

Western Australia

Local Government Amendment Act 2004

As at 12 Nov 2004

No. 49 of 2004

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Local Government Amendment Act 2004

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Western Australia

Local Government Amendment Act 2004

No. 49 of 2004

An Act to amend the *Local Government Act 1995*, to make consequential amendments to various other Acts and for related purposes.

[Assented to 12 November 2004]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Local Government Amendment Act 2004*.

2. Commencement

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

3. *Local Government Act 1995* amended

The amendments in this Act are to the *Local Government Act 1995**, unless otherwise indicated.

[* *Reprinted as at 18 February 2000.*
For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 223 and Acts Nos. 20, 21 and 28 of 2003.]

Part 2 — Amendments about audits

4. Section 7.1 amended

Section 7.1 is amended by inserting after the definition of “approved auditor” the following definition —

“

“**audit committee**” means an audit committee established under section 7.1A;

”.

5. Division 1A inserted in Part 7

After Part 7 Division 1 the following Division is inserted —

“

Division 1A — Audit committee

7.1A. Audit committee

- (1) A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.
- (2) The members of the audit committee of a local government are to be appointed* by the local government and at least 3 of the members, and the majority of the members, are to be council members.

** Absolute majority required.*
- (3) A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent him or her as a member of an audit committee.
- (4) An employee is not to be a member of an audit committee.

7.1B. Delegation of some powers and duties to audit committees

- (1) Despite section 5.16, the only powers and duties that a local government may delegate* to its audit committee are any of its powers and duties under this Part other than this power of delegation.

** Absolute majority required.*

- (2) A delegation to an audit committee is not subject to section 5.17.

7.1C. Decisions of audit committees

Despite section 5.20, a decision of an audit committee is to be made by a simple majority.

”.

6. Section 7.3 amended

Section 7.3(1) is amended by inserting after “person” —

“ , on the recommendation of the audit committee, ”.

7. Section 7.9 amended

- (1) Section 7.9(2) is amended as follows:

- (a) by deleting “or” after paragraph (a);
(b) by deleting the comma after paragraph (b) and inserting instead —

“

; or

- (c) there is a matter arising from the examination of the accounts and annual financial report that needs to be addressed by the local government,

”;

- (c) by deleting “or misapplication” and inserting instead —

“ , misapplication or matter, ”.

(2) After section 7.9(3) the following subsection is inserted —

“

- (4) If the Minister considers it appropriate to do so, the Minister is to forward a copy of the report referred to in subsection (3), or part of that report, to the CEO of the local government to be dealt with under section 7.12A.

”.

8. Section 7.12A inserted

Before section 7.13 the following section is inserted in Part 7 Division 4 —

“

7.12A. Duties of local government with respect to audits

- (1) A local government is to do everything in its power to —
- (a) assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and
 - (b) ensure that audits are conducted successfully and expeditiously.
- (2) Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.
- (3) A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —
- (a) determine if any matters raised by the report, or reports, require action to be taken by the local government; and

- (b) ensure that appropriate action is taken in respect of those matters.
- (4) A local government is to —
 - (a) prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and
 - (b) forward a copy of that report to the Minister,by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.

”.

9. Section 7.13 amended

Section 7.13 is amended as follows:

- (a) by deleting “Regulations may make provision —” and inserting instead —

“

 - (1) Regulations may make provision —
 - (aa) as to the functions of the CEO and the audit committee in relation to audits carried out under this Part and reports made on those audits;
 - (ab) as to the functions of audit committees, including the selection and recommendation of an auditor;
 - (ac) as to the procedure to be followed in selecting an auditor;
 - (ad) as to the contents of the annual report to be prepared by an audit committee;
 - (ae) as to monitoring action taken in respect of any matters raised in a report by an auditor;

”.

- (b) by inserting after paragraph (b) the following paragraph —

“

- (ba) as to the copies of agreements between local governments and auditors being provided to the Department;

”.

- (2) At the end of section 7.13 the following subsection is inserted —

“

- (2) Regulations may also make any provision about audit committees that may be made under section 5.25 in relation to committees.

”.

Part 3 — Amendments about WALGA

10. Section 9.58 amended

- (1) Section 9.58(1) is repealed and the following subsection is inserted instead —

“

- (1) The Western Australian Local Government Association (“WALGA”) is constituted as a body corporate with perpetual succession and a common seal.

”.

- (2) Section 9.58 is further amended as follows:

- (a) in subsections (2), (4) and (6) by deleting “an association” in each place where it occurs and inserting instead —

“ WALGA ”.

- (b) in subsections (3), (5) and (7) by deleting “An association” in each place where it occurs and inserting instead —

“ WALGA ”.

11. Section 1.4 amended

Section 1.4 is amended by deleting the definition of “WAMA” and inserting the following definition instead —

“

“**WALGA**” means the Western Australian Local Government Association constituted under section 9.58;

”.

12. “WAMA” replaced by “WALGA”

Each provision referred to in the Table to this section is amended by deleting “WAMA” and inserting instead —

“ WALGA ”.

Table

s. 5.49(2), (4) and (6)

Sch. 2.5 cl. 2(b), 4(1), 11(2)(b)

Sch. 8.1 cl. 1(1)(b) and (c), (1a) and (3), 2(2)

13. Other Acts consequentially amended — Schedule 1

Schedule 1 has effect.

14. Transitional and validation provisions — Schedule 2

Schedule 2 has effect.

Part 4 — Other amendments

15. Section 1.3 amended

After section 1.3(2) the following subsection is inserted —

“

- (3) In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

”.

16. Amendments about special majority

- (1) Section 1.4 is amended by deleting the definition of “75% majority”.
- (2) Section 5.17(1)(a)(i) is amended by deleting “or a 75% majority”.
- (3) Section 5.43(a) is amended by deleting “or a 75% majority”.
- (4) Each of the footnotes to the provisions referred to in the Table to this subsection are amended by deleting “Special” and inserting instead —

“ *Absolute* ”.

Table

s. 3.12(4)

s. 4.61(2)

s. 4.20(4)

- (5) Schedule 2.4 clause 6(3) is amended by deleting “or a special majority”.

