

## LOCAL GOVERNMENT (No. 3).

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No. 60 of 1981.

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AN ACT to amend the Local Government Act 1960-1981 and the Local Government Amendment Act 1981 and for related purposes.

[Assented to 13 October 1981.]

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. This Act may be cited as the *Local Government Amendment Act (No. 3) 1981*. Short title.

2. (1) Subject to subsections (2) and (3) of this section this Act shall come into operation on the day upon which it is assented to by the Governor. Commencement.

(2) Section 6 of this Act shall be deemed to have come into operation on 26 May 1981.

(3) Sections 5 (b), 7, 17, 18, 23, 25 (c), 28 and 29 of this Act shall come into operation on a day to be fixed by proclamation.

PART I.—AMENDMENTS TO LOCAL GOVERNMENT  
ACT 1960-1981.

Citation.

3. (1) In this Part the Local Government Act 1960-1981 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Local Government Act 1960-1981.

Section 3  
repealed.

4. Section 3 of the principal Act is repealed.

Section 6  
amended.

5. Section 6 of the principal Act is amended in subsection (1)—

(a) by inserting after the definition “financial year” the following definition—

‘ “footpath” includes a path used by, or set aside or intended for use by, both pedestrians and cyclists; ’ ;  
and

(b) by inserting after the definition “ratepayer” the following definitions—

‘ “regional council” means a regional council constituted under Part XXIX and, where used in relation to a regional district, means the regional council so constituted in respect of that regional district;

“regional district” means a regional district constituted under Part XXIX and, where used in relation to a regional council, means the

regional district in respect of which that regional council is constituted;

6. Section 37 of the principal Act is amended in subparagraph (iii) of paragraph (a) of subsection (2) by inserting before “(h)” the following—

Section 37 amended.

“ (ga), ” .

7. Section 158 of the principal Act is amended by repealing subsection (12).

Section 158 amended.

8. Section 180 of the principal Act is amended—

Section 180 amended.

(a) in subsection (2)—

(i) by deleting “and those of subsections (2) and (4) of that section”; and

(ii) by inserting after “this section” the following—

“ , except that it is not necessary to appoint members of the council to the committee ” ;

(b) in subsection (3) by inserting after “(1a)” the following—

“ , (1aa), (1ab) ” ; and

(c) by inserting after subsection (3) the following subsection—

“ (4) The provisions of paragraphs (b) and (d) of subsection (1) of section 179 and those of subsections (2) and (4) of that section apply to an advisory committee constituted under this section. ” .

Section 181  
amended.

9. Section 181 of the principal Act is amended—

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

“ (1) Where a council thinks fit the council may, in accordance with this section, appoint persons, whether members of the council or not, as a committee and delegate to the committee the duty to care for, control and manage any property vested in or under the care, control and management of the council. ” ;

(b) in subsection (2) by inserting after “delegation” the following—

“ and specifying the property to which the delegation applies ” ;

(c) in subsection (3) by deleting “and those of subsections (2) and (4) of that section”;

(d) in subsection (3a) by inserting after “(1a)” the following—

“ , (1aa), (1ab) ” ;

(e) by inserting after subsection (3a) the following subsection—

“ (3b) The provisions of paragraphs (b) and (d) of section 179 and those of subsections (2) and (4) of that section apply to a committee constituted under this section. ” ; and

(f) by inserting after subsection (6) the following subsections—

“ (7) Subject to any conditions imposed on the delegation and to subsection (3) of section 179 as applied by subsection (3b) of this section, a committee constituted under this section shall, in performing the duty delegated to it, have all the powers and obligations of the council in respect of

the property specified in the delegation except the powers to make by-laws and to borrow money.

(8) Without limiting the generality of subsection (7) of this section—

(a) for the purpose of performing the duty delegated to it a committee constituted under this section is authorized to incur expenditure in accordance with the council's budgets or as directed from time to time by the council, and the council may, in accordance with this Act, meet any expenditure so incurred;

(b) any money received by a committee constituted under this section in performing the duty delegated to it shall be so received on behalf of the municipality and shall form part of the appropriate fund of the municipality. ” .

