

## LOCAL GOVERNMENT.

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No. 68 of 1980.

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AN ACT to amend the Local Government Act 1960-1979 and for related purposes.

[Assented to 26 November 1980.]

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

1. (1) This Act may be cited as the *Local Government Amendment Act 1980*. Short title and citation.
- (2) In this Act the Local Government Act 1960-1979 is referred to as the principal Act.
- (3) The principal Act as amended by this Act may be cited as the Local Government Act 1960-1980.

Commence-  
ment.

2. (1) Subject to subsection (2) of this section this Act shall come into operation on the day on which it is assented to by the Governor.

(2) Section 3 and sections 14 to 26 (both inclusive) of this Act shall come into operation on a day to be fixed by proclamation.

Section 3  
amended.

3. Section 3 of the principal Act is amended by deleting the arrangement of Part XXVII and substituting the following—

“ PART XXVII.—ACCOUNTS, INSPECTIONS AND  
AUDIT, ss. 625 to 641.

*Division 1.—Keeping and Audit of Accounts,  
ss. 625 to 634.*

*Division 2.—Appointment of Government In-  
spectors of Municipalities, s. 635.*

*Division 2a.—Appointment of Auditors, ss. 636  
to 638.*

*Division 3.—Powers of Auditors and Inspectors,  
ss. 639 to 641. ” .*

Section 10  
repealed and  
sections 10  
and 10A  
substituted.

Number of  
offices of  
councillor.

4. Section 10 of the principal Act is repealed and the following sections substituted—

“ 10. (1) In this section, and in subsection (4) of section twelve, “office of councillor”, in relation to a municipality where the mode of election to the office of mayor or president is by the council, includes the office of the councillor so elected.

(2) Subject to subsection (7) of this section, the number of offices of councillor—

(a) of a municipality; or

(b) for a ward of a municipality,

is such number as is from time to time declared under this section in respect of that municipality or ward.

(3) Subject to subsections (4) and (5) of this section the Governor may, by Order, declare the number of offices of councillor of a municipality.

(4) Where the mode of election to the office of mayor or president of a municipality is by the electors of the municipality, the number of offices of councillor of the municipality shall not be less than four.

(5) Where the mode of election to the office of mayor or president of a municipality is by the council, the number of offices of councillor of the municipality shall not be less than five.

(6) Where the district of a municipality is divided into wards the Governor may, by Order, declare the number of offices of councillor for a ward.

(7) If at the coming into operation of section four of the Local Government Amendment Act 1980 there is no declaration in force, by Order, in respect of a municipality as to the number of offices of councillor of that municipality, or the number of offices of councillor for a ward of that municipality, that number shall, until such an Order takes effect, be determined in accordance with the provisions of this section as enacted before the coming into operation of that section.

(8) Any declaration, by Order made before the coming into operation of section four of the Local Government Amendment Act 1980, as to the number of offices of councillor of a municipality, or the number of offices of councillor for a ward of a municipality, is hereby declared to be, and to have always been, valid and effectual according to its tenor and shall be deemed to be a declaration under this section.

(9) A reference in subsection (7) or (8) of this section to a declaration, by Order, as to the number of offices of councillor of a municipality or for a ward of a municipality includes a reference to any declaration to that effect whether or not the expression "offices of councillor" appears in the relevant Order.

Mode of  
election of  
mayor or  
president.

10A. (1) Subject to this section—

(a) the mode of election to the office of mayor of a city or town is by the electors of the municipality;

(b) the mode of election to the office of president of a shire is by the council.

(2) Where—

(a) a petition is presented to the Governor praying that a municipality be declared a city, town or shire pursuant to paragraph (a) or (b) of subsection (2) of section twelve; and

(b) the mode of election to the office of mayor or president of the municipality that applies at the time of the presentation of the petition (in this subsection referred to as "the existing mode of election") is not the mode of election that would, by operation of subsection (1) of this section, apply to the election of the mayor or president of the municipality if the petition were granted; and

(c) the petition prays that the existing mode of election be retained,

the Governor may, if he makes an Order in exercise of the power referred to in paragraph (a) of this subsection, by the same Order authorize the municipality to continue to use the existing mode of election.

(3) Where the Governor, by Order, exercises the power conferred by subsection (2) of this section in respect of a municipality, the mode of election authorized by the Order shall be the mode of election to the office of mayor or president of the municipality unless and until that mode of election is subsequently altered under or by operation of this section.

