



Western Australia

Local Government Act 1995

# **Local Government (Constitution) Regulations 1998**



# Local Government (Constitution) Regulations 1998

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## **Local Government (Constitution) Regulations 1998**

### **Part 1 — Preliminary**

**1. Citation**

These regulations may be cited as the *Local Government (Constitution) Regulations 1998*.

**2. Terms used in these regulations**

In these regulations, unless the contrary intention appears —  
***Form*** means a Form in Schedule 1;  
***section*** means a section of the *Local Government Act 1995*.

## **Part 1A — Classes of local governments**

*[Heading inserted: SL 2023/102 r. 10.]*

### **2A. Local governments divided into 4 classes**

For the purposes of these regulations and any other regulations made under the Act —

- (a) a **class 1 local government** is a local government listed in Schedule 2 Division 1; and
- (b) a **class 2 local government** is a local government listed in Schedule 2 Division 2; and
- (c) a **class 3 local government** is a local government listed in Schedule 2 Division 3; and
- (d) a **class 4 local government** is a local government listed in Schedule 2 Division 4.

*[Regulation 2A inserted: SL 2023/102 r. 10.]*

### **2B. Regional local governments**

- (1) This regulation applies for the purposes of any provision of regulations made under the Act —
  - (a) that applies to regional local governments under section 3.66; and
  - (b) in which any of the following terms is used —
    - (i) class 1 local government;
    - (ii) class 2 local government;
    - (iii) class 3 local government;
    - (iv) class 4 local government.
- (2) No regional local government is a class 1 local government.
- (3) Each of the following is a class 2 local government —
  - (a) Eastern Metropolitan Regional Council;
  - (b) Southern Metropolitan Regional Council;



- (c) Tamala Park Regional Council.
- (4) Each of the following is a class 3 local government —
  - (a) Mindarie Regional Council;
  - (b) Rivers Regional Council.
- (5) Each of the following is a class 4 local government —
  - (a) Bunbury-Harvey Regional Council;
  - (b) Murchison Regional Vermin Council;
  - (c) Pilbara Regional Council;
  - (d) Western Metropolitan Regional Council.

*[Regulation 2B inserted: SL 2023/102 r. 10.]*

## **Part 2 — Districts and wards**

### **Division 1 — Orders under section 2.1**

#### **3. Interpretation**

- (1) If there is a reference in a provision in this Part to a district described as “district A” then a reference in that provision to “local government A” is a reference to the local government of district A.
- (2) Subregulation (1), with necessary changes, applies in respect of other districts similarly described.

#### **4. Creating a new district: consequences**

- (1) This regulation applies if an order is made under section 2.1 declaring an area of the State to be a district.
- (2) The first general meeting of the electors of the district is to be held under section 5.27 after the local government of the district accepts the annual report for its first financial year.
- (3) If, on the commencement of the order referred to in subregulation (1), a part of the area of a district (“**district A**”) (which is not abolished) is included in the area of the new district (“**district B**”), then on that commencement any Crown land that is in that part of district A and that, immediately before that commencement, is under the care, control and management of local government A becomes under the care, control and management of local government B on the same conditions to which the care, control and management of that Crown land by local government A were subject.

*[Regulation 4 amended: Gazette 12 Dec 2014 p. 4734.]*

**5. Changing district boundaries: consequences**

- (1) In this regulation —  
**commencement** means the commencement of the order referred to in subregulation (2).
- (2) This regulation applies if an order is made under section 2.1 changing the boundaries of a district (“**district A**”).
- (3) If as a result of the order the whole of the area of a ward of district A is severed from it, then on commencement —
  - (a) the ward is abolished; and
  - (b) the number of offices of councillor on the council of local government A is reduced by the number of offices of councillor for the ward.
- (4) If as a result of the order the area of district A incorporates a part of the area of another district (which is not abolished) (“**district B**”), then on commencement —
  - (aa) any Crown land that is in that part of district B and that, immediately before commencement, is under the care, control and management of local government B becomes under the care, control and management of local government A on the same conditions to which the care, control and management of that Crown land by local government B were subject; and
  - (a) if under section 4.32 a person has, in respect of rateable property in that part of district B, made an enrolment eligibility claim that has been accepted and still has effect under section 4.33 immediately before commencement —
    - (i) the claim is to be taken to have been made and accepted in respect of district A on the day on which it was accepted in respect of district B; and

- (ii) for the purposes of section 4.33, any ordinary elections of local government B held after the claim was so accepted are to be treated as if they had been held by local government A;

and

- (b) the method of valuation of land used by local government B as a basis for a rate in respect of land in that part of district B immediately before commencement becomes the method of valuation to be used by local government A in respect of that land; and
- (c) if immediately before commencement that part of district B is subject to a local planning scheme that is in force under the *Planning and Development Act 2005* —
  - (i) the scheme has effect in respect of that part as if it were a scheme prepared by local government A in respect of that part, approved by the Minister under that Act, and published under that Act on commencement; and
  - (ii) in so far as the scheme applies to that part, local government A is taken to be the responsible authority for the purposes of that Act; and
  - (iii) in so far as the scheme applies to that part, a reference in the scheme to local government B is to be taken to be a reference to local government A;

and

- (d) if a matter or procedure under a written law in relation to any land in that part of district B has not been completed before commencement, any function performed in respect of that land under that law before commencement, whether by local government B or another person, has effect as if it had been performed by local government A or that other person and the matter

or procedure may be completed by local government A or that other person; and

- (e) actions and proceedings by or against local government B are not affected.