10. Section 190 of the principal Act is amended in paragraph (d) of subsection (7)— Section 190  
amended.

(a) in subparagraph (i), by deleting “two hundred dollars” and substituting the following—

“ \$500 ” ; and

(b) in subparagraph (ii), by deleting “twenty dollars” and substituting the following—

“ \$50 ” .

Section 192  
amended.

11. Section 192 of the principal Act is amended by inserting after "municipality" the following—

" and prescribing fees for the use of aerodromes and buildings, structures and facilities thereon " .

Section 282  
amended.

12. Section 282 of the principal Act is amended by deleting ", with the consent of the Governor,".

Section 296  
amended.

13. Section 296 of the principal Act is amended in paragraph (a) of subsection (2) by inserting after "obstruction" the following—

" , other than an obstruction constructed or placed pursuant to section 297B, " .

Section 297B  
inserted.

14. After section 297A of the principal Act the following section is inserted—

Power to  
place or  
construct  
obstructions  
in private  
streets.

" 297B. (1) Subject to this section, a council may, with the approval of the Minister, construct or place any obstruction in a private street for the purpose of prohibiting the movement of vehicular traffic.

(2) Where a council resolves to exercise the power conferred by subsection (1) of this section the council shall cause notice of the proposal specifying the situation of the obstruction and the manner in which it is proposed to obstruct the movement of vehicular traffic to be—

(a) published in a newspaper circulating in the district; and

(b) served in writing upon—

(i) the owner of the private street;

(ii) the owner of, and the occupier of each building on, each lot of land which abuts on the private street and which will, in the opinion of the council, be affected by the construction or placing of the obstruction;

- (iii) the Minister for Water Resources and the Metropolitan Water Supply, Sewerage, and Drainage Board established under the Metropolitan Water Supply, Sewerage, and Drainage Act 1909;
- (iv) The State Energy Commission of Western Australia established under the State Energy Commission Act 1979;
- (v) the officer in charge in this State of the Australian Postal Commission established under the Postal Services Act 1975 of the Parliament of the Commonwealth; and
- (vi) the officer in charge in this State of the Australian Telecommunications Commission established under the Telecommunications Act 1975 of the Parliament of the Commonwealth.

(3) A notice under subsection (2) of this section, when published under paragraph (a) of that subsection, shall state that a person who objects to the proposal may submit written objections to the council within 30 days of the date of the publication of the notice.

(4) A notice under subsection (2) of this section, when served under paragraph (b) of that subsection, shall state that if the person on whom it is served objects to the proposal he may submit written objections to the council within 30 days of the date of the service of the notice on him.

(5) The council shall consider all objections duly made and shall, if, after considering the objections, it is still of the opinion that the private street should be

obstructed in the manner set out in the notice, forward particulars of the proposal, together with objections received by it and its report thereon, to the Minister.

(6) If the Minister approves of the proposal he shall by notice in writing notify the council of his approval and the council may construct or place, and maintain, the obstruction notwithstanding any rights of any person to the private street.

(7) For the purposes of this section—

“owner”, in relation to land that is under the Transfer of Land Act 1893, means the registered proprietor of the land, and, in relation to land that is not under that Act, means the person whose name appears as the owner in the Registry of Deeds or other appropriate register. ” .

Section 308  
amended.

15. Section 308 of the principal Act is amended in paragraph (a) by inserting after “walks” the following—

“ , footpaths, paths ” .

Section 313  
amended.

16. Section 313 of the principal Act is amended by repealing subsection (1) and substituting the following subsections—

“ (1) The council of a city or town—

(a) shall, at the intersections of streets and ways in the district, provide and maintain signs showing the names of the intersecting streets and ways; and

(b) may provide and maintain signs showing the names of streets and ways at such other places in the district as the council thinks fit.



(1a) The council of a shire may provide and maintain signs showing the names of streets and ways at such places in the district as the council thinks fit. ” .

