

# LOCAL GOVERNMENT AMENDMENT ACT 1994

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No. 27 of 1994

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AN ACT to amend the *Local Government Act 1960* and to make consequential amendments to the —

- *Health Act 1911*;
- *Soil and Land Conservation Act 1945*; and
- *Transfer and use of Funds (Shires of Harvey and Waroona) Act 1991*.

[Assented to 23 June 1994.]

The Parliament of Western Australia enacts as follows:

## Short title

1. This Act may be cited as the *Local Government Amendment Act 1994*.

### **Commencement**

2. This Act comes, or is deemed to have come, into operation on 1 July 1994.

### **Application of amendments to the financial year ending 30 June 1994**

3. (1) Despite section 2, a council shall prepare the annual financial statement and report required by section 630 (1) of the principal Act as amended by this Act for the financial year ending on 30 June 1994.

(2) A council is not, by reason only of complying with subsection (1), to be taken to have contravened the principal Act as in force before 1 July 1994.

### **Principal Act**

4. In this Act the *Local Government Act 1960\** is referred to as the principal Act.

[\* *Reprinted as approved 24 June 1983.*

*For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, pp. 122-5 and Acts Nos. 2, 6 and 17 of 1993.]*

### **Section 6 amended**

5. Section 6 (1) of the principal Act is amended by inserting, in the appropriate alphabetical positions, the following definitions —

“

“**municipal fund**” means the municipal fund established by a council under section 522;

“**trust fund**” means the trust fund established by a council under section 522;

”.

**Section 162 amended**

**6.** Section 162 (3) of the principal Act is amended by deleting “appropriate” and substituting the following —

“       municipal       ”.

**Section 235 amended**

**7.** Section 235 (3) of the principal Act is amended —

- (a) in paragraph (c), by deleting “a fund established” and substituting the following —

“       the trust fund of the council       ”; and

- (b) in paragraph (d), by deleting “such a fund” and substituting the following —

“       the trust fund,       ”.

**Section 273 amended**

**8.** Section 273 (5) of the principal Act is amended —

- (a) by deleting “a particular fund” and substituting the following —

“       the municipal fund       ”; and

- (b) by deleting “ten per centum of that fund” and substituting the following —

“  
          ten per cent of the revenue of the municipal  
          fund

”.

**Section 457 amended**

**9.** Section 457 (3) of the principal Act is amended by deleting “an appropriate trust account” and substituting the following —

“ the trust fund ”.

**Section 505 amended**

**10.** Section 505 of the principal Act is amended —

- (a) in subsection (1), by deleting “separately from its other accounts.” and substituting the following —

“  
within the municipal fund in such a  
manner as to be readily and separately  
identifiable for financial reporting  
purposes.  
”;

- (b) in subsection (2) —

- (i) in paragraph (c), by inserting after “fund” the following —

“ account ”; and

- (ii) in paragraph (d), by deleting “fund” in both places where it occurs and substituting in each place the following —

“ account ”;

and

- (c) by repealing subsections (3) and (4) and substituting the following subsection —

“

(3) A council shall apply the surplus remaining after compliance with subsection (2) —

- (a) to the general operating revenue of the municipality; or
- (b) towards lowering the price or improving the quality of the service or commodity supplied by it.

”.

### **Sections 506 and 507 repealed**

11. Sections 506 and 507 of the principal Act are repealed.

### **Section 514 amended**

12. Section 514 (6) of the principal Act is amended by inserting after “sinking fund” the following —

“ account ”.

### **Section 522 amended**

13. Section 522 of the principal Act is amended —

- (a) in subsection (1) by deleting paragraphs (b), (c), (d) and (e) and substituting the following —

“

and

- (b) a trust fund.

”;

and

- (b) by repealing subsections (2) and (3) and substituting the following subsections —

“

(2) The municipal fund of a council shall consist of all moneys and the value of all assets received or receivable by the council which are not required by this Act or any other written law to be held in the trust fund.

(3) There shall be kept within the municipal fund of a council —

- (a) a trading account in respect of each trading or business undertaking;
- (b) a loan account in respect of each loan raised;
- (c) a reserve account for each reserve of money established by the council;
- (d) such special purpose accounts as are required for money which the council is obliged to use for a specific purpose;
- (e) such sinking fund accounts as the council is required to establish under Part XXVI;
- (f) such other accounts as are, in the opinion of the council, necessary to properly reflect the revenue, expenses, assets, liabilities and equity of the municipality; and

(g) such other accounts as the Minister, from time to time, directs the council to establish.