17. Amendments about method of electing mayor or president

- (1) Section 2.11(2) is amended by deleting “to the other method mentioned in subsection (1)(a) or (b)” and inserting instead —
- “
- from the election by the council method to the election by the electors method
- ”.
- (2) After section 2.11(3) the following subsection is inserted —
- “
- (4) The method of filling the office of mayor or president used by a local government is changed from the election by the electors method to the election by the council method if the result of a poll declared under section 2.12A(4) is that a majority of electors of the district who voted at the poll voted in favour of the change.
- ”.
- (3) Section 2.12(3) is repealed and the following subsection is inserted instead —
- “
- (3) If the proposal is to change the method of filling the office of mayor or president from the election by the council method to the election by the electors method, consideration is to be given to the proposal by such means as the council thinks fit after which a motion to change the method of filling the office of mayor or president is to be put to the council for decision under section 2.11(2).
- ”.

- (4) After section 2.12 the following section is inserted —

“

2.12A. Procedure to change method to election by council

- (1) If —
- (a) electors of the district, acting under section 2.12(1), propose; or
 - (b) the council, by motion passed by it, proposes,
- to change the method of filling the office of mayor or president of the local government from the election by the electors method to the election by the council method, the local government is to —
- (c) give local public notice of the proposal stating that submissions about the proposal may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and
 - (d) consider or reconsider the proposal in view of any submissions received.
- (2) Subject to section 2.13(3), if the local government decides to proceed with the proposal, there is to be a poll of the electors of the district on the proposal and —
- (a) the Advisory Board is to —
 - (i) determine the question to be voted on by the electors of the district; and
 - (ii) prepare a summary of the case for each way of voting on the question;
 - (b) the Electoral Commissioner is to —
 - (i) make the summary available to the electors before the poll is conducted;

-
- (ii) be responsible for the conduct of the poll; and
 - (iii) appoint a person to be the returning officer of the local government for the poll;
 - and
 - (c) the local government is to meet the expenses of the Electoral Commissioner in connection with the poll to the extent required by regulations.
- (3) The returning officer is to conduct the poll for and under the direction of the Electoral Commissioner.
 - (4) As soon as is practicable after the result of the poll is known the returning officer is to declare and give notice of the result in accordance with regulations.
 - (5) A poll referred to in this section is not to be held more than once in every 4 years in a district, even if a proposal has been made by the electors under section 2.12.
- ”.
- (5) Section 2.13(1) is amended by deleting “decision under section 2.11(2) to change” in the second place where it occurs and inserting instead —

“ change under section 2.11(4) ”.
 - (6) Section 2.13(2) is amended by deleting “A decision under section 2.11(2) to change” and inserting instead —

“ A change under section 2.11(4) ”.
 - (7) Section 2.13(3) is amended by inserting after “during” —

“

, and a decision under section 2.12A(2) has no effect unless a poll resulting from it is held before,

”.

s. 18

18. Section 2.15 amended

Section 2.15 is amended by deleting “from amongst the councillors”.

19. Section 2.25 amended

- (1) Section 2.25(3) is amended by inserting after “leave” —

“

, or refusal to grant the leave and reasons for that refusal,

”.

- (2) Section 2.25(4) is amended by inserting before “is disqualified” —

“

, or throughout all ordinary meetings of the council for a period of 2 months,

”.

20. Section 2.27 amended, consequential amendment and transitional provision

- (1) Section 2.27(4)(a) is amended by deleting “28” and inserting instead —

“ 14 ”.

- (2) Section 2.27(5) is amended by deleting “28” and inserting instead —

“ 14 ”.

- (3) Section 2.27(6) is amended by deleting from paragraph (b) to the end of the subsection and inserting instead —

“

- (b) applies to a court of summary jurisdiction asking for a declaration as to whether or not the

member is disqualified and gives a copy of the application to the CEO,

or if, within that time, the member advises the CEO in writing that the member accepts that he or she is disqualified, then the member is disqualified and the CEO is to give the member written notice to that effect without delay.

”.

- (4) Section 2.27(7) is amended by deleting “A person other than the CEO” and inserting instead —

“ Notwithstanding subsection (6), any person ”.

- (5) Section 2.32(d) is amended by inserting after “disqualified,” —

“ is disqualified under section 2.27(6), ”.

- (6) Section 2.27 of the *Local Government Act 1995* as in force immediately before the commencement of this section applies to and in respect of a member given notice under section 2.27(3) of that Act before that commencement, with respect to that notice.

21. Section 2.37 amended

Section 2.37(6) is amended by deleting “one year” and inserting instead —

“ 2 years ”.

22. Section 2.37A amended

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

“ 2 years ”.

s. 23

23. Section 3.12 amended

- (1) Section 3.12(2) is amended by deleting “read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed local law.” and inserting instead —

“

give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.

”.

- (2) Section 3.12(6) is amended by deleting “Statewide” and inserting instead —

“ local ”.

- (3) After section 3.12(7) the following subsection is inserted —

“

- (8) In this section —

“**making**” in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

”.

24. Section 3.16 amended

- (1) Section 3.16(2)(c) is amended by deleting “12” and inserting instead —

“ 6 ”.

- (2) Section 3.16(5) is repealed.

25. Section 3.40A inserted and consequential amendments

- (1) After section 3.40 the following section is inserted —

“

3.40A. Abandoned vehicle wreck may be taken

- (1) An employee authorised by a local government for the purpose may remove and impound a vehicle that, in the opinion of the local government, is an abandoned vehicle wreck.
- (2) If, within 7 days after a vehicle is removed under subsection (1), the owner of the vehicle is identified, the local government is to give notice to that person advising that the vehicle may be collected from a place specified during such hours as are specified in the notice.
- (3) A notice is to include a short statement of the effect of subsection (4)(b) and the effect of the relevant provisions of sections 3.46 and 3.47.
- (4) If —
 - (a) after 7 days from the removal of a vehicle under subsection (1), the owner of the vehicle has not been identified; or
 - (b) after 7 days from being given notice under subsection (2), the owner of the vehicle has not collected the vehicle,

the local government may declare that the vehicle is an abandoned vehicle wreck.

- (5) In this section —

“abandoned vehicle wreck” means a vehicle —

 - (a) that is not operational;
 - (b) the owner of which has not been identified by the local government after using all reasonable avenues to do so; and

- (c) that has a value that is less than the prescribed value calculated in the prescribed manner.

”.

- (2) Section 3.46(1) is amended by inserting after “3.39” —
“ or 3.40A ”.

- (3) Section 3.46(2) is amended by inserting after “3.40” —
“ or 3.40A ”.