*[Regulation 5 amended: Gazette 12 Dec 2014 p. 4734-5.]*

**6. Abolishing a district: consequences**

- (1) In this regulation —  
**commencement** means the commencement of the order referred to in subregulation (2).
- (2) This regulation applies if an order is made under section 2.1 abolishing a district (“**district A**”).
- (3) On commencement —
  - (a) local government A is disestablished;
  - (b) all offices of members of the council of local government A cease to exist.
- (4) If on commencement the whole of the area of district A is included in the area of one other district (“**district B**”), whether by means of a boundary change to an existing district or by means of a declaration of a new district, then on commencement —
  - (a) the property, rights and liabilities of local government A become those of the local government B; and
  - (b) if under section 4.32 a person has, in respect of rateable property in district A, made an enrolment eligibility claim that has been accepted and still has effect under section 4.33 immediately before commencement —
    - (i) the claim is to be taken to have been made and accepted in respect of district B on the day on which it was accepted in respect of district A; and

- (ii) for the purposes of section 4.33, any ordinary elections of local government A held after the claim was so accepted are to be treated as if they had been held by local government B;

and

- (c) the method of valuation of land used by local government A as a basis for a rate in respect of land in district A immediately before commencement becomes the method of valuation to be used by local government B in respect of that land; and
- (d) if immediately before commencement any land in district A is subject to a local planning scheme that is in force under the *Planning and Development Act 2005* —
  - (i) the scheme has effect in respect of that area as if it were a scheme prepared by local government B in respect of that area, approved by the Minister under that Act, and published under that Act on commencement; and
  - (ii) in so far as the scheme applies to that area, local government B is taken to be the responsible authority for the purposes of that Act; and
  - (iii) in so far as the scheme applies to that area, a reference in the scheme to local government A is to be taken to be a reference to local government B;

and

- (e) if a matter or procedure under a written law in relation to any land in district A has not been completed before commencement, any function performed in respect of that land under that law before commencement, whether by local government A or another person, has effect as if it had been performed by local government B or that other person and the matter or procedure may be

- completed by local government B or that other person;  
and
- (f) if a matter or procedure under a written law has not been completed by local government A before commencement, the matter or procedure may be completed by local government B; and
  - (g) a person who, immediately before commencement, has a contract of employment with local government A, is to be taken to have an identical contract of employment with local government B; and
  - (h) a person who, immediately before commencement, holds an appointment made under a written law by local government A for the purposes of enforcing or administering that written law, becomes a person appointed by local government B for those purposes; and
  - (i) a reference in any instrument, contract, written law, or proceedings made or commenced before commencement to local government A shall be read and construed as a reference to local government B; and
  - (j) actions and other proceedings commenced by or against local government A and pending immediately before commencement may be continued by or against local government B; and
  - (k) actions and other proceedings which could have been brought by or against local government A may be brought by or against local government B.
- (5) If on commencement, a part of the area of district A is included in the area of another district (“**district B**”), whether by means of a boundary change to an existing district or by means of a declaration of a new district, then on commencement —
- (aa) any Crown land that is in that part of district A and that, immediately before commencement, is under the care, control and management of local government A

becomes under the care, control and management of local government B on the same conditions to which the care, control and management of that Crown land by local government A were subject; and

- (a) if under section 4.32 a person has, in respect of rateable property in that part of district A, made an enrolment eligibility claim that has been accepted and still has effect under section 4.33 immediately before commencement —

- (i) the claim is to be taken to have been made and accepted in respect of district B on the day on which it was accepted in respect of district A; and
- (ii) for the purposes of section 4.33, any ordinary elections of local government A held after the claim was so accepted are to be treated as if they had been held by local government B;

and

- (b) the method of valuation of land used by local government A as a basis for a rate in respect of land in that part of district A immediately before commencement becomes the method of valuation to be used by local government B in respect of that land; and
- (c) if immediately before commencement that part of district A is subject to a local planning scheme that is in force under the *Planning and Development Act 2005* —
- (i) the scheme has effect in respect of that part as if it were a scheme prepared by local government B in respect of that part, approved by the Minister under that Act, and published under that Act on commencement; and
  - (ii) in so far as the scheme applies to that part, local government B is taken to be the responsible authority for the purposes of that Act; and



- (iii) in so far as the scheme applies to that part, a reference in the scheme to local government A is to be taken to be a reference to local government B;

and

- (d) if a matter or procedure under a written law in relation to any land in that part of district A has not been completed before commencement, any function performed in respect of that land under that law before commencement, whether by local government A or another person, has effect as if it had been performed by local government B or that other person and the matter or procedure may be completed by local government B or that other person; and
- (e) actions and other proceedings commenced by or against local government A in relation to any land, or in relation to a matter that occurred on any land, in that part of district A and pending immediately before commencement may be continued by or against local government B; and
- (f) actions and other proceedings which could have been brought by or against local government A in relation to any land, or in relation to a matter that occurred on any land, in that part of district A may be brought by or against local government B.

*[Regulation 6 amended: Gazette 12 Dec 2014 p. 4735.]*

## **7. Effect of section 2.1 order on local laws**

- (1) In this regulation —

**commencement** means —

- (a) in subregulation (2), the commencement of the order referred to in subregulation (2);
- (b) in subregulation (3), the commencement of the order referred to in subregulation (3).

