation of
Western Australia, Table 4, p. 177.]

(2) Regulation 3 of the principal regulations is repealed and the following regulation is substituted —

“

Appointments

3. A local government for a district the population of which, during the preceding year, was in excess of 15 000 persons shall not appoint a person to the office of building surveyor unless the appointee holds a certificate of qualification, in respect of the office of building surveyor, issued pursuant to these regulations.

”.

(3) Parts III, IV, and VI of the principal regulations are repealed.

(4) Regulation 16 (1) of the principal regulations is amended by deleting “the provisions of regulations 5, 8, 11 or 14 as the case may require,” and substituting the following —

“ regulation 11 ”.

(5) Regulation 17 (3) of the principal regulations is amended by deleting “the provisions of regulation 5, 8, 11 or 14 as the case may require, of these regulations” and substituting the following —

“ regulation 11 ”.

(6) In each provision referred to in the Table to this subregulation “a Committee” or “that Committee” is deleted in each place where it occurs and the following is substituted —

“ the Committee ”.

6

Table

regulation 16 (1) and (2)
regulation 17 (1) and (2)
regulation 18
regulation 19
regulation 21 (2)
regulation 29
regulation 30 (1)

(7) In each provision referred to in the Table to this subregulation "Each Committee" or "A Committee" is deleted in each place where it occurs and the following is substituted —

" The Committee ".

Table

regulation 20
regulation 21 (1)
regulation 26
regulation 27 (1)
regulation 28

(8) In regulation 24 of the principal regulations "a Qualifications Committee" is deleted and the following is substituted —

" the Committee ".

(9) Regulation 25 of the principal regulations is repealed.

(10) The Schedule to the principal regulations is deleted and the following Schedule is substituted —

“

SCHEDULE — FORMS

Form 1

[reg. 22]

Local Government (Miscellaneous Provisions) Act 1960

Local Government (Qualification of Municipal Officers) Regulations 1984

APPLICATION FOR CERTIFICATE OF QUALIFICATION

I (full name)

of (address)

occupation

hereby apply for the issue of a certificate of qualification as a building surveyor.

I declare that I was born at (place)

on the of 19

I attach —

- (a) copies of certificates showing relevant qualification
- (b) detailed statement of experience
- (c) cheque for \$ to cover fee for issue of certificate

Witness Signature

Date Date

Form 2

[reg. 24]

Local Government (Miscellaneous Provisions) Act 1960

*Local Government (Qualification of Municipal Officers)
Regulations 1984*

BUILDING SURVEYORS CERTIFICATE OF QUALIFICATION

This is to certify that

of

has satisfied the Municipal Building Surveyors Qualifications Committee that he/she is competent to exercise the office of City, Town, or Shire Building Surveyor under the *Local Government (Miscellaneous Provisions) Act 1960*, and the *Local Government (Qualification of Municipal Officers) Regulations 1984*.

Dated at Perth this day of 19

.....
Chairman of Committee

.....
Secretary

”.

Certain regulations repealed

- 7. The regulations referred to in the Table to this regulation are repealed.

Table

- Local Government Act (Deposit of Refuse and Litter Infringement) Regulations 1973*
- Local Government Act (Street Levels Appeals) Regulations 1962*
- Local Government Act (Unpaid Rates) Regulations 1979*
- Local Government Auditors Regulations 1982*
- Local Government (Infringement Notices) Regulations 1991*
- Local Government (Minimum Rate) Regulations 1992*

Local Government (Pecuniary Interests) Regulations 1985
Local Government (Revesting of Land) Regulations 1961
Local Government (Sale of Council Assets) Regulations 1983
Local Government (Tenders for Contracts) Regulations 1983

Transitional provision

8. If, when the *Local Government (Tenders for Contracts) Regulations 1983* are repealed by these regulations, a local government has —

- (a) invited tenders under the repealed regulations; or
- (b) invited persons to apply to register their interest in submitting a proposal under the procedure described in the Schedule to the repealed regulations,

but a contract has not been entered into, the local government may continue the procedure already commenced and enter into a contract as if the repealed regulations had continued in operation.

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.

LOCAL GOVERNMENT ACT 1995
**LOCAL GOVERNMENT (PARKING FOR DISABLED PERSONS)
AMENDMENT REGULATIONS 1996**

Made by His Excellency the Governor in Executive Council under section 9.60.

Citation

1. These regulations may be cited as the *Local Government (Parking for Disabled Persons) Amendment Regulations 1996*.

Commencement

2. These regulations come into operation on 1 July 1996 immediately after the principal regulations become regulations as mentioned in regulation 3.

Principal regulations

3. In these regulations the *Local Government Uniform General (Parking for Disabled Persons) By-laws 1988**, which on 1 July 1996 become regulations because of clause 35 (4) of Schedule 9.3 to the *Local Government Act 1995*, are referred to as the principal regulations.