- (4) Section 3.47(2) is amended by deleting “within 2 months of a notice having been given under section 3.40(3).” and inserting instead —

“

within —

- (a) 2 months of a notice having been given under section 3.40(3); or
- (b) 7 days of a declaration being made under section 3.40A(4) that the vehicle is an abandoned vehicle wreck.

”.

26. Section 3.50 amended

- (1) Section 3.50(1) is amended as follows:
 - (a) by deleting “, by local public notice, order that a thoroughfare that it manages is” and inserting instead —

“

close any thoroughfare that it manages to the passage of vehicles,

”;

- (b) by deleting “closed to the passage of vehicles” and inserting instead —

“ , for a period not exceeding 4 weeks ”.

- (2) After section 3.50(1) the following subsection is inserted —

“

- (1a) A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.

”.

- (3) Section 3.50(3) is repealed.
- (4) Section 3.50(7) is repealed.
- (5) Section 3.50(8) is amended by deleting “(7)” and inserting instead —

“ (1) ”.

27. Section 3.58 amended

Section 3.58(3)(a) is amended by deleting “Statewide” and inserting instead —

“ local ”.

28. Section 3.64 amended

Section 3.64(e) is amended by inserting after “council” —

“

and the term of office of a chairman and deputy chairman, which is not to exceed 2 years

”.

29. Section 3.66 amended

Section 3.66(3)(a) is amended by deleting “and 2.29” and inserting instead —

“ , 2.26, 2.29 and 2.32(e) ”.

30. Sections 4.1A and 4.1B inserted and savings provision

- (1) After section 4.1 the following sections are inserted in Part 4 Division 1 —

“

4.1A. Conflict with Commonwealth or State election or referendum

- (1) On a day fixed as polling day for a district or region under the *Electoral Act 1907*, no election, referendum or other poll is to be held under this Act in, or in any part of, that district or region.
- (2) On a day fixed for the holding of a referendum, as defined in the *Electoral Act 1907*, no election, referendum or other poll is to be held under this Act.
- (3) On a day appointed under the *Commonwealth Electoral Act 1918* as polling day for an election of Senators for the State, no election, referendum or other poll is to be held under this Act.
- (4) On a day appointed as polling day for an election of the House of Representatives for an Electoral Division in the State under the *Commonwealth Electoral Act 1918*, no election, referendum or other poll is to be held under this Act in, or in any part of, that Electoral Division.
- (5) On a day fixed as voting day in the State, or an Electoral Division in the State under the *Referendum (Machinery Provisions) Act 1984* of the Commonwealth, no election, referendum or other poll is to be held under this Act in the State, or in any part of that Electoral Division, as is relevant.
- (6) In this section —
 “Electoral Division” has the same meaning as it has in the *Commonwealth Electoral Act 1918*.

4.1B. Polling day may be changed where conflict with Commonwealth or State election or referendum

- (1) Despite anything else in this Act and subject to subsection (2), where a poll cannot be held on the day fixed under this Act due to section 4.1A, the Governor may, before the day fixed for the poll, by order under section 9.62 fix a later day for the holding of the poll.
- (2) The time for the holding of a poll is not to be extended under this section by more than 14 days later than the time originally fixed.

”.

- (2) Despite subsection (1), if the day for an election, referendum or other poll was fixed under the *Local Government Act 1995* before the commencement of this section, sections 4.1A and 4.1B of that Act as inserted by subsection (1) do not apply in respect of that election, referendum or other poll.

31. Section 4.17 amended

- (1) After section 4.17(2) the following subsections are inserted —

“

- (3) If a councillor’s office becomes vacant under section 2.32 —
 - (a) in a district that has no wards; and
 - (b) at least 80% of the number of offices of member of the council in the district are still filled,

the council may, with the approval of the Electoral Commissioner, allow* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.

**Absolute majority required.*

- (4) If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.

”.

32. Section 4.20 amended and consequential amendment

- (1) Section 4.20(2) is amended by deleting “for an election.” and inserting instead —

“

for —

- (a) an election; or
- (b) all elections held while the appointment of the person subsists.

”.

- (2) Section 4.20(3) is amended by deleting “(2) has no effect if it is made after the 80th day before election day.” and inserting instead —

“

(2) —

- (a) is to specify the term of the person’s appointment; and
- (b) has no effect if it is made after the 80th day before an election day.

”.

- (3) Section 4.20(4) is amended as follows:

- (a) by inserting after “election” in the first place where it occurs —

“

, or all elections conducted within a particular period of time,

”;

- (b) by inserting after “election” in the second place where it occurs —

“ or elections ”.

- (4) Section 4.20(5) is amended by inserting after “day” in the second place where it occurs —

“

unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government

”.

- (5) Section 4.61(3) is amended by inserting after “day” in the second place where it occurs —

“

unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government

”.

33. Section 4.32 amended

Section 4.32(3) is amended by inserting after “months” —

“

and, if so prescribed, is liable to pay rent in respect of that occupation of at least the prescribed amount

s. 34

”.

34. Section 4.33 amended

Section 4.33(2) is amended by deleting “accepted.” and inserting instead —

“

accepted or, if the council of the local government is suspended, the day the third ordinary election of the local government would have been held but for the suspension.

”.

35. Section 4.35 amended

Section 4.35(6) is amended by deleting “(1)” and inserting instead —

“ (2) ”.

36. Section 4.37 amended

Section 4.37(3)(a) is amended by deleting “50” and inserting instead —

“ 100 ”.

37. Section 4.43 amended

Section 4.43(4) is amended by deleting “and the certification of corrections” and inserting instead —

“

, the certification of corrections and procedures to be followed in altering or correcting the rolls

”.

38. Section 4.48 amended

- (1) Section 4.48(1) is amended by deleting “as at the close of enrolments” and inserting instead —
- “
- who, as at the close of enrolments, was qualified under section 2.19 to be elected as a member of the council
- ”.
- (2) Section 4.48(1)(c) is amended by deleting “the council other than an office the term of which will end on election day.” and inserting instead —
- “
- a council other than an office the term of which will end on, or before, election day.
- ”.
- (3) Section 4.48(2) is amended by inserting after “council” the following —
- “
- and is not the holder of an office of member of a council other than an office the term of which will end on, or before, election day
- ”.

39. Section 4.49 amended

Section 4.49(a) is amended by deleting “30th” and inserting instead —

“ 37th ”.