- (2) If as a result of an order made under section 2.1 an area of the State is declared to be a district (“**district A**”) and the area includes —

- (a) a part of the area of a district (“**district B**”) the boundaries of which are changed by the order; or
- (b) the whole, or a part, of the area of a district (“**district C**”) that is abolished by the order; or
- (c) a combination of the areas described in paragraphs (a) and (b),

then on commencement —

- (d) the local laws that applied in that part of the area of district B immediately before the commencement continue to apply in respect of that part of the area of district B that is included in district A; and
- (e) the local laws that applied in the whole, or that part, of the area of district C immediately before the commencement continue to apply in respect of the whole, or that part, of the area of district C that is included in district A; and
- (f) the local laws of local government C continue to apply in respect of the whole, or that part, of the area of district C that is included in district A; and
- (g) the local laws of local governments B and C, in so far as they continue to apply in respect of those areas —
  - (i) are to be administered and enforced by local government A; and
  - (ii) subject to Division 2 of Part 3 of the Act, may be amended or repealed by local government A,as if they were local laws of local government A.

(3) If as a result of an order made under section 2.1 an area of the State is included in the area of another district (“**district A**”) and the area of the State includes —

- (a) a part of the area of a district (“**district B**”) the boundaries of which are changed by the order; or
- (b) the whole, or a part, of the area of a district (“**district C**”) that is abolished by the order; or
- (c) a combination of the areas described in paragraphs (a) and (b),

then on commencement —

- (d) the local laws that applied in that part of the area of district B immediately before the commencement continue to apply in respect of that part of the area of district B that is included in district A; and
- (e) the local laws that applied in the whole, or that part, of the area of district C immediately before the commencement continue to apply in respect of the whole, or that part, of the area of district C that is included in district A; and
- (f) the local laws of local government C continue to apply in respect of the whole, or that part, of the area of district C that is included in district A; and
- (g) the local laws of local governments B and C, in so far as they continue to apply in respect of those areas —
  - (i) are to be administered and enforced by local government A; and
  - (ii) subject to Part 3 Division 2 of the Act, may be amended or repealed by local government A, as if they were local laws of local government A; and

- (h) until the local laws of local government A provide otherwise, the local laws of local government A do not apply in respect of —
  - (i) that part of the area of district B that is included in district A; or
  - (ii) the whole, or that part, of the area of district C that is included in district A.

*[Regulation 7 amended: Gazette 12 Dec 2014 p. 4735-7.]*

**Division 2 — Matters under Schedules 2.1 and 2.2 to the Act**

**8. Proposals for creating, changing the boundaries of, or abolishing districts (Sch. 2.1 cl. 2)**

A proposal by affected electors under clause 2 of Schedule 2.1 to the Act is to be in the form of Form 1.

**9. Request for a poll on a recommended amalgamation (Sch. 2.1 cl. 8)**

A request by electors under clause 8 of Schedule 2.1 to the Act 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 2.

**10. Submission about changes to wards, names or representation (Sch. 2.2 cl. 3)**

A submission by affected electors under clause 3 of Schedule 2.2 to the Act is to be in the form of Form 3.

**Division 3 — Districts that cannot be divided into wards**

*[Heading inserted: SL 2023/102 r. 11.]*

**10AA. Term used: class 3 or 4 district**

In this Division —

**class 3 or 4 district** means a district that is —

- (a) the district of a class 3 local government; or
- (b) the district of a class 4 local government.

*[Regulation 10AA inserted: SL 2023/102 r. 11.]*

**10AB. Class 3 or 4 district cannot be divided into wards (s. 2.2A(1)(a))**

- (1) For the purposes of section 2.2A(1)(a), a class 3 or 4 district cannot be divided into wards.
- (2) Subregulation (1) is subject to regulation 10AC(3).

*[Regulation 10AB inserted: SL 2023/102 r. 11.]*

**10AC. Abolition of wards in class 3 or 4 district (s. 2.2A(1)(b) and (2)(b) and (c))**

- (1) In this regulation —

**amendment day** means the day on which the *Local Government Regulations Amendment Regulations (No. 2) 2023* regulation 11 comes into operation;

**next election**, in relation to a class 3 or 4 district, means the first ordinary election after amendment day for the local government of which it is the district;

**next election day**, in relation to a class 3 or 4 district, means the day fixed under the Act for the holding of any poll needed for the next election (whether or not any poll is actually held).

- (2) This regulation applies to a class 3 or 4 district which, immediately before amendment day, is divided into wards.

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**r. 10AC**

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- (3) Regulation 10AB(1) does not apply to the class 3 or 4 district before next election day.
- (4) For the purposes of section 2.2A(1)(b), all of the wards are abolished on next election day.
- (5) For the purposes of section 2.2A(2)(b), Part 4 of the Act applies for the purpose of preparing for, and conducting, the next election as if the abolition of all of the wards takes effect on amendment day.

Note for this subregulation:

The operation of Part 4 of the Act is modified to the extent necessary to give effect to this subregulation — see section 2.2A(2)(c).

- (6) Subregulations (4) and (5) do not apply if all of the wards are to be abolished on next election day by an order made under the Act that is published in the *Gazette* before amendment day.

*[Regulation 10AC inserted: SL 2023/102 r. 11.]*

## Part 3 — Offices on councils

### Division 1 — Method of filling office of mayor or president

*[Heading inserted: SL 2023/102 r. 12.]*

**10AD. Proposals to change method of filling office of mayor or president (s. 2.12)**

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) must be in the form of Form 4.

*[Regulation 10AD inserted: SL 2023/102 r. 12.]*

**10AE. Class 1 or 2 local government must use election by electors method (s. 2.12B(1)(a))**

- (1) For the purposes of section 2.12B(1)(a), the method of filling the office of mayor or president used by a local government that is a class 1 local government or a class 2 local government —
  - (a) must be the election by the electors method; and
  - (b) cannot be changed to the election by the council method.
- (2) Subregulation (1) does not apply to the City of Perth.