(4) The trust fund of a council shall consist of the moneys and the value of assets referred to in section 526 (1).

(5) The council shall keep the municipal fund separate and distinct from the trust fund.

(6) The council shall open and operate a separate banking account for each of the 2 funds and may open and operate as many additional banking accounts for those funds as the council considers are appropriate.

”.

### **Section 523 amended**

**14.** Section 523 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting “, being —” and substituting the following —

“

or the value of assets received or receivable by the council and includes —

”;

(ii) in paragraph (p) by deleting “profits” in both places where it occurs and substituting in each place the following —

“ proceeds ”;

- (iii) by deleting “and” at the end of paragraph (p);
- (iv) in paragraph (q) by deleting “or a reserve fund.” and substituting the following —

“ account of the municipal fund; ” and

- (v) by inserting after paragraph (q) the following —

“

(r) the proceeds from the sale or disposal of assets of a capital nature if those proceeds are lawfully capable of being appropriated to the general purposes of this Act; and

(s) all other revenue and the value of assets not required to be held in the trust fund.

”;

- (b) by repealing subsections (2) and (3) and substituting the following subsection —

“

(2) The ordinary revenue of a municipality shall be accounted for in the municipal fund in such accounts as are required to be kept under section 522 (3).

”;

- (c) in subsection (4) by deleting “ordinary revenue of the council” and substituting the following —

“ operating revenue of the council ”; and



- (d) by inserting after subsection (4) the following subsection —

“

(5) In this section and in section 624 **“operating revenue”** means the ordinary revenue of the council excluding the proceeds from the sale or disposal of assets but including any profit on that sale or disposal.

”.

### **Section 524 amended**

**15.** Section 524 (2) of the principal Act is amended by deleting “If granted for a specific object the sum does not form part of the ordinary revenue of the council of the municipality, and” and substituting the following —

“

If the sum referred to in subsection (1) is granted for a specific object

”.

### **Section 525 repealed and a section substituted**

**16.** Section 525 of the principal Act is repealed and the following section is substituted —

“

#### **Trading accounts**

**525.** (1) A trading account in respect of a trading or business undertaking consists of —

- (a) money and the value of assets received or receivable in respect of the undertaking;
- (b) expenses and liabilities incurred in respect of the undertaking;

- (c) money and the value of assets allocated within the municipal fund to make good a deficiency in the income of the trading undertaking; and
- (d) money and the value of assets directed or permitted by this Act to be allocated to the trading undertaking.

(2) A council is authorized to apply a trading account in a manner authorized by or under this or another Act for the application of the trading account.

”.

### **Section 526 amended**

17. Section 526 of the principal Act is amended —

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

“

(1) The trust fund established under section 522 (1) shall consist of —

- (a) all moneys and the value of assets that are required by this Act or any other written law to be held in that fund; and
- (b) any other moneys or the value of assets held in the custody of the council of a municipality on trust for the use or benefit of a person or body other than the municipality.

”;

and

- (b) by deleting subsection (2) (a).

## Section 527 amended

**18.** Section 527 of the principal Act is amended in subsections (1), (2) and (3) by deleting “fund” wherever it occurs and substituting in each place the following —

"account".

## Section 528 amended

**19.** Section 528 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting “ “general reserve fund” means a fund” and substituting the following —

“ **“general reserve account”** means  
an account

(ii) by deleting “ “particular reserve fund” means a fund” and substituting the following —

“**“particular reserve account”**  
means an account  
and”  
”

(iii) by deleting the definition of “reserve fund” and substituting the following definition —

“**“reserve account”** means a particular reserve account or a general reserve account;

- (b) by repealing subsection (3) and substituting the following subsection —

“

(3) Subject to this section, a council may establish and maintain —

- (a) one or more particular reserve accounts, each for the purpose of a particular undertaking; or
- (b) a general reserve account.