40. Section 4.51 amended

Section 4.51(1) is amended after paragraph (b) by deleting “or” and inserting —

“

- (ba) as at the close of enrolments, the candidate was not qualified to be elected as a member of a council due to section 2.19(2); or

”.

41. Section 4.87 amended

Section 4.87(1) is amended as follows:

- (a) in paragraph (a) by deleting “the name” and inserting instead —

“ in the case of all electoral material, the name ”;

- (b) after paragraph (a) by deleting “or” and inserting instead —

“ and ”.

42. Amendments about principal activities

- (1) The description printed in italics at the beginning of Part 5 is amended in paragraph (c) by deleting “for principal activities”.
- (2) The heading to Part 5 Division 5 is amended by deleting “principal activities”.
- (3) Section 5.52 is repealed.
- (4) Section 5.53(2)(c) and (d) are deleted.
- (5) Section 5.53(2)(e) is amended by deleting “the principal activities” and inserting instead —

“

the plan for the future of the district made in accordance with section 5.56, including major initiatives

”.

- (6) Sections 5.56, 5.57 and 5.58 are repealed and the following section is inserted instead —

“

5.56. Planning for the future

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

”.

- (7) Section 5.94(f) is deleted and the following paragraph is inserted instead —

“

- (f) plan for the future of the district made in accordance with section 5.56;

”.

- (8) Section 6.2(2) is amended by deleting “for principal activities accepted by a local government under section 5.58” and inserting instead —

“

for the future of the district made in accordance with section 5.56

”.

43. Section 5.21 amended

- (1) Section 5.21(3) is amended by deleting “may cast a second vote.” and inserting instead —

“ is to cast a second vote. ”.

- (2) After section 5.21(4) the following subsection is inserted —

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“

- (5) A person who fails to comply with subsection (2) or (3) commits an offence.

”.

44. Section 5.36 amended

- (1) Section 5.36(2)(b) is amended by deleting “satisfied with the provisions of the proposed employment contract.” and inserting instead —

“

satisfied* with the provisions of the proposed employment contract.

** Absolute majority required.*

”.

- (2) Section 5.36(4) is repealed and the following subsections are inserted instead —

“

- (4) If the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (5) For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.

”.

45. Section 5.37 amended

Section 5.37(3) is repealed and the following subsections are inserted instead —

“

- (3) If the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the

advertisement is to contain such information with respect to the position as is prescribed.

- (4) For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.

”.

46. Section 5.39 amended and consequential amendment

- (1) Section 5.39(1) is amended by deleting “The” and inserting instead —

“ Subject to subsection (1a), the ”.

- (2) After subsection 5.39(1) the following subsection is inserted —

“

- (1a) Despite subsection (1) —

- (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and
- (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.

”.

- (3) After section 5.39(6) the following subsection is inserted —

“

- (7) A report made by the Salaries and Allowances Tribunal, under section 7A of the *Salaries and Allowances Act 1975*, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

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”.

- (4) Section 5.37(2) is amended by inserting after “employee” —

“

, other than a senior employee referred to in
section 5.39(1a),

”.

47. Section 5.43 amended

- (1) Section 5.43(e) is amended by inserting after “5.98” —

“ , 5.98A ”.

- (2) Section 5.43(e) is amended by inserting after “5.99” —

“ , 5.99A ”.

48. Section 5.47 amended

Section 5.47(2)(a) is amended by inserting after “scheme” —

“ or schemes ”.

49. Section 5.54 amended

Section 5.54(1) is amended by deleting “accepted by the local
government no later than 31 December after that financial
year.” and inserting instead —

“

accepted* by the local government no later than
31 December after that financial year.

* *Absolute majority required.*

”.

50. Section 5.60A amended

Section 5.60A is amended by inserting after “government” —

“
 , or an employee or committee of the local government
 or member of the council of the local government,
”.

51. Section 5.62 amended

- (1) After section 5.62(1)(c) the following paragraph is inserted —

“
 (ca) the person belongs to a class of persons that is
 prescribed;
”.

- (2) Section 5.62(1)(d)(ii) is amended by deleting “nominal” in both places where it occurs.

- (3) Section 5.62(2) is amended as follows:

- (a) by deleting “(ea)”;
- (b) by deleting the full stop at the end of the subsection and inserting —

“
 ;
 “**value**”, in relation to shares, means the value of the
 shares calculated in the prescribed manner or using
 the prescribed method.
”.

52. Section 5.63 amended

Section 5.63(1) is amended as follows:

- (a) in paragraph (c) by inserting after “5.98,” —
 “ 5.98A, ”;
- (b) in paragraph (c) by inserting after “5.99,” —
 “ 5.99A, ”;
- (c) by deleting paragraph (e);

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- (d) in paragraph (g) by deleting “a written law” and inserting instead —
“ this Act or any other written law ”.

53. Section 5.69 amended

- (1) Section 5.69(1) is amended by inserting after “meeting” —
“ , and any subsequent meeting, ”.
- (2) Section 5.69(3) is amended by inserting after “meeting” —
“ , and at any subsequent meeting, ”.

54. Section 5.95 amended

- (1) Section 5.95(5)(b) is deleted and the following paragraph is inserted instead —
“
 - (b) the information is prescribed as being of a private nature.”.
- (2) After section 5.95(5) the following subsections are inserted —
“
 - (6) Subject to subsection (7), a person’s right to inspect information referred to in section 5.94 does not extend to the inspection of information —
 - (a) referred to in a paragraph of that section that is prescribed as being confidential information for the purposes of this subsection; or
 - (b) referred to in that section of a type prescribed as confidential for the purposes of this subsection,for the period of time prescribed in relation to the information.”

- (7) Subsection (6) does not apply in respect of information in relation to a local government if —
- (a) the information is prescribed as information that is confidential but that may be available for inspection if the local government so resolves; and
 - (b) the local government has resolved that the information is to be available for inspection.
- (8) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in paragraph (m) of that section if the information is information that has been omitted by regulations made under section 4.38 from the electoral roll for the protection of an elector or his or her family.

”.

55. Section 5.103 amended

Section 5.103(3) is amended as follows:

- (a) by inserting after “prescribe” —
“ codes of conduct or ”;
- (b) by inserting after “government” —
“ under subsection (1) ”.

56. Section 6.2 amended

Section 6.2(1) is amended as follows:

- (a) by deleting “Not later than 31 August in each” and inserting instead —

“

During the period from 1 June in a financial year to 31 August in the next

”.