Note for this subregulation:

The *City of Perth Act 2016* section 20 provides for the City of Perth to use the election by the electors method.

*[Regulation 10AE inserted: SL 2023/102 r. 12.]*

**10AF. Change of method of filling office of mayor or president (s. 2.12B(1)(b) and (2)(a), 2.13(4)(a))**

- (1) In this regulation —

***amendment day*** means the day on which the *Local Government Regulations Amendment Regulations (No. 2) 2023* regulation 12 comes into operation;

*relevant local government* means —

- (a) a class 1 local government if, immediately before amendment day, the method of filling the office of mayor or president used by the class 1 local government is the election by the council method; or
  - (b) a class 2 local government if, immediately before amendment day, the method of filling the office of mayor or president used by the class 2 local government is the election by the council method.
- (2) For the purposes of section 2.12B(1)(b), the method of filling the office of mayor or president used by a relevant local government is changed to the election by the electors method.
- (3) For the purposes of section 2.13(4)(a), the change has effect in relation to the filling of the office of mayor or president at the next ordinary elections for the relevant local government that are held after amendment day.

Note for this subregulation:

This subregulation makes the provision required by section 2.12B(2)(a) because of the provision made by subregulation (2).

- (4) Subregulations (2) and (3) do not apply to a relevant local government if —
- (a) before amendment day, the relevant local government made a decision under section 2.11(2) to change the method of filling the office of mayor or president used by it to the election by the electors method; and
  - (b) in accordance with section 2.13(1), the change has effect in relation to the filling of the office of mayor or president at the next ordinary elections for the relevant local government that are held after amendment day.

*[Regulation 10AF inserted: SL 2023/102 r. 12.]*



## Division 2 — Matters under Schedule 2.3 of Act

*[Heading inserted: SL 2023/102 r. 13.]*

### 10A. Terms used

In this Division —

***election*** means an election under Schedule 2.3 to the Act;

***first-preference vote*** has the meaning given in Schedule 4.1 clause 1 of the Act;

***records of the election*** includes —

- (a) each marked ballot paper returned to the CEO under regulation 11D(2); and
- (b) each ballot paper marked by the CEO on behalf of a council member under regulation 11E; and
- (c) each ballot paper endorsed “spoilt” under regulation 11C; and
- (d) a paper record that shows the number of first-preference votes that each candidate had; and
- (e) if the result of the election is ascertained under Schedule 4.1 clause 5 of the Act (as applied under Schedule 2.3 of the Act) — a paper record that shows —
  - (i) each candidate who was excluded under Schedule 4.1 clause 5(2)(a) of the Act; and
  - (ii) details of the setting aside or transfer of ballot papers under Schedule 4.1 clause 5(2)(b) or (c) of the Act; and
  - (iii) the number of votes that each candidate who was not excluded had on the last count under Schedule 4.1 clause 5(2)(d) of the Act.

*[Regulation 10A inserted: Gazette 31 Mar 2005 p. 1044; amended: Gazette 21 Aug 2007 p. 4184-5; 28 Aug 2009 p. 3371; SL 2023/102 r. 14.]*

[11. Deleted: SL 2023/102 r. 15.]

**11A. Election of mayor, president, deputy mayor or deputy president by council (Sch. 2.3)**

- (1) The CEO is to cause sufficient numbers of ballot papers to be printed for the purposes of the election.
- (2) The CEO is to cause the ballot papers to be printed so that the names of the candidates appear on the ballot paper —
  - (a) in alphabetical order; or
  - (b) in such order as is determined using a method selected by the CEO which is fair to all of the candidates.
- (3) The ballot papers are to be in the form of Form 10 of the *Local Government (Elections) Regulations 1997*, modified as is necessary for the purposes of the election.
- (4) Section 4.69(2) to (4) apply in relation to the casting of votes, modified as is necessary for the purposes of the election.

[(5) deleted]

[Regulation 11A inserted: Gazette 31 Mar 2005 p. 1044-5;  
amended: Gazette 21 Aug 2007 p. 4185; 28 Aug 2009 p. 3372;  
SL 2023/102 r. 16.]

**11B. Ballot papers to be authentic (Sch. 2.3 cl. 4 and 8)**

Before giving a person a ballot paper under this Part the CEO is to initial the back of it or make sure that it is authenticated in some other way.

[Regulation 11B inserted: Gazette 31 Mar 2005 p. 1045.]

**11C. Spoilt ballot papers (Sch. 2.3 cl. 4 and 8)**

If the CEO is satisfied that a ballot paper given to a council member has been spoilt by accident or mistake, the CEO is to —

- (a) give the person a replacement ballot paper; and
- (b) endorse “spoilt” on the spoilt ballot paper.

*[Regulation 11C inserted: Gazette 31 Mar 2005 p. 1045;  
amended: Gazette 21 Aug 2007 p. 4188.]*

**11D. Marking and dealing with the ballot paper (Sch. 2.3 cl. 4 and 8)**

- (1) Subject to regulation 11E, a council member who receives a ballot paper under this Part is to mark the ballot paper in such a manner that it cannot be seen by anyone else.
- (2) The council members are to return the marked ballot paper to the CEO.

*[Regulation 11D inserted: Gazette 31 Mar 2005 p. 1045;  
amended: Gazette 21 Aug 2007 p. 4188.]*

**11E. Assistance to be given to council members who cannot otherwise vote (Sch. 2.3 cl. 4 and 8)**

- (1) If a council member who receives a ballot paper under this Part cannot vote without assistance because of impairment of sight or any other impairment or condition affecting the council member’s ability to read or to write, the council member may request the CEO to mark on the ballot paper the vote that the council member wishes to cast.
- (2) If a request is made under subregulation (1) the CEO, or another local government employee authorised for that purpose by the

CEO, is to mark the ballot paper to record the vote that the council member wishes to cast.