”;

- (c) in subsection (4) —

- (i) by deleting “fund” wherever it occurs in paragraphs (a) and (b) and substituting in each place the following —

“ account ”;

- (ii) by deleting “accounts” in paragraph (a) and substituting the following —

“ records ”; and

- (iii) by deleting “funds” in paragraph (a) and substituting the following —

“ accounts ”;

- (d) in subsection (5) —

- (i) in paragraph (a) —

- (I) by deleting “pay” and substituting the following —

“ transfer ”; and

- (II) by deleting “fund or several particular reserve funds;” and substituting the following —

“  
account or several particular  
reserve accounts;  
”;

- (ii) by deleting paragraph (b);

- (iii) in paragraph (c) —

- (I) by deleting “pay” and substituting the following —

“ transfer ”;

- (II) by deleting “fund” and substituting the following —

“ account ”; and

- (III) by deleting “revenue;” and substituting the following —

“ revenue. ”;

and

- (iv) by deleting paragraph (d);

- (e) in subsection (6) —

- (i) in paragraph (a), by deleting “pay that sum into such of its reserve funds,” and substituting the following —

“  
transfer that sum into such of its  
reserve accounts,  
”;

- (ii) in paragraph (aa), by deleting “pay into a particular reserve fund” and substituting the following —

“  
transfer into a particular reserve  
account  
”;  
and

- (iii) in paragraph (c), by deleting “pay those sums into such of its reserve funds,” and substituting the following —

“  
transfer those sums into such of its  
reserve accounts,  
”;  
and

- (f) in subsections (7), (8), (9), (10), (11) and (12), by deleting “fund” wherever it occurs and substituting the following —

“ account ”.

### **Section 531AA amended**

**20.** Section 531AA of the principal Act is amended —

- (a) by deleting “money from” and substituting the following —

“ money within ”; and

- (b) by inserting after “separate account” the following —

“ within the municipal fund ”.

**Section 547 amended**

**21.** Section 547 of the principal Act is amended —

- (a) by inserting after subsection (4) the following subsection —

“

(5) The Minister may from time to time give directions to be complied with by councils when determining the revenue to be taken into account for the purposes of subsection (4).

”;

and

- (b) in subsection (7), by deleting “it may,” and substituting the following —

“ it shall, ”.

**Section 603 amended**

**22.** Section 603 (1) (b) of the principal Act is amended by inserting after “sinking fund” the following —

“ account ”.

**Section 604 amended**

**23.** Section 604 (1) of the principal Act is amended in paragraphs (a) and (b) by inserting after “sinking fund” the following —

“ account ”.

**Section 614 amended****24. Section 614 of the principal Act is amended —**

- (a) in subsection (1), by inserting after “sinking fund” wherever it occurs the following —

“        account        ”; and

- (b) in subsection (2) —

- (i) in paragraph (a) —

- (I) by deleting “receipts over payments” and substituting the following —

“        revenue over expenses        ”; and

- (II) by inserting after “sinking fund” the following —

“        account        ”;

- (ii) in paragraph (b), by deleting “receipts over payments” and substituting the following —

“        revenue over expenses        ”; and

- (iii) in paragraph (c) —

- (I) by deleting “receipts over payments” and substituting the following —

“        revenue over expenses        ”; and

- (II) in subparagraph (iii), by deleting “from the fund” and substituting the following —

“        from the account        ”.



**Section 615 amended**

**25.** Section 615 of the principal Act is amended —

- (a) in subsections (1) and (2), by inserting after “sinking fund” wherever it occurs the following —

“ account ”; and

- (b) in subsection (3) —

- (i) by inserting after “sinking fund” the following —

“ account ”; and

- (ii) by deleting “contributions to the fund,” and substituting the following —

“ contributions to the account, ”.

**Section 616 amended**

**26.** Section 616 (2) of the principal Act is amended in paragraphs (a) and (b) by inserting after “sinking fund” in both places where it occurs the following —

“ account ”.

**Section 617 amended**

**27.** Section 617 of the principal Act is amended in subsections (1) and (3) by inserting after “sinking fund” in both places where it occurs the following —

“ account ”.

**Section 618 amended**

**28.** Section 618 (1) of the principal Act is amended by inserting after “sinking fund” the following —

“ account ”.

**Section 622 amended**

**29.** Section 622 of the principal Act is amended by inserting after “sinking fund” the following —

“ account ”.

**Section 623 amended**

**30.** Section 623 of the principal Act is amended by deleting “funds” and substituting the following —

“ fund accounts ”.