17. Division 5 of Part XII of the principal Act is amended in the heading by deleting ”, *Conjoint Functions and County and Regional Groups*” and substituting the following—

Heading to Div. 5 of Part XII amended.

“ *and Conjoint Functions* ”.

18. (1) Section 329 of the principal Act is repealed.

Section 329 repealed and saving provision.

(2) Notwithstanding subsection (1) of this section section 329 of the principal Act shall continue to apply to and in relation to any regional district constituted under that section that is in existence immediately before the coming into operation of this section.

19. Section 342 of the principal Act is repealed and the following section is substituted—

Section 342 repealed and substituted.

“ 342. A council may provide temporary or permanent fences for preventing—

Council may fence paths.

(a) the access of cattle or vehicles to paths that only pedestrians may lawfully use;

(b) the access of cattle or vehicles other than cycles to paths that only pedestrians and cyclists may lawfully use,

and for the safety of pedestrians and cyclists and the prevention of accidents, and from time to time may paint, repair, remove and replace fences so provided. ”.

Heading to  
Part XIX  
substituted  
and  
relocated.

20. The principal Act is amended—

- (a) by inserting before section 445 the following heading—

“ PART XIX.—EDUCATIONAL, CULTURAL, WELFARE AND RECREATIONAL FACILITIES. ”; and

- (b) by deleting the heading “PART XIX.—PLACES OF PUBLIC EDUCATION AND RECREATION AND INFANT HEALTH CENTRES.” before section 446.

Section 446A  
inserted.

21. After section 446 of the principal Act the following section is inserted—

Assistance  
to sporting  
associations.

446A. (1) Without limiting the generality of any other provision of this Act, the powers conferred on a council by or by virtue of this Act in relation to recreation grounds or other places for the purpose of public recreation extend to—

- (a) the acquisition or provision of land for, and the establishment, maintenance, improvement and adaptation on such land of, a recreation ground or other place for use by a sporting association; and
- (b) the establishment, maintenance, improvement and adaptation of a recreation ground or other place for use by a sporting association on land other than land acquired by, or vested in, or under the care, control and management of the municipality,

whether or not that recreation ground or place is or will be available for use by the public.

(2) Without limiting the generality of subsection (1) of this section a council may, by way of grant, subsidy, guarantee or indemnity, assist a sporting association to establish, maintain, improve or adapt a recreation ground or other place for use by that association.

(3) In this section “sporting association” means an association or body of persons who as a body and not for their own pecuniary profit carry on sporting or other recreational activities.

22. Section 511 of the principal Act is amended— Section 511  
amended.

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

“ (1) A council may—

- (a) construct and maintain;
- (b) contribute towards the cost of constructing and maintaining; or
- (c) with the consent of the Minister, authorize a person to construct and maintain,

all or any of the following works, namely—

- (d) works leading from land on one side of the street to land on the other side of the street comprising—
  - (i) a subway at such depth under the street as the council thinks fit;
  - (ii) a bridge or overway for the use of pedestrians to be constructed at a height of not less than 4.5 metres over the street;
  - (iii) a pipe, conduit or conveyor for the purpose of transporting material to be constructed at a height of not less than 4.5 metres over the street;

(e) a bridge or overway for the use of pedestrians leading from land abutting a street to or onto that street or another street. ” ; and

(b) in paragraph (a) of subsection (2) by inserting after “section” the following—

“ by a person other than the council ” .

Section 513  
amended.

23. Section 513 of the principal Act is amended in subsection (1)—

(a) in subparagraph (v) of paragraph (b) by deleting “county or”; and

(b) in paragraph (h) by deleting “a county council or”.

Section 529  
amended.

24. Section 529 of the principal Act is amended—

(a) in paragraph (a) by inserting after “Act” the following—

“ or another Act ” ; and

(b) by deleting paragraph (b).

Section 532  
amended.