*[Regulation 11E inserted: Gazette 31 Mar 2005 p. 1045-6; amended: Gazette 21 Aug 2007 p. 4188.]*

**11EA. Drawing of lots (Sch. 2.3 cl. 4, 5, 8 and 9)**

If a provision of Schedule 4.1 of the Act (as applied under Schedule 2.3 of the Act) requires the drawing of lots, the applicable regulation of the *Local Government (Elections) Regulations 1997* Part 12C Division 4 applies, modified as is necessary for the purposes of the election.

Note for this regulation:

A requirement to draw lots under Schedule 4.1 clause 2(2) or 5(6)(b) of the Act is subject to Schedule 2.3 clause 5(1) or 9(1) of the Act (as the case requires).

*[Regulation 11EA inserted: SL 2023/102 r. 17.]*

**11F. Declaration and notice of result of election — (Sch. 2.3 cl. 4 and 8)**

- (1) The person conducting the election is to declare the result of the election to the council members at the meeting at which the election was held.
- (2) The declaration is to include —
  - (a) the names of the candidates; and
  - [(aa) deleted]*
  - (b) the name and term of office of the candidate declared elected.
- (3) The declaration may include the following information —
  - (a) the number of first-preference votes that each candidate had;

- (b) if the result of the election is ascertained under Schedule 4.1 clause 5 of the Act (as applied under Schedule 2.3 of the Act) —
  - (i) each candidate who was excluded under Schedule 4.1 clause 5(2)(a) of the Act; and
  - (ii) details of the setting aside or transfer of ballot papers under Schedule 4.1 clause 5(2)(b) or (c) of the Act; and
  - (iii) the number of votes that each candidate who was not excluded had on the last count under Schedule 4.1 clause 5(2)(d) of the Act.
- (4) The person conducting the election must also give local public notice of the result of the election.
- (5) The local public notice must include the information referred to in subregulations (2) and (3).
- (6) The Departmental CEO may approve forms to be used for the purposes of this regulation.

*[Regulation 11F inserted: Gazette 31 Mar 2005 p. 1046; amended: Gazette 21 Aug 2007 p. 4186 and 4188; 28 Aug 2009 p. 3372; SL 2023/102 r. 18.]*

**11FA. Report to Minister (Sch. 2.3 cl. 4 and 8)**

- (1) Within 14 days after the declaration of the result of the election, the person conducting the election is to provide the Minister with a report as to the result of the election.
- (2) The report is to be in the form of Form 20 of the *Local Government (Elections) Regulations 1997*, modified as is necessary for the purposes of this regulation.

*[Regulation 11FA inserted: Gazette 21 Aug 2007 p. 4186.]*

**11G. Records of election to be retained (Sch. 2.3 cl. 4 and 8)**

- (1) As soon as practicable after the result of the election is declared the CEO is to —
  - (a) put the records of the election in one or more parcels;  
and
  - (b) secure each parcel; and
  - (c) endorse each parcel by signing and dating it.
- (2) The CEO is to keep the parcels in safe custody and retain them for a period of at least 4 years after the declaration of the result of the election.
- (3) If, after the period mentioned in subregulation (2), the parcels are to be destroyed, the destruction is to be carried out by or under the supervision of the CEO in the presence of at least 2 employees.

*[Regulation 11G inserted: Gazette 31 Mar 2005 p. 1046;  
amended: Gazette 12 Dec 2014 p. 4737.]*

**11H. Notice of effect of Court's decision (Sch. 2.3 cl. 12)**

If a Court of Disputed Returns makes a declaration under regulation 85(1)(a), (b) or (c) of the *Local Government (Elections) Regulations 1997*, as applied under clause 12(2) of Schedule 2.3 to the Act, the CEO is, as soon as practicable —

- (a) to give local public notice in a form that conveys the effect of the declaration; and
- (b) to provide to the Minister a report in a form that conveys the effect of the declaration.

*[Regulation 11H inserted: Gazette 21 Aug 2007 p. 4186-7.]*

**Division 3 — Other provisions**

*[Heading inserted: SL 2023/102 r. 19.]*

**12. Disqualification for membership; serious local government offences (s. 2.22)**

For the purposes of the definition of “serious local government offence” in section 2.22(3) —

- (a) the period referred to in paragraph (a) of the definition is —
  - (i) one year in the case of an offence against the Act; or
  - (ii) 3 months in the case of an offence against the former provisions;
- and
- (b) the amount referred to in paragraph (b) of the definition is —
  - (i) \$5 000 in the case of an offence against the Act; or
  - (ii) \$5 000 in the case of an offence against the former provisions.

*[Regulation 12 amended: Gazette 21 Aug 2007 p. 4187.]*

**13. Oaths, affirmations and declarations (s. 2.29, 2.42)**

- (1) For the purposes of sections 2.29 and 2.42 —

*[(a), (b) deleted]*

- (c) the form of declaration for a mayor, president, deputy mayor, deputy president or councillor is that in Form 7;
- (d) the form of declaration for a commissioner is that in Form 8.

- (2) A declaration required by section 2.29 to be made by a person elected as a mayor or president is to be made before —
  - (a) the immediate predecessor of the person in the office of mayor or president; or
  - (b) an authorised person.
- (3) A declaration required by section 2.29 to be made by a person elected as a councillor, deputy mayor or deputy president is to be made before an authorised person.
- (4) A declaration required by section 2.42 to be made by a person appointed as a commissioner is to be made before an authorised person.
- (5) In this regulation —  
***authorised person*** means a person before whom a statutory declaration can be made under the *Oaths, Affidavits and Statutory Declarations Act 2005*.