(4) Where it is proposed by—

- (a) a resolution passed by an absolute majority of the members of the council of a municipality; or
- (b) a petition signed by one-tenth of the electors of a municipality or fifty electors of the municipality, whichever is the greater, and delivered to the mayor or president of the municipality,

that the mode of election to the office of mayor or president of the municipality be—

- (c) by the council instead of by the electors of the municipality; or
- (d) by the electors of the municipality instead of by the council,

the mayor or president shall, subject to subsection (9) of this section, cause the question, whether or not the proposed alteration in the mode of election be effected, to be submitted to a poll of the electors of the municipality on a day appointed by him, being a day not less than forty-two days nor more than seventy days after the date on which the resolution was passed or the petition was delivered, as the case may be.

(5) The returning officer shall prepare for, conduct, and ascertain the result of the poll.

(6) The provisions of this Act relating to the taking of the poll for the election of persons to the offices of member of a council, including an elector voting in absence, that are appropriate and can be made applicable apply *mutatis mutandis* to the taking of the poll.

(7) Within twenty-one days after the result of the poll has been ascertained, the returning officer shall notify the Minister of —

- (a) the number of electors who were entitled to vote at the poll;
- (b) the number of electors who voted at the poll; and
- (c) the number of valid votes recorded for and against the proposed alteration.

(8) If the electors who vote at the poll number not less than fifteen per centum of those entitled to vote thereat, and a majority of the valid votes cast at the poll are in favour of the proposed alteration,—

- (a) the Governor shall, by Order, declare that the new mode of election to the office of mayor or president of the municipality shall apply on and from a date specified in the Order;
- (b) there shall be a vacancy in the office of mayor or president of the municipality on the day so specified; and
- (c) the new mode of election to the office of mayor or president of the municipality shall apply in relation to that vacancy and each subsequent vacancy unless and until that mode of election is subsequently altered under or by operation of this section.

(9) Notwithstanding subsection (4) of this section, the mayor or president of a municipality shall not cause the question, whether or not a proposed alteration in the mode of election to his office be effected, to be submitted to a poll under that subsection if the resolution or petition proposing the alteration was passed or delivered, as the case may be, within a period of five years from—

- (a) the date of the coming into effect of an alteration in the mode of election to the office of mayor or president of the municipality made in consequence of a poll held under this section; or
- (b) the date of the holding of a poll under this section at which—
  - (i) the electors who voted numbered less than fifteen per centum of those entitled to vote thereat; or
  - (ii) not more than one-half of the valid votes taken were in favour of a proposed alteration in the mode of election to the office of mayor or president of the municipality.

(10) In paragraphs (a) and (b) of subsection (9) of this section a reference to “this section” includes a reference to section ten as enacted before the coming into operation of section four of the Local Government Amendment Act 1980.

(11) Where before the date of the coming into operation of section four of the Local Government Amendment Act 1980—

- (a) the Governor has, by Order, under section twelve declared—
  - (i) a municipality to be a city;
  - (ii) a shire to be a town; or
  - (iii) a town to be a shire,

and the municipality has continued to use the mode of election to the office of mayor or president of the municipality that applied to the municipality immediately before the Order became effective; or

- (b) an alteration in the mode of election to the office of mayor or president of a municipality has been duly made under section ten as enacted before that date,

the mode of election as so continued or altered shall be the mode of election to the office of mayor or president of the municipality on and after that date unless and until that mode of election is subsequently altered under or by operation of this section. ” .

Section 12  
amended.

5. Section 12 of the principal Act is amended—

(a) in subsection (2)—

- (i) by inserting after “shire;” in paragraph (b) the following—

“ and a city to be a town or a shire; ”; and

- (ii) by deleting paragraph (j); and

(b) in subsection (4)—

- (i) by deleting paragraph (a);

- (ii) by deleting “the members of a council” in subparagraph (i) of paragraph (d) and substituting the following—

“ offices of councillor of a municipality or in the number of offices of councillor for a ward of a municipality ”; and

- (iii) by deleting subparagraph (iii) of paragraph (d).



6. Section 15 of the principal Act is amended in paragraph (f) by deleting "council notwithstanding that for the time being the number of councillors exceeds the maximum number provided by this Act." and substituting the following—

Section 15 amended.