- (b) by deleting “next following 30 June” and inserting instead —

“ 30 June next following that 31 August ”.

57. Section 6.9 amended

Section 6.9(4) is amended by deleting “is to” and inserting instead —

“ may ”.

58. Section 6.14 amended

Section 6.14(1) is amended by deleting from “invested” to the end of the subsection and inserting instead —

“

invested in accordance with Part III of the *Trustees Act 1962*.

”.

59. Section 6.21 amended

Section 6.21(1) is repealed and the following subsections are inserted instead —

“

- (1) Where, under section 6.20(1), a regional local government borrows money, obtains credit or arranges for financial accommodation to be extended to the regional local government that money, credit or financial accommodation is to be secured only —

- (a) by the regional local government giving security over the financial contributions of the participants to the regional local government’s funds as set out or provided for in the establishment agreement for the regional local government;

- (b) by the regional local government giving security over Government grants which were not given to the regional local government for a specific purpose; or
 - (c) by a participant giving security over its general funds to the extent agreed by the participant.
- (1a) Despite subsection (1)(a) and (c), security cannot be given over —
 - (a) the financial contributions of a particular participant to the regional local government's funds; or
 - (b) the general funds of a particular participant,if the participant is not a party to the activity or transaction for which the money is to be borrowed by, the credit is to be obtained for, or the financial accommodation is to be extended to, the regional local government.

”.

60. Section 6.23 amended

- (1) Section 6.23(2) is amended by deleting “this section” and inserting instead —

“ subsection (1) ”.
- (2) After section 6.23(2) the following subsection is inserted —

“

 - (3) In relation to a regional local government a receiver is entitled to receive whichever of the following over which security has been given in a particular case —
 - (a) the financial contributions of the participants to the regional local government's funds as set out or provided for in the establishment agreement for the regional local government;

”

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- (b) Government grants which were not given to the regional local government for a specific purpose;
- (c) the general funds of a participant to the extent that those funds secure either money borrowed by, credit obtained for, or financial accommodation extended to, the regional local government.

”.

61. Section 6.35 amended

- (1) Section 6.35(3) is amended by deleting “than 50% of the number of separately rated properties in the district on” and inserting instead —

“

than —

- (a) 50% of the total number of separately rated properties in the district; or
- (b) 50% of the number of properties in each category referred to in subsection (6),

on

”.

- (2) Section 6.35(4) is amended by deleting “of the number of separately rated properties in the district unless” and inserting instead —

“

of —

- (a) the number of separately rated properties in the district; or
- (b) the number of properties in each category referred to in subsection (6),

unless

”.

(3) Section 6.35(6) is amended as follows:

- (a) by deleting “may” and inserting instead —
“ is to ”;
- (b) by inserting after “(4)” —
“ in respect of each of the following categories ”.

62. Section 6.51 amended

Section 6.51(1) is repealed and the following subsection is inserted instead —

“

- (1) A local government may at the time of imposing a rate or service charge resolve* to impose interest (at the rate set in its annual budget) on —
 - (a) a rate or service charge (or any instalment of a rate or service charge); and
 - (b) any costs of proceedings to recover any such charge,

that remains unpaid after becoming due and payable.

* *Absolute majority required.*

”.

63. Section 6.62 amended

Section 6.62 is amended by deleting “towards the rates or services charges due on the land in the order in which they become due.” and inserting instead —

“

towards —

- (a) the rates or services charges due on the land in the order in which they become due; and

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- (b) any outstanding costs of proceedings for the recovery of any such rates or charges.

”.

64. Section 6.74 amended and consequential amendment

- (1) Section 6.74(4) is amended by deleting “applies, as if it were a transfer or conveyance, as the case may be, expressed to be in exercise of the power of sale.” and inserting instead —

“

clause 8 has effect in relation to the exercise of the power referred to in subsection (1).

”.

- (2) Schedule 6.3 clause 8(1) is amended by inserting after “section 6.71” —

“ , or by the Minister under section 6.74(3), ”.

- (3) Schedule 6.3 clause 8(6) is amended by inserting after “section 6.71” —

“ , 6.74 ”.

65. Section 9.11 amended

- (1) Section 9.11(1) is amended by deleting “and place of residence” and inserting instead —

“ , place of residence and date of birth ”.

- (2) Section 9.11(2)(a) is amended by deleting “and address” and inserting instead —

“ , place of residence and date of birth ”.

- (3) Section 9.11(4) is amended by deleting “and place of residence” and inserting instead —

“ , place of residence and date of birth ”.

66. Section 9.59 amended

Section 9.59(2)(a) is amended by inserting before “functions” —

“ selection, employment and ”.

67. Schedule 2.1 amended and savings provision

(1) The amendments in this section are to Schedule 2.1.

(2) Clause 2(2)(a) is amended by deleting “proposal and” and inserting instead —

“ proposal, the reasons for making the proposal and ”.

(3) Clause 3(2) is amended by deleting “or” after paragraph (a) and inserting instead —

“

(aa) where the proposal was made by affected electors under clause 2(1)(d), that the majority of those electors no longer support the proposal; or

”.

(4) Clause 9 is amended as follows:

(a) by inserting before “Where” the subclause designation “(1)”;

(b) by deleting paragraph (b)(ii) and inserting the following subparagraph instead —

“

(ii) subject to subclause (2), declare* the Electoral Commissioner, or a person approved by the Electoral Commissioner, to be responsible for the conduct of the poll under Part 4, and return the results to the Minister.

* *Absolute majority required.*

”.

(5) At the end of clause 9 the following subclause is inserted —

“

- (2) Before making a declaration under subclause (1)(b)(ii), the local government is to obtain the written agreement of the Electoral Commissioner.

”.

- (6) Schedule 2.1 of the *Local Government Act 1995* as in force immediately before the commencement of this section applies to and in respect of any proposal made under clause 2 of that Schedule before that commencement.

68. Schedule 2.2 amended

- (1) The amendments in this section are to Schedule 2.2.
- (2) Clause 4(2) is amended as follows:
 - (a) by deleting “reject the submission” and inserting instead —

“

propose* to the Advisory Board that the submission be rejected

”;
 - (b) by inserting at the end of the subclause —

“ * *Absolute majority required.* ”.
- (3) Clause 4(3) is repealed and the following subclause is inserted instead —

“

- (3) If, in the council’s opinion —
 - (a) a submission is substantially similar in effect to a submission about which the local government has made a decision (whether an approval or otherwise) within the period of 2 years immediately before the submission is made; or
 - (b) the majority of effected electors who made the submission no longer support the submission,the local government may reject the submission.