25. Section 532 of the principal Act is amended—

(a) in subsection (2)—

(i) by inserting after “Crown,” the following—

“ and— ” ; and

(ii) in paragraph (a) by deleting “and”;

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

“ in the ”

- (c) by inserting after subsection (7) the following subsection—

“        (7a) Land in a regional district is not rateable property while it is owned by the regional council and is used for the purposes of the regional council other than for the purposes of a trading concern. ” ; and

- (d) by inserting after subsection (10) the following subsections—

“        (11) Land, or a portion of a parcel of land, in the district of a municipality is not rateable property if the land or portion is declared by the council under subsection (12) of this section to be exempt from municipal rates.

(12) A council may from time to time declare that any land or portion of a parcel of land in its district that is used by a sporting association is exempt from municipal rates and by subsequent declaration cancel or vary the declaration.

(13) A council shall publish notice in the *Gazette* of any declaration made under subsection (12) of this section.

(14) In subsection (12) of this section the expression “sporting association” has the same meaning as it has in section 446A. ”.

26. Section 598 of the principal Act is amended in paragraph (14) of the definition “works and undertakings” by inserting after “recreation” the following—

Section 598  
amended.

“ , and caravan parking areas ”.

Section 646A  
inserted.

27. After section 646 of the principal Act the following section is inserted—

Interests  
of the public.

“ 646A. (1) In any case in which the Attorney General might take proceedings on the relation, or on behalf, or for the benefit of a municipality for or with respect to enforcing, securing the observance of, or preventing the breach of a statutory provision the municipality shall be deemed to represent sufficiently the interests of the public and may take the proceedings in its own name.

(2) In subsection (1) of this section—

“statutory provision” in relation to a municipality means a provision of—

(a) this Act or another Act conferring powers, duties or functions on the municipality or the council of the municipality; or

(b) a regulation, by-law, proclamation, Order, scheme or other delegated legislation made under an Act referred to in paragraph (a) of this subsection.

(3) The expenses of any proceedings taken by a municipality under subsection (1) of this section may be paid out of the municipal fund. ”.

Section 676  
amended.

28. Section 676 of the principal Act is amended by inserting after subsection (1) the following subsection—

“ (1a) In subsection (1) of this section “council” includes a regional council. ”.

29. (1) After Part XXVIII of the principal Act the following Part is inserted—

Part XXIX  
inserted  
and  
transitional  
provisions.

“ PART XXIX.—REGIONAL COUNCILS.

*Division 1.—Preliminary.*

695. In this Part, unless the context requires otherwise— Definitions.

“annual contribution” means the financial contribution to be made to the regional council by a constituent municipality towards meeting any deficiency disclosed in the municipal fund budget of the regional council for a financial year;

“constituent municipality” in relation to a regional council means a municipality the district of which, or a portion of the district of which, is, for the time being, within the regional district of that regional council;

“constitution agreement” in relation to a regional council means the agreement approved under section 697 proposing the constitution of the regional district of that regional council, or where that agreement is varied under this Part, that agreement as so varied from time to time;

“designated function” in relation to a regional council means a function for the time being designated as a function of that regional council under the constitution agreement;

“function” includes power, authority, responsibility, duty or obligation;

“initial contribution” means a financial contribution made to the regional council by a constituent municipality upon the constitution of the regional council or upon becoming a constituent municipality pursuant to section 698;

“perform” includes exercise or discharge;

“qualified person” in relation to the appointment of a regional councillor, or the deputy of a regional councillor, by a constituent municipality, means a person who is a member of the council of that municipality and who is not disqualified from being appointed under section 704;

“regional councillor” includes the chairman and deputy chairman of a regional council.

*Division 2.—Constitution and Membership.*

Regional districts and councils may be constituted.

696. (1) Subject to and in accordance with this Part the whole or a portion of the combined area of the districts of two or more municipalities may be constituted as a regional district.

(2) Where a regional district is constituted under this Part a regional council, having members known as regional councillors, shall be constituted in accordance with this Part to perform, in respect of that regional district, a function or functions designated in accordance with this Part.

Constitution agreement.

697. (1) Two or more municipalities may enter into, and submit to the Minister, an agreement proposing the constitution of—

- (a) the whole of the district of each of the municipalities;
- (b) the whole of the district of one or more of the municipalities and a portion of the district of another or others of them; or
- (c) a portion of the district of each of the municipalities,

as a regional district.