" council; " .

7. Section 16 of the principal Act is amended by deleting "according to the information then available to the Government Statistician and declared under paragraph (a) of subsection (4) of section twelve" and substituting the following—

Section 16 amended.

" by the Government Statistician according to the information then available to him " .

8. Section 18 of the principal Act is amended by repealing subsection (4).

Section 18 amended.

9. Section 19 of the principal Act is repealed and the following section is substituted—

Section 19 repealed and substituted.

" 19. Where an Order annexes portion of the State to a municipal district and the portion so annexed has been severed from another district, subsection (2) of section thirteen applies as if the district resulting from the annexation were that of a new municipality. " .

Effect of annexation of portion of a district.

10. Section 22A of the principal Act is repealed.

Section 22A repealed.

11. Section 41 of the principal Act is amended in subparagraph (v) of paragraph (c) of subsection (2)—

Section 41 amended.

(a) by deleting "paragraph (j) of subsection (2), or"; and

(b) by deleting "nineteen" and substituting the following—

" twenty " .

Section 533  
amended.

12. Section 533 of the principal Act is amended in paragraph (b) of subsection (10) by deleting "which is a town".

Section 548  
amended.

13. Section 548 of the principal Act is amended by inserting after subsection (4) the following subsections—

“ (5) Where, pursuant to this Act, one system of valuation is used for rateable property in an area comprising a portion or portions of a district of a municipality and another system of valuation is used for rateable property in the area comprising the remaining portion or portions of the district, the council of the municipality shall impose, in respect of the rateable property in the respective areas, such rates as will distribute the burden of rates between the two areas in such manner as the council thinks fit and, without limiting the generality of the foregoing, it is not, and has never been, necessary for a council to impose a rate in respect of rateable property in such an area by reference to the amount that would have been assessed by way of rates in respect of that rateable property if one system of valuation was used throughout the whole of the district.

(6) In subsection (5) of this section—

“system of valuation” means valuation on unimproved value or gross rental value of rateable property, and, in relation to any time before the coming into operation of the Acts Amendment and Repeal (Valuation of Land) Act 1978, includes valuation on any other type of value of rateable property adopted under this Act. ” .

Heading  
amended.

14. The heading to Part XXVII of the principal Act is amended by inserting after “ACCOUNTS” the following—

“ , INSPECTIONS ” .

15. Section 625 of the principal Act is amended— Section 625 amended.

- (a) by deleting the interpretation “auditor” and substituting the following interpretation—

‘ “auditor”, in relation to a municipality, means a person for the time being appointed by or under this Part to be the auditor of the municipality or to carry out the functions of auditor for the municipality; ’  
and

- (b) by deleting “Act.” and substituting the following—

‘ Act;

“Inspector” means a Government Inspector of Municipalities appointed under section six hundred and thirty-five. ’ .

16. Section 632 of the principal Act is amended— Section 632 amended.

- (a) in subsection (3), by deleting “shall direct the auditor as to whether the auditor shall or shall not” and substituting the following—

“ may direct an Inspector to ”;

- (b) in subsections (5), (6) and (9), by deleting “the auditor” and substituting the following—

“ an Inspector ”; and

- (c) in paragraph (b) of subsection (7) by deleting “auditor” and substituting the following—

“ Inspector ” .

Heading  
amended.

17. The heading to Division 2 of Part XXVII of the principal Act is amended by deleting "*as Auditors*".

Section 635  
repealed and  
substituted.

18. Section 635 of the principal Act is repealed and the following section is substituted—

Government  
Inspectors  
of Muni-  
cipalities.

" 635. (1) The Minister may from time to time appoint such persons as he thinks fit to the office of Government Inspector of Municipalities.

(2) The duties of an Inspector are—

(a) to inquire into—

- (i) the conduct of polls and elections held under this Act;
- (ii) the exercise or performance by a municipality, or the council of a municipality or its members or officers, of any powers, functions or duties conferred by this or any other Act;
- (iii) the administration of local government under this and other Acts by the councils of municipalities;

(b) to make such report to the Minister as the Inspector considers necessary concerning any matter into which the Inspector has inquired pursuant to paragraph (a) of this subsection;

(c) to make any other inquiry, inspection or report regarding any municipality as may be directed by the Minister;

(d) to bring proceedings under section six hundred and thirty-two as directed by the Minister. "

19. After section 635 of the principal Act the following heading is inserted—

Heading  
inserted.