”.

- (4) Clause 4(4) is amended by inserting after “rejects” —
“ , or proposes to reject, ”.
- (5) Clause 6 is amended by inserting before “A” the subclause designation “(1)”.
- (6) At the end of clause 6 the following subclauses are inserted —
“
(2) A local government the district of which is not divided into wards may carry out reviews as to —
(a) whether or not the district should be divided into wards; and
(b) if so —
(i) what the ward boundaries should be; and
(ii) the number of offices of councillor there should be for each ward,

from time to time so that not more than 8 years elapse between successive reviews.
(3) A local government is to carry out a review described in subclause (1) or (2) at any time if the Advisory Board requires the local government in writing to do so.
”.
- (7) Clause 8 is amended by deleting “its council” and inserting instead —
“
or proposes under clause 4(2) that a submission be rejected, its council
”.
- (8) Clause 10(3) is amended by inserting after “clause 8” —
“ , or that a submission under clause 4(2) be rejected, ”.

69. Schedule 2.3 amended

- (1) The amendments in this section are to Schedule 2.3.
- (2) Clause 4(2) is amended by inserting after “CEO” —
“ in accordance with the procedure prescribed ”.
- (3) Clause 4(3) is amended by inserting after “writing” —
“
 before the meeting or during the meeting before the close of
 nominations
 ”.
- (4) After clause 4(3) the following subclause is inserted —
“
 (3a) Nominations close at the meeting at a time announced by
 the CEO, which is to be a sufficient time after the
 announcement by the CEO that nominations are about to
 close to allow for any nominations made to be dealt with.
 ”.
- (5) After clause 4(6) the following subclause is inserted —
“
 (7) As soon as is practicable after the result of the election is
 known, the CEO is to declare and give notice of the result in
 accordance with regulations, if any.
 ”.
- (6) Clause 8(2) is amended by inserting after “conducted” —
“ in accordance with the procedure prescribed ”.
- (7) Clause 8(3) is amended by inserting after “writing” —
“
 before the meeting or during the meeting before the close of
 nominations
 ”.
- (8) After clause 8(3) the following subclause is inserted —

“

- (3a) Nominations close at the meeting at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.

”.

- (9) After clause 8(6) the following subclause is inserted —

“

- (7) As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.

”.

- (10) Clause 9(1) is amended by deleting “subclause (2)” and inserting instead —

“ clause 8(5) ”.

- (11) After clause 9 the following Division is inserted —

“

Division 3 — Validity of elections

10. Definition of “election”

In this Division —

“election” means an election under this Schedule.

11. Complaints about the validity of an election

- (1) A councillor who is dissatisfied with the result of an election or with the way in which an election was conducted may make an invalidity complaint.
- (2) An **“invalidity complaint”** is a complaint that an election is invalid, or that another person should be declared elected.

12. Complaints to go to a Court of Disputed Returns

- (1) An invalidity complaint is to be made to a Court of Disputed Returns, constituted by a magistrate, but can only be made within 28 days after notice is given of the result of the election.
- (2) Regulations made under section 4.81(2) apply in respect of an invalidity complaint made under this Division in so far as they are capable of being so applied.
- (3) If the court declares the election to have been invalid —
 - (a) the election is null and void;
 - (b) any office filled at the election is vacant;
 - (c) the court is to fix a day for holding any poll needed for a fresh election; and
 - (d) the CEO is to prepare for, conduct and ascertain and declare the result of the fresh election.
- (4) If the court declares that a person (“candidate A”) ought to have been elected to an office in place of another person (“candidate B”) —
 - (a) candidate B is not to act in that office;
 - (b) candidate A is to be regarded as having been elected; and
 - (c) notice of candidate A’s election is to be published in accordance with regulations.

13. No appeal

There is no appeal from a decision of a Court of Disputed Returns.

14. Certain defects do not affect an election

An election is not invalid because of —

- (a) a failure to do something in connection with the election within the time, or for the period or before the date allowed or required under this Act, so long

as the failure does not affect the result of the election; or

- (b) a formal omission, irregularity or defect in a document, declaration, publication or other thing that a person has made, issued or done in good faith.

15. Regulations about retention and availability of electoral papers

Regulations made under section 4.84 apply in respect of elections in so far as they are capable of being so applied.

”.

70. Schedule 2.4 amended

- (1) The amendments in this section are to Schedule 2.4.
- (2) Clause 1(2) is amended by inserting after “government” —

“

or a member or former member of a council of a local government from being a commissioner of a local government

”.

71. Schedule 2.5 amended

- (1) The amendments in this section are to Schedule 2.5.
- (2) Clauses 2(c), 4(2) and 11(2)(c) are amended by deleting “Institute of Municipal Management WA Division Inc.” in each place where it occurs and inserting instead —
- “ Local Government Managers Australia WA Division ”.
- (3) Clause 7(7) is amended by deleting “or an employee” and inserting instead —
- “ , employee or elector ”.

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72. Schedule 3.1 amended

- (1) The amendments in this section are to Schedule 3.1.
- (2) Division 1 is amended by inserting after item 10 the following items —

“

- 11. Remove bees that are likely to endanger the safety of any person or create a serious public nuisance.
- 12. Ensure that an unsightly, dilapidated or dangerous fence or gate that separates the land from land that is local government property is modified or repaired.
- 13. Take specific measures to prevent —
 - (a) artificial light being emitted from the land; or
 - (b) natural or artificial light being reflected from something on the land,creating a nuisance.
- 14. (1) Remove or make safe anything that is obstructing or otherwise prejudicially affecting a private thoroughfare so that danger to anyone using the thoroughfare is prevented or minimised.
- (2) In this item —
 - “**private thoroughfare**” has the same meaning as in Schedule 9.1 clause 7(1).

”.