**Section 624 amended**

**31.** Section 624 of the principal Act is amended —

- (a) by inserting after “sinking fund” wherever it occurs the following —

“ account ”; and

- (b) in paragraph (a) by deleting “thirdly, in payment of the balance, if any, then remaining into the municipal fund;” and substituting the following —

“  
thirdly, if there is any balance remaining,  
in payment of that balance to the operating  
revenue of the municipality;

”.

**Section 630 amended**

**32.** Section 630 of the principal Act is amended by repealing subsection (1) and substituting the following subsection —

“

(1) Each council shall prepare an annual financial statement and report in the form directed by the Minister.

”.

**Section 677A amended**

**33.** Section 677A of the principal Act is amended by inserting after subsection (1) the following subsection —

“

(1a) Directions given under subsection (1) may —

(a) adopt all or part of an accounting code or standard, whether as at a particular time or as amended from time to time;

(b) adopt an accounting code or standard as amended by the directions.

”.

**Section 697 amended**

**34.** Section 697 (2) (h) of the principal Act is amended by deleting “fund” in both places where it occurs and substituting in each place the following —

“        account        ”.

**Section 719 amended**

**35.** Section 719 of the principal Act is amended by deleting “fund” wherever it occurs and substituting in each place the following —

“        account        ”.

**Section 723 amended**

**36.** Section 723 of the principal Act is amended in subsections (3) and (6) by inserting after “sinking fund” in both places where it occurs the following —

“        account        ”.

**Twenty-Third Schedule amended**

**37.** The Twenty-Third Schedule to the principal Act is amended by deleting “sinking fund” and substituting the following —

“        sinking fund account        ”.

**Twenty-Fourth Schedule amended**

**38.** The Twenty-fourth Schedule to the principal Act is amended by deleting “sinking fund” and substituting the following —

“        sinking fund account        ”.

**Transitional — funds**

**39.** (1) On 1 July 1994 a council shall transfer to its municipal fund all the assets and liabilities of any trading fund, loan capital fund or reserve fund that was in existence under section 522 (1) of the principal Act (as in force immediately before then).

(2) On 1 July 1994 such assets and liabilities of any trust fund in existence immediately before then under section 522 (1) (c) of the principal Act (unamended by this Act) as are required by section 526 of the principal Act (as amended by this Act) to be held in the trust fund of a council are to be taken to be assets and liabilities of the trust fund referred to in section 522 (1) of the principal Act (as amended by this Act).

(3) Any assets and liabilities not deemed by subsection (2) to be assets and liabilities of the trust fund referred to in section 522 (1) (b) of the principal Act (as amended by this Act) are to be transferred by the council to its municipal fund.

#### **References to trading fund, loan capital fund or reserve fund in written laws**

40. A reference in a written law to a trading fund, loan capital fund or reserve fund under section 522 of the principal Act as in force before 1 July 1994 is, unless the contrary intention appears, to be read as a reference to the municipal fund under section 522 of the principal Act as amended by this Act.

#### **References to trust fund in written laws**

41. A reference in a written law to a trust fund under section 522 or 526 of the principal Act is, unless the contrary intention appears, to be read as a reference to the trust fund under section 522 of the principal Act as read with section 526 of the principal Act as those sections are amended by this Act.

#### **Consequential and minor amendments**

42. The Acts referred to in Schedule 1 are amended in the manner set out in that Schedule.

## SCHEDULE 1

[Section 42]

## CONSEQUENTIAL AMENDMENTS

<i>Short title of Act</i>	<i>Amendment</i>
1. <i>Health Act 1911</i>	<p>(1) In section 45 (a) delete “fund” and substitute the following —</p> <p>“ account ”.</p> <p>(2) In section 246F (4) (b) —</p> <p>(a) delete “fund” and substitute the following —</p> <p>“ account ”; and</p> <p>(b) delete “Fund” and substitute the following —</p> <p>“ Account ”.</p> <p>(3) In section 246F (6) delete “fund” and substitute the following —</p> <p>“account ”.</p>
2. <i>Soil and Land Conservation Act 1945</i>	<p>In section 25B (6) (b) delete “fund under section 526” and substitute the following —</p> <p>“ account of the municipal fund of the municipality under section 522 (3) (d) ”.</p>
3. <i>Transfer and use of Funds (Shires of Harvey and Waroona) Act 1991</i>	<p>In section 4 (2) (a) delete “Fund” and substitute the following —</p> <p>“ Account ”.</p>