“ *Division 2a.—Appointment of Auditors.* ” .

20. Section 636 of the principal Act is repealed and the following section is substituted—

Section 636  
repealed and  
substituted.

“ 636. (1) This section applies to—

Auditor  
General to  
carry out  
certain  
municipal  
audits.

(a) a municipality that is a shire unless, pursuant to an Order made under paragraph (a) of subsection (6) of section six hundred and thirty-eight or section twenty, the municipality has as its auditor a person referred to in subsection (1) of section six hundred and thirty-eight;

(b) a municipality that is a city or town if, pursuant to an Order made under paragraph (b) of subsection (6) of section six hundred and thirty-eight or section twenty, the municipality does not have as its auditor a person referred to in subsection (1) of section six hundred and thirty-eight.

(2) The Auditor General, or a person appointed by the Auditor General under subsection (3) of this section, shall carry out the functions of auditor for a municipality to which this section applies.

(3) The Auditor General may from time to time appoint any person he thinks fit to carry out the functions of auditor for—

(a) municipalities to which this section applies, generally; or

(b) one or more municipalities to which this section applies.

(4) In addition to the powers conferred by Division 3 of this Part the Auditor General and any person appointed by the Auditor General under subsection (3) of this section has, in respect of the accounts of a municipality to which this section applies, all powers conferred on the Auditor General by any law for the time being in force relating to the audit of public accounts. ” .

Section 637  
amended.

21. Section 637 of the principal Act is amended—

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

“ (1) The Auditor General shall from time to time assess the amount payable by each municipality to which section six hundred and thirty-six applies for the carrying out of the audit of its accounts. ”;

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

“ (2) Where the accounts audited are those of a shire, other than a shire specified in the Twenty-seventh Schedule, the amount so assessed shall be one-half of the amount that would otherwise be assessed. ”;

(c) in subsection (3)—

(i) by deleting “Subject to subsection (4) of this section the” and substituting the following—

“ The ”; and

(ii) by deleting “Minister” and substituting the following—

“ Treasurer of the State ”; and

(d) by repealing subsections (4) and (5).

22. (1) Section 638 of the principal Act is amended—

Section 638  
amended and  
transitional  
provisions.

(a) in paragraph (a) of subsection (6) by deleting “Government Inspector of Municipalities” and substituting the following—

“ Auditor General ”;

(b) in paragraph (b) of subsection (6) by deleting “a Government Inspector of Municipalities” and substituting the following—

“ the Auditor General ”; and

(c) in subsection (7), by deleting “a Government Inspector of Municipalities” and substituting the following—

“ the Auditor General ” .

(2) Any Order in force under subsection (6) of section 638 of the principal Act immediately before the coming into operation of this section shall subsist and enure for the purposes of the principal Act as amended by this Act and a reference in such an Order to a Government Inspector of Municipalities shall be read and construed as a reference to the Auditor General.

(3) Subsection (2) of this section shall not be construed as affecting the application to this Act of the Interpretation Act 1918.

23. The heading to Division 3 of Part XXVII of the principal Act is amended by inserting after “Auditors” the following—

Heading  
amended.

“ and Inspectors ” .

Section 639  
amended.

24. Section 639 of the principal Act is amended—

(a) in subsection (1)—

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

“ or making an inquiry pursuant to section six hundred and thirty-five, an auditor or Inspector, as the case may be,—”; and

(ii) by inserting after “audit” in paragraph (b) the following—

“ or inquiry ”; and

(b) in subsection (2)—

(i) by inserting after “auditor” in both places where it occurs the following—

“ or Inspector ”; and

(ii) by inserting after “audit” the following—

“ or inquiry ” .

Section 640  
amended.

25. Section 640 of the principal Act is amended in subsection (1) by deleting “An auditor has, for the purpose of an audit,” and substituting the following—

“ For the purpose of an audit or inquiry, an auditor or Inspector, as the case may be, has ” .

Section 641  
amended.

26. Section 641 of the principal Act is amended by inserting after “auditor” where it occurs in subsections (1) and (2) the following—

“ or Inspector ” .

Twenty-  
seventh  
Schedule  
amended.

27. The Twenty-seventh Schedule to the principal Act is amended by deleting “Armada-Kelmscott.” and “Belmont.” .