73. Schedule 9.3 amended and validation

- (1) The amendments in this section are to Schedule 9.3.
- (2) After clause 33(4) the following subclauses are inserted —

“

- (4a) An order made under section 190(8) of the former provisions continues to have effect in respect of the application to the relevant area of —
 - (a) by-laws which applied to the area under the order immediately before the commencement day; and

- (b) local laws amending those by-laws.
- (4b) An order made under section 190(8) of the former provisions may be revoked under section 3.6(3) as if it was an approval given under section 3.6(1).
”.
- (3) The amendment effected by subsection (2) is to be taken to have come into operation on the day on which the *Local Government Act 1995* came into operation and any laws referred to in —
 - (a) subclause (4a)(a) of that amendment are to be taken to have applied from that day; and
 - (b) subclause (4a)(b) of that amendment are to be taken to have applied from the day on which the local law commenced.

74. References to “*Land Act 1933*” changed

- (1) Section 9.48(2) is amended in the definition of “official plan” in paragraph (b) by inserting after “Part” —
“ IIB or ”.
- (2) Section 9.69(1) is amended as follows:
 - (a) by deleting the definition of “authorized land officer” and inserting the following definition instead —
“

“authorised land officer” has the same meaning as in the *Land Administration Act 1997*;
 - (b) in the definition of “Department” by deleting “*Land Act 1933*” and inserting instead —
“ *Transfer of Land Act 1893* ”.
- (3) Section 9.69(3) is amended by deleting “*Land Act 1933*” and inserting instead —
“ *Transfer of Land Act 1893* ”.

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- (4) Each provision referred to in the Table to this subsection is amended by deleting “*Land Act 1933*” and inserting instead —
“ *Land Administration Act 1997* ”.

Table

| | |
|--------------------|------------|
| s. 3.54(1) and (2) | s. 9.48(2) |
| s. 9.41(2) | |

Schedule 1 — Consequential amendments to other Acts

[s. 13]

Division 1 — Amendments related to WALGA

| Act | Amendment |
|---|--|
| <i>Caravan Parks and Camping Grounds Act 1995</i> | Section 25(2)(a)(i) is amended by deleting “Municipal” and inserting instead — “ Local Government ”. |
| <i>Control of Vehicles (Off-road Areas) Act 1978</i> | Section 21(1)(b) and (c) are deleted and the following paragraph is inserted instead — “ (b) 2 shall be persons selected from a panel of names submitted to the Minister by the body known as the Western Australian Local Government Association; ”. |
| <i>Country Housing Act 1998</i> | Section 5(1)(b) is amended by deleting “Municipal” and inserting instead — “ Local Government ”. Section 5(1)(b) and (2) are amended by deleting “WAMA” and inserting instead — “ WALGA ”. |
| <i>Fluoridation of Public Water Supplies Act 1966</i> | Section 5(3)(c) is amended by deleting “Local Government Association of Western Australia” and inserting instead — “ Western Australian Local Government Association ”. |

Schedule 1 Consequential amendments to other Acts

| Act | Amendment |
|--|---|
| <i>Library Board of Western Australia Act 1951</i> | <p>Section 5(3)(b) is amended by deleting “subsection (4)” and inserting instead —</p> <p>“ subsections (4) and (4a) ”.</p> <p>Section 5(4) is repealed and the following subsections are inserted instead —</p> <p>“</p> <p>(4) A panel of the names of 3 persons, each of whom is resident in Western Australia, is to be submitted to the Minister under each of the following paragraphs by the body referred to in that paragraph and the Minister shall select one of the persons named from each panel to be the member of the Board for the purposes of that paragraph —</p> <p>(a) representing the Australian Library and Information Association;</p> <p>(b) representing the City of Perth;</p> <p>(c) representing the City of Fremantle;</p> <p>(d) WALGA representing local government districts that are in the metropolitan area;</p> <p>”</p> |

| Act | Amendment |
|-----|---|
| | <p>(e) WALGA representing local government districts that are cities or towns and are not in the metropolitan area;</p> <p>(f) WALGA representing local government districts that are shires and are not in the metropolitan area,</p> <p>and for the purpose of filling any vacancy in the office of such a member, as soon as practicable after the vacancy occurs, the Minister shall request the body referred to in the paragraph under which the vacancy has occurred to submit to the Minister a panel of names under that paragraph within 28 days of the service of the request, but where no panel of names is submitted in response to the request within that time the Governor, on the recommendation of the Minister, may appoint a person under the appropriate paragraph as a member of the</p> |

Schedule 1 Consequential amendments to other Acts

| Act | Amendment |
|---|--|
| | Board notwithstanding that the panel was not so submitted to the Minister. |
| | (4a) Terms used in subsection (4)(d), (e) and (f) have the same meanings as in the <i>Local Government Act 1995</i> . |
| | ”. |
| <i>Litter Act 1979</i> | Section 9(1)(j) and (k) are deleted and the following paragraph is inserted instead — |
| | “ |
| | (j) 2 shall be appointed on the nomination of the body known as the Western Australian Local Government Association; |
| | ”. |
| <i>Local Government Grants Act 1978</i> | Section 5(1)(c)(i) is amended by deleting “the body known as the Local Government Association of Western Australia;” and inserting instead — |
| | “ |
| | WALGA representing local government districts that are in the metropolitan area; |
| | ”. |

| Act | Amendment |
|-----|--|
| | <p>Section 5(1)(c)(ii) is amended by deleting “the body known as the Country Shire Councils’ Association of W.A.,” and inserting instead —</p> <p>“</p> <p>WALGA representing local government districts that are shires and are not in the metropolitan area;</p> <p>”.</p> <p>Section 5(1)(c)(iii) is amended by deleting “the body known as the Country Urban Councils’ Association.” and inserting instead —</p> <p>“</p> <p>WALGA representing local government districts that are cities or towns and are not in the metropolitan area.</p> <p>”.</p> <p>After section (5)(1) the following subsection is inserted —</p> <p>“</p> <p>(1a) Terms used in subsection (1)(c) have the same meanings as in the <i>Local Government Act 1995</i>.</p> <p>”.</p> |