*[Regulation 13 amended: Gazette 20 Jan 2006 p. 380-1.]*



## Part 4 — Miscellaneous

### 14. Transitional provision: Certain council members (s. 9.71)

- (1) To avoid doubt it is declared that for the purposes of the application of Part 2 Division 5 of the Act and section 2.32 to —
- (a) the remainder of the term of office of a member of council referred to in clause 6 of Schedule 9.3 to the Act; or
  - (b) the term of office of a member of council elected at an election referred to in clause 13 of Schedule 9.3 to the Act,

the member is to be regarded as being an elector of the district so long as he or she continues to —

- (c) reside in the district; or
  - (d) be, within the meaning of the former provisions, the owner or occupier of rateable property in the district.
- (2) In subregulation (1) —
- former provisions* means the *Local Government Act 1960* as in force immediately before the day on which the *Local Government Act 1995* came into operation.

*[Regulation 14 amended: Gazette 21 Aug 2007 p. 4187.]*

### 14A. Transitional provision: reviews under Sch. 2.2 cl. 6 of Act

- (1) In this regulation —
- amendment day* means the day on which the *Local Government Amendment Act 2023* section 90 comes into operation.
- (2) For the purposes of Schedule 9.3 clause 62(2) of the Act —
- (a) the amendments made by the *Local Government Amendment Act 2023* section 90 do not affect a requirement imposed by the Advisory Board on a local

**r. 14B**

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government under Schedule 2.2 clause 6(3) of the Act before amendment day; and

- (b) the Act continues to apply in relation to the requirement as if those amendments had not been made and the local government must comply with the requirement accordingly.

*[Regulation 14A inserted: SL 2023/102 r. 20.]*

**14B.      Transitional provision: elections under Sch. 2.3 of Act**

The amendments made by the *Local Government Regulations Amendment Regulations (No. 2) 2023* regulations 14(2) and (3) and 16 to 18 do not apply in relation to an election which is conducted at a meeting held before 21 October 2023 and, accordingly, these regulations apply in relation to the election as if those amendments had not been made.

*[Regulation 14B inserted: SL 2023/102 r. 20.]*

**[15.      Omitted under the Reprints Act 1984 s. 7(4)(f).]**

**Form 1. Proposal to create, change the boundaries of, or abolish a district [r. 8]**

Local Government (Constitution) Regulations 1998

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 [name of district proposed to be created, affected or abolished].
2. A summary of the purposes of the proposed order is as follows:  
[Here set out summary]
3. The following documents are attached to and form part of this proposal:
  - 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 of the boundaries of a district.
4. This proposal is served on behalf of the listed signatories by —  
Name: \_\_\_\_\_ Signature: \_\_\_\_\_  
Contact address: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Date: \_\_\_\_\_

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.

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**[Form 1 continued]**

**List of affected electors** (form of each page of signatories)

We, the undersigned, propose that an order be made under section 2.1 of the *Local Government Act 1995* for the purposes summarized in item 2 of this proposal in relation to the district named in item 1.

Full name of affected elector <sup>2</sup>	Address which entitles, or would entitle, you to vote in the elections of the local government of the district proposed to be created, affected or abolished	Signature of affected elector	Date

---

<sup>2</sup> An “elector” is one of the following —

- a resident owner or occupier enrolled to vote at State elections;
- an owner of rateable property (e.g. an absentee land owner or an owner of business premises, vacant land or other non-residential property);
- an occupier of rateable property (e.g. tenant of business premises or other non-residential property).

An “affected elector” is —

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

**Form 2. Request for poll on a recommended amalgamation [r. 9]**

Local Government Act 1995

Local Government (Constitution) Regulations 1998

**Request for a poll on a recommended amalgamation<sup>1</sup>**

To: The Minister for Local Government.

1. The electors of the district of [name of district whose electors are making the request], 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 [names of the 2 or more districts to be abolished or amalgamated] 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:
Contact address:	Phone No.:
Date:	

**List of electors** (form of each page of signatories)

We the undersigned, electors of the district of [name of district whose electors are making the request], request that the recommended abolition and amalgamation of the districts of [names of the 2 or more districts to be abolished or amalgamated] be put to a poll of electors of those districts under the *Local Government Act 1995*.

Full name of elector <sup>2</sup>	Address which entitles you to vote in the elections of the local government of a district recommended for amalgamation	Signature of elector	Date

<sup>1</sup> 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 of the electors of one of the districts; or
- at least 10% of the electors of one of the districts.

<sup>2</sup> An “elector” is one of the following —

- a resident owner or occupier enrolled to vote at State elections;
- an owner of rateable property (e.g. an absentee land owner or an owner of business premises, vacant land or other non-residential property);
- an occupier of rateable property (e.g. tenant of business premises or other non-residential property).

**Form 3.      Submission about changes to wards, name or representation   [r. 10]**

Local Government Act 1995

Local Government (Constitution) Regulations 1998

**Submission about changes to wards, name or representation<sup>1</sup>**

To:    The <sup>2</sup>Mayor/President of [name of local government].

1.    The affected electors of the district of [name of district], 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:

[Here set out the purpose]

for the following reasons:

[Here set out the 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:

Contact address:

Phone No.:

Date:

---

<sup>1</sup>    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.

<sup>2</sup>    Delete the one that does not apply.

---

**[Form 3 continued]****List of affected electors** (form of each page of signatories)

We the undersigned, submit that an order should be made under the *Local Government Act 1995* for the purpose set out in item 1 of this submission in relation to the [name of local government].