(2) The constitution agreement—

- (a) shall, if a form of agreement is prescribed for the purposes of this Part, be entered into in the prescribed form or in a form having a like effect;
- (b) shall assign names to the regional district and the regional council;
- (c) shall specify the number of regional councillors that shall comprise the regional council;
- (d) shall specify in respect of each constituent municipality the number of regional councillors to be appointed by that constituent municipality;
- (e) shall, in accordance with section 714, designate the function or functions to be performed by the regional council in respect of the regional district;
- (f) shall contain provisions for determining—
  - (i) the initial and annual contributions to be made by the constituent municipalities;
  - (ii) capital sums that may be contributed by constituent municipalities under section 723; and
  - (iii) the times for payment, and manner of payment, of contributions and sums referred to in subparagraphs (i) and (ii) of this paragraph;
- (g) may authorize the regional council to borrow money by the issue and sale of debentures;

- (h) may authorize the regional council to establish a reserve fund for a purpose specified in the agreement subject to such conditions or limitations (if any) as are set out in the agreement which may include a limitation as to the amount that may be set aside in the reserve fund in any financial year;
- (i) shall, where appropriate, provide for the adjustment of assets and liabilities between the constituent municipalities and the regional council,

and may include any other provision that is necessary or convenient for giving effect to the agreement and is not inconsistent with this Act or any other Act.

(3) If the Minister approves the constitution agreement he shall endorse his approval thereon and recommend to the Governor that the regional district proposed therein be constituted, and the Governor may, by Order, constitute the regional district.

(4) The constitution agreement, when approved by the Minister, may be varied at any time, whether before or after the regional district proposed therein has been constituted, by an amending agreement entered into by all the constituent municipalities and approved by the Minister.

Municipality  
may join  
regional  
district.

698. (1) The constituent municipalities of a regional council and another municipality may enter into, and submit to the Minister, an agreement—

- (a) proposing that the regional district be enlarged by the addition of the district, or a portion of the district, of that other municipality to the regional district; and

- (b) varying the constitution agreement in such manner as may be appropriate to give effect to the proposed enlargement.

(2) If the Minister approves of the agreement referred to in subsection (1) of this section he shall endorse his approval thereon and recommend to the Governor that the regional district be enlarged as proposed therein, and the Governor may, by Order, enlarge the regional district accordingly.

699. (1) Subject to this section, where a constituent municipality has made a written request to the Minister that the district of that municipality, or such portion thereof as is within the regional district, be removed from the regional district, the Governor may, on the recommendation of the Minister, by Order, remove the district of that municipality or that portion of the district of that municipality, as the case may be, from the regional district.

Withdrawal  
of  
municipality  
from  
regional  
district.

(2) A constituent municipality that has made a request under subsection (1) of this section (in this section called "the retiring municipality") shall give written notice of the request to each of the other constituent municipalities and to the regional council.

(3) Subject to subsections (4) and (5) of this section the Minister shall not make a recommendation under subsection (1) of this section unless—

- (a) he has approved an agreement between the retiring municipality and the regional council as to the adjustment of assets and liabilities between them in the event of the recommendation being made and acted upon; and

(b) he has approved an agreement between the other constituent municipalities that would, in the event of the recommendation being made and acted upon, vary the constitution agreement so as to provide for the determination of the contributions to be made by those municipalities to the funds of the regional council and for either—

(i) the alteration of the number of regional councillors who shall comprise the regional council; or

(ii) the alteration of the number of regional councillors to be appointed by one or more of those municipalities,

or both, or has served a notice pursuant to subparagraph (ii) of paragraph (a) of subsection (7) of this section that would, in that event, vary the constitution agreement so as to provide for those matters.