Schedule 1 Consequential amendments to other Acts

| Act | Amendment |
|------------|---|
| | After section (5)(2) the following subsection is inserted — “ (2a) If a panel of names is not submitted in writing under paragraph (c)(i), (ii) or (iii) to the Minister in accordance with the invitation of the Minister, the Minister may nominate any eligible person for appointment and that person may be appointed as if selected from a panel as required. ”. |
| | Section 13 is amended by deleting “Local Government Association of Western Australia, the Country Shire Councils’ Association of Western Australia, the Country Urban Councils’ Association,” and inserting instead — “ body known as the Western Australian Local Government Association ”. |

| Act | Amendment |
|--|--|
| <i>National Trust of Australia (W.A.) Act 1964</i> | <p>Section 10(b)(viii) is amended by deleting “bodies known as the Local Government Association of Western Australia and the Country Shire Councils’ Association of W.A.” and inserting instead —</p> <p align="center">“</p> <p align="center">body known as the Western Australian Local Government Association</p> <p align="right">”.</p> |
| <i>Regional Development Commissions Act 1993</i> | <p>Section 34(3) is amended by deleting “Municipal” and inserting instead —</p> <p align="center">“ Local Government ”.</p> |
| <i>Road Safety Council Act 2002</i> | <p>Section 6(1)(c) is amended by deleting “Municipal” and inserting instead —</p> <p align="center">“ Local Government ”.</p> |
| <i>Swan River Trust Act 1988</i> | <p>Section 12(1)(f) is amended by deleting “Local Government Association of Western Australia” and inserting instead —</p> <p align="center">“</p> <p align="center">Western Australian Local Government Association</p> <p align="right">”.</p> <p>Section 35(c) is amended by deleting “Local Government Association of Western Australia” and inserting instead —</p> <p align="center">“</p> <p align="center">Western Australian Local Government Association</p> <p align="right">”.</p> |

Schedule 1 Consequential amendments to other Acts

| Act | Amendment |
|--|--|
| | <p>Section 39(1) is amended by deleting “Local Government Association of Western Australia” and inserting instead —</p> <p>“</p> <p style="padding-left: 40px;">Western Australian Local Government Association</p> <p>”.</p> |
| <i>Town Planning and Development Act 1928</i> | <p>Section 5AA(3) is amended by deleting “Local Government Association of Western Australia (Inc.), the Country Shire Councils’ Association of W.A. and the Country Town Councils’ Association” and inserting instead —</p> <p>“</p> <p style="padding-left: 40px;">Western Australian Local Government Association</p> <p>”.</p> |
| <i>Western Australian Planning Commission Act 1985</i> | <p>Section 3 is amended in the definition of “WAMA” as follows:</p> <p>(a) by deleting “WAMA” and inserting instead —</p> <p style="padding-left: 40px;">“ WALGA ”;</p> <p>(b) in paragraph (a) by deleting “Municipal” and inserting instead —</p> <p style="padding-left: 40px;">“ Local Government ”.</p> <p>Sections 5(1)(b)(i) and (ii) and (2), 19(1i)(a)(iv) and (1j) are amended by deleting “WAMA” wherever it occurs and inserting instead —</p> <p>“ WALGA ”.</p> |

Division 2 — *Salaries and Allowances Act 1975*

| Act | Amendment |
|---|---|
| <i>Salaries and Allowances Act 1975</i> | <p>After section 7 the following section is inserted —</p> <p>“</p> <p>7A. Recommendations as to remuneration of local government CEOs</p> <p>(1) The Tribunal shall, from time to time, inquire into and make a report containing recommendations as to the remuneration to be paid or provided to chief executive officers of local governments.</p> <p>(2) A report of the Tribunal made under this section shall be —</p> <p>(a) in writing; and</p> <p>(b) signed by the members.</p> <p>(3) A copy of every report made by the Tribunal under this section shall be published in the <i>Gazette</i>.</p> <p>”.</p> <p>Section 8 is amended as follows:</p> <p>(a) after paragraph (a) by deleting “and”;</p> <p>(b) after paragraph (b) by deleting the full stop and inserting —</p> <p>“</p> <p>; and</p> <p>(c) not more than a year elapses between one report under section 7A and another.</p> <p>”.</p> |

Schedule 1 Consequential amendments to other Acts

| Act | Amendment |
|------------|---|
| | Section 10(4) is amended as follows: |
| | (a) after paragraph (a) by deleting “and”; |
| | (b) after paragraph (b) by deleting the full stop and inserting — |
| | “ |
| | ; and |
| | (c) appoint a person nominated from time to time in writing by the chief executive officer of the department principally assisting the Minister in the administration of the <i>Local Government Act 1995</i> to assist the Tribunal in an inquiry in so far as it relates to the remuneration to be paid or provided to chief executive officers of local governments referred to in section 7A. |
| | ”. |

**Schedule 2 — Transitional and validation provisions —
WALGA**

[s. 14]

1. Interpretation

In this Schedule —

“anything done” means anything done, or omitted, or purported to be done or omitted;

“commencement” means the commencement of section 10;

“body previously constituted under section 9.58” means a body constituted under section 9.58 of the *Local Government Act 1995* before the commencement;

“WALGA” means the Western Australian Local Government Association constituted under section 9.58 of the *Local Government Act 1995* after the commencement.

2. WALGA successor in law to bodies previously constituted under section 9.58

(1) On the commencement, WALGA becomes the successor in law of each body previously constituted under section 9.58.

(2) In particular —

- (a) each body previously constituted under section 9.58 is dissolved;
- (b) the property of each body previously constituted under section 9.58 becomes the property of WALGA;
- (c) all assets, liabilities, rights and duties of the body previously constituted under section 9.58 becomes the assets, liabilities, rights and duties of WALGA;
- (d) any proceedings or remedy that immediately before the commencement might have been brought or continued by or available against or to a body previously constituted under section 9.58, may be brought or continued and are available, by or against or to WALGA;

- (e) WALGA is to take delivery of all papers, documents, minutes, books of account and other records (however compiled, recorded or stored) relating to the operations of each body previously constituted under section 9.58.

3. Agreements and instruments

Any agreement or instrument subsisting immediately before the commencement —

- (a) to which a body previously constituted under section 9.58 was a party; or
- (b) which contains a reference to a body previously constituted under section 9.58,

has effect after the commencement as if —

- (c) WALGA were substituted for the body previously constituted under section 9.58 as a party to the agreement or instrument; and
- (d) any reference in the agreement or instrument to the body previously constituted under section 9.58 were (unless the context otherwise requires) amended to be or include a reference to WALGA.

4. Validation

Anything done before the commencement under the name of WALGA, or the Western Australian Local Government Association, by, to, or in respect of, a body previously constituted under section 9.58 is as valid and effective, and is to be taken to have always been as valid and effective, as it would have been had the thing been done after the commencement by, to, or in respect of WALGA.

5. *Interpretation Act 1984* not affected

Nothing in this Schedule is to be construed so as to limit the operation of the *Interpretation Act 1984*.

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