Full name of affected elector <sup>3</sup>	Address which entitles you to vote in the elections of the local government to which this submission relates	Signature of affected elector	Date

---

<sup>3</sup> An “elector” is one of the following —

- a resident owner or occupier enrolled to vote at State elections;
- an owner of rateable property (e.g. an absentee land owner or an owner of business premises, vacant land or other non-residential property);
- an occupier of rateable property (e.g. tenant of business premises or other non-residential property).

An “affected elector” is an elector whose eligibility as an elector comes from residence, or ownership or occupation of property, in the area directly affected by the submission.

**Form 4. Proposal to change the method of filling the office of mayor or president [r. 10AD]**

## Local Government Act 1995

Local Government (Constitution) Regulations 1998

### Proposal to change the method of filling the office of mayor or president<sup>1</sup>

To: The <sup>2</sup>Mayor/President of [name of local government].

1. The method of filling the office of <sup>2</sup>mayor/president currently used by the [name of local government] is <sup>2</sup>election by electors of the district/election by the council from amongst the councillors.
2. The electors of [name of district], whose names, details and signatures are set out in the attached list, propose that the method of electing the mayor/president of the [name of local government] be changed to <sup>2</sup>election by the council from amongst the councillors/election by electors of the district.
3. A summary of the reasons for the proposed change is as follows:  
[Here set out summary]
4. This proposal is served on behalf of the listed signatories by —  

Name:	Signature:
Contact address:	Phone No.:
Date:	



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**[Form 4 continued]****List of electors** (form of each page of signatories)

We the undersigned, propose that the method of filling the office of <sup>2</sup>mayor/president of the [name of local government] be changed to <sup>2</sup>election by the council from amongst the councillors/election by electors of the district.

Full name of elector <sup>3</sup>	Address which entitles you to vote in the elections of the local government to which this proposal relates	Signature of elector	Date

---

<sup>1</sup> 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 the electors of the district; or
- election by the council from amongst the councillors.

Under section 2.12 of the Act, 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 of the district.

<sup>2</sup> Delete the one that does not apply.

<sup>3</sup> An elector is one of the following —

- a resident owner or occupier enrolled to vote at State elections;
- an owner of rateable property (e.g. an absentee land owner or an owner of business premises, vacant land or other non-residential property);
- an occupier of rateable property (e.g. tenant of business premises or other non-residential property).

*[Form 4 amended: SL 2023/102 r. 21.]*

*[Forms 5 and 6 deleted: Gazette 20 Jan 2006 p. 381.]*

**Form 7.      Declaration by elected member of council**

**[r. 13(1)(c)]**

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by elected member**

I, .....  
of <sup>1</sup> .....  
having been elected to the office of <sup>2</sup>mayor/deputy mayor/president/deputy  
president/councillor of the<sup>3</sup> .....  
declare that I take the office upon myself and will duly, faithfully, honestly, and with  
integrity, 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 the <sup>3</sup>  
..... under section 5.104 of the *Local Government Act 1995*.

Declared at ..... on .....

by .....

Before me: .....

---

<sup>1</sup>      Insert your residential address.

<sup>2</sup>      Delete those that do not apply.

<sup>3</sup>      Insert the name of the local government.

*[Form 7 inserted: Gazette 21 Aug 2007 p. 4187; amended:  
SL 2021/15 r. 7.]*

**Form 8.      Declaration by commissioner**

**[r. 13(1)(d)]**

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by commissioner**

I, .....  
of <sup>1</sup>.....,  
having been appointed to the office of commissioner  
of the<sup>2</sup> .....  
declare that I take the office upon myself and will duly, faithfully, honestly, and with  
integrity, fulfil the duties of the office according to the best of my judgment and ability.

Declared at ..... on .....

by .....  
Before me: .....

---

<sup>1</sup>      Insert your residential address.

<sup>2</sup>      Insert the name of the local government.

*[Form 8 inserted: Gazette 21 Aug 2007 p. 4188.]*

## **Schedule 2 — Classes of local governments**

[r. 2A]

*[Heading inserted: SL 2023/102 r. 22.]*

### **Division 1 — Class 1 local governments**

*[Heading inserted: SL 2023/102 r. 22.]*

City of Albany

City of Armadale

City of Bayswater

City of Belmont

City of Bunbury

City of Busselton

City of Canning

City of Cockburn

City of Fremantle

City of Gosnells

City of Greater Geraldton

City of Joondalup

City of Kalgoorlie-Boulder

City of Karratha

City of Kwinana

City of Mandurah

City of Melville

City of Perth

Town of Port Hedland

City of Rockingham

City of Stirling

City of Swan

City of Wanneroo

*[Division 1 inserted: SL 2023/102 r. 22.]*

**Division 2 — Class 2 local governments**

*[Heading inserted: SL 2023/102 r. 22.]*

Shire of Ashburton

Shire of Augusta-Margaret River

Shire of Broome

Town of Cambridge

Shire of Carnarvon

Shire of Derby-West Kimberley

Shire of East Pilbara

Shire of Esperance

Shire of Harvey

City of Kalamunda

Shire of Manjimup

Shire of Mundaring

Shire of Murray

City of Nedlands

Shire of Northam

Shire of Serpentine-Jarrahdale

City of South Perth

City of Subiaco

Town of Victoria Park

City of Vincent

**Local Government (Constitution) Regulations 1998**

**Schedule 2** Classes of local governments

**Division 3** Class 3 local governments

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Shire of Wyndham-East Kimberley