(4) Where at the expiration of a period of 12 months from the service of a request under subsection (1) of this section no agreement that is satisfactory to the Minister has been entered into under paragraph (a) of subsection (3) of this section the Minister shall—

(a) by written notice served on the retiring municipality and the regional council—

(i) extend the time during which a satisfactory agreement under that paragraph may be entered into by such period as he thinks fit; or

(ii) waive the requirement of that paragraph; or

- (b) by written notice served on each constituent municipality and the regional council decline to make a recommendation to the Governor under subsection (1) of this section.

(5) If at the end of an extension of time given under subparagraph (i) of paragraph (a) of subsection (4) of this section no agreement that is satisfactory to the Minister has been entered into the provisions of that subsection shall apply *mutatis mutandis*.

(6) If an Order is made under subsection (1) of this section without the Minister having approved an agreement between the retiring municipality and the regional council as to the adjustment of assets and liabilities between them the Governor may, on the recommendation of the Minister, by Order adjust those assets and liabilities.

(7) Where at the expiration of a period of 12 months from the service of a request under subsection (1) of this section no agreement that is satisfactory to the Minister has been entered into under paragraph (b) of subsection (3) of this section the Minister shall—

- (a) by written notice served on each constituent municipality, other than the retiring municipality—
  - (i) extend the time during which a satisfactory agreement under that paragraph may be entered into by such period as he thinks fit; or
  - (ii) vary the constitution agreement in such manner as he considers appropriate in order to provide for the matters referred to in that paragraph; or

- (b) by written notice served on each constituent municipality and the regional council decline to make a recommendation to the Governor under subsection (1) of this section.

(8) A notice served by the Minister pursuant to subparagraph (ii) of paragraph (a) of subsection (7) of this section shall have effect according to its tenor if and when an Order is made under subsection (1) of this section removing the district or portion of the district of the retiring municipality from the regional district.

(9) If at the end of an extension of time given under subparagraph (i) of paragraph (a) of subsection (7) of this section no agreement that is satisfactory to the Minister has been entered into the provisions of that subsection and subsection (8) of this section shall apply *mutatis mutandis*.

Dissolution  
of regional  
district.

700. (1) The Governor may, on the recommendation of the Minister, by Order dissolve a regional district.

(2) Unless an agreement entered into by the constituent municipalities adjusting assets and liabilities as between the regional council and the constituent municipalities on the dissolution of a regional district has been approved by the Minister the Governor may, on the recommendation of the Minister, by Order adjust those assets and liabilities.

Constitution  
of regional  
council.

701. (1) As soon as practicable after a regional district is constituted, each constituent municipality shall appoint a qualified person or qualified persons as a regional councillor or regional councillors in accordance with the constitution agreement and notify the Minister that it has made the appointment or appointments.

(2) When each constituent municipality has complied with subsection (1) of this section the Minister shall by notice published in the *Gazette*—

- (a) declare the regional council to be constituted;
- (b) appoint a day, time and place for the holding of the first meeting of the regional council.

(3) Subject to subsection (1) of section 705 a regional councillor appointed pursuant to subsection (1) of this section shall hold office for a term ending on and including 30 June in the year next following the year in which the regional council is constituted.

702. (1) Whenever a vacancy occurs or is due to occur, by effluxion of time or otherwise, in the office of a regional councillor appointed by a constituent municipality that constituent municipality shall appoint a qualified person to fill that vacancy and notify the secretary of the regional council that it has made the appointment.

Subsequent  
appoint-  
ments.

(2) Subject to subsection (1) of section 705 a regional councillor appointed pursuant to subsection (1) of this section shall hold office for a term commencing at the time the vacancy occurs or the time he is appointed, whichever is the later, and ending on and including—

- (a) in the case of a person appointed to fill a vacancy occurring by effluxion of time—the next succeeding 30 June; or
- (b) in the case of a person appointed to fill a vacancy occurring pursuant to section 705—the day on which the term of his immediate predecessor in the office would have expired by effluxion of time.

703. (1) A constituent municipality may appoint a qualified person to be the deputy of a regional councillor appointed by it.

Deputies.

(2) A person shall not concurrently hold office as the deputy of more than one regional councillor of a regional council.

(3) A regional councillor shall not hold office as the deputy of another regional councillor