[* *Published in Gazette 5 February 1988, pp. 299-303.*
For amendments to 10 June 1996 see 1995 Index to Legislation of Western Australia, Table 4, p. 175.]

Regulation 1 repealed and a regulation substituted

4. Regulation 1 of the principal regulations is repealed and the following regulation is substituted —

“

Citation

1. These regulations may be cited as the *Local Government (Parking for Disabled Persons) Regulations 1988*.

”.

Regulations 3 and 7 amended

5. Regulations 3 and 7 of the principal regulations are amended by deleting "\$80" in the penalty provision and in each case substituting the following —

" \$1 000 ".

Regulation 6 amended

6. Regulation 6 of the principal regulations is amended by deleting "Council" and substituting the following —

" local government ".

Regulations 8 to 12 repealed and a regulation substituted

7. Regulations 8, 9, 10, 11, and 12 of the principal regulations are repealed and the following regulation is substituted —

"

Infringement notice offences

8. (1) An offence described in column 1 of Schedule 1 is prescribed for the purposes of section 9.16 (1) of the Act.

(2) The amount specified in column 2 of Schedule 1 for the offence is the modified penalty that is to be specified in an infringement notice given for that offence.

".

Schedule 1 amended

8. Schedule 1 to the principal regulations is amended —

- (a) by deleting the heading "MODIFIED PENALTIES" and substituting the following heading —

"

INFRINGEMENT NOTICE OFFENCES AND
MODIFIED PENALTIES

";

and

- (b) by deleting “9” after “By-law” and substituting the following —
“ 8 ”.

Schedule 2 deleted

9. Schedule 2 to the principal regulations is deleted.

References to by-laws amended

10. (1) Regulation 2 of the principal regulations is amended by deleting “by-laws” and substituting the following —

“ regulations ”.

- (2) The principal regulations are amended in each place listed in the Table to this subregulation by deleting “By-law” and substituting the following —

“ regulation ”.

Table

regulation 2 (in the definitions of “parking bay” and “vehicle of a disabled person”
regulation 3
regulation 4
regulation 5
regulation 6
regulation 7
Schedule 1 (in the 4 places where it occurs)

By His Excellency’s Command,

J. PRITCHARD, Clerk of the Council.

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT ACT (SCHEDULE 3.1) AMENDMENT
REGULATIONS 1996

Made by His Excellency the Governor in Executive Council under section 3.25 (2).

Citation

1. These regulations may be cited as the *Local Government Act (Schedule 3.1) Amendment Regulations 1996*.

Commencement

2. These regulations come into operation on 1 July 1996.

Schedule 3.1 to the Act amended

3. (1) In this regulation Schedule 3.1 to the *Local Government Act 1995** is referred to as Schedule 3.1.

[* *Act No. 74 of 1995.*]

(2) Schedule 3.1 is amended in Division 2 —

(a) by inserting after item 1 the following item —

“

1A. Regulations under Schedule 9.1, clause 5 (1) (Gates and other devices across public thoroughfares) requiring a person to remove a gate or other device from across a public thoroughfare when requested by a local government to do so.

”;

and

(b) by inserting after item 2 the following item —

“

2A. Regulations under Schedule 9.1, clause 7 (2) (Crossings from public thoroughfares to private land or to private thoroughfares) that —

- (a) prohibit a person from constructing a crossing; or
- (b) by means of a notice in writing given to a person by the Commissioner of Main Roads, require the person to bring a crossing into accordance with an approval by the Commissioner of Main Roads or to remove a crossing and restore the place where it was to its former condition.

”.

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.

LOCAL GOVERNMENT ACT 1995
BUILDING AMENDMENT REGULATIONS 1996

Made by His Excellency the Governor in Executive Council under section 9.60.

Citation

1. These regulations may be cited as the *Building Amendment Regulations 1996*.

Commencement

2. These regulations come into operation on 1 July 1996 immediately after the commencement of the *Local Government Act 1995*.

Regulation 38H inserted

3. After regulation 38G of the *Building Regulations 1989** the following regulation is inserted —

“

Infringement notices

38H. (1) The offence of failing to enclose a swimming pool as required by regulation 38B (1) is prescribed for the purposes of section 9.16 (1) of the Act.

(2) The modified penalty that is to be specified in an infringement notice given for that offence is —

- (a) if a notice under section 245A (5) (b) of the *Local Government (Miscellaneous Provisions) Act 1960* has been served, \$100;
- (b) if a notice under section 245A (5) (b) of the *Local Government (Miscellaneous Provisions) Act 1960* has not been served, \$75.

”.

[* Reprinted as at 22 November 1995.]

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.