*[Division 2 inserted: SL 2023/102 r. 22.]*

**Division 3 — Class 3 local governments**

*[Heading inserted: SL 2023/102 r. 22.]*

Town of Bassendean

Shire of Bridgetown-Greenbushes

Shire of Capel

Shire of Chittering

Town of Claremont

Shire of Collie

Shire of Coolgardie

Town of Cottesloe

Shire of Dalwallinu

Shire of Dandaragan

Shire of Dardanup

Shire of Denmark

Shire of Donnybrook-Balingup

Town of East Fremantle

Shire of Exmouth

Shire of Gingin

Shire of Halls Creek

Shire of Irwin

Shire of Katanning

Shire of Kojonup

Shire of Laverton

Shire of Leonora

Shire of Meekatharra

Shire of Merredin

Shire of Moora

Town of Mosman Park

Shire of Narrogin

Shire of Northampton

Shire of Plantagenet

Shire of Ravensthorpe

Shire of Toodyay

Shire of Waroona

Shire of Yilgarn

Shire of York

*[Division 3 inserted: SL 2023/102 r. 22.]*

#### **Division 4 — Class 4 local governments**

*[Heading inserted: SL 2023/102 r. 22.]*

Shire of Beverley

Shire of Boddington

Shire of Boyup Brook

Shire of Brookton

Shire of Broomehill-Tambellup

Shire of Bruce Rock

Shire of Carnamah

Shire of Chapman Valley

Shire of Coorow

**Local Government (Constitution) Regulations 1998**

**Schedule 2** Classes of local governments

**Division 4** Class 4 local governments

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Shire of Corrigin

Shire of Cranbrook

Shire of Cuballing

Shire of Cue

Shire of Cunderdin

Shire of Dowerin

Shire of Dumbleyung

Shire of Dundas

Shire of Gnowangerup

Shire of Goomalling

Shire of Jerramungup

Shire of Kellerberrin

Shire of Kent

Shire of Kondinin

Shire of Koorda

Shire of Kulin

Shire of Lake Grace

Shire of Menzies

Shire of Mingenew

Shire of Morawa

Shire of Mount Magnet

Shire of Mount Marshall

Shire of Mukinbudin

Shire of Murchison

Shire of Nannup

Shire of Narembeen



Shire of Ngaanyatjaraku

Shire of Nungarin

Shire of Peppermint Grove

Shire of Perenjori

Shire of Pingelly

Shire of Quairading

Shire of Sandstone

Shire of Shark Bay

Shire of Tammin

Shire of Three Springs

Shire of Trayning

Shire of Upper Gascoyne

Shire of Victoria Plains

Shire of Wagin

Shire of Wandering

Shire of West Arthur

Shire of Westonia

Shire of Wickiepin

Shire of Williams

Shire of Wiluna

Shire of Wongan-Ballidu

Shire of Woodanilling

Shire of Wyalkatchem

Shire of Yalgoo

*[Division 4 inserted: SL 2023/102 r. 22.]*

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## Notes

This is a compilation of the *Local Government (Constitution) Regulations 1998* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

### Compilation table

Citation	Published	Commencement
<i>Local Government (Constitution) Regulations 1998</i>	26 Jun 1998 p. 3449-74	26 Jun 1998
<i>Local Government (Constitution) Amendment Regulations 2005</i>	31 Mar 2005 p. 1044-6	7 May 2005 (see r. 2)
<i>Local Government (Constitution) Amendment Regulations 2006</i>	20 Jan 2006 p. 380-1	20 Jan 2006
<b>Reprint 1: The Local Government (Constitution) Regulations 1998 as at 19 Jan 2007</b> (includes amendments listed above)		
<i>Local Government (Constitution) Amendment Regulations 2007</i>	21 Aug 2007 p. 4183-8	r. 1 and 2: 21 Aug 2007 (see r. 2(a)); r. 3 and 10: 22 Aug 2007 (see r. 2(b)); Regulations other than r. 1-3, 10 and 12: 6 Sep 2007 (see r. 2(d) and <i>Gazette</i> 3 Aug 2007 p. 3989); r. 12: 21 Oct 2007 (see r. 2(c) and <i>Gazette</i> 21 Aug 2007 p. 4173)
<i>Local Government (Constitution) Amendment Regulations 2009</i>	28 Aug 2009 p. 3371-72	r. 1 and 2: 28 Aug 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Aug 2009 (see r. 2(b) and <i>Gazette</i> 28 Aug 2009 p. 3347)
<i>Local Government (Constitution) Amendment Regulations 2014</i>	12 Dec 2014 p. 4733-7	r. 1 and 2: 12 Dec 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Dec 2014 (see r. 2(b))
<i>Local Government (Model Code of Conduct) Regulations 2021 r. 7</i>	SL 2021/15 2 Feb 2021	3 Feb 2021 (see r. 2(b) and SL 2021/13 cl. 2)
<i>Local Government Regulations Amendment Regulations (No. 2) 2023 Pt. 3</i>	SL 2023/102 30 Jun 2023	1 Jul 2023 (see r. 2(d))

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

Defined term	Provision(s)
amendment day .....	10AC(1), 10AF(1), 14A(1)
authorised person .....	12(5)
class 1 local government .....	2A
class 2 local government .....	2A
class 3 local government .....	2A
class 3 or 4 district .....	10AA
class 4 local government .....	2A
commencement .....	5(1), 6(1), 7(1)
election .....	10AF(4)
first-preference vote .....	10A
Form .....	2
former provisions .....	14(2)
next election .....	10AC(1)
next election day .....	10AC(1)
records of the election .....	10A
relevant local government .....	10AF(1)
section .....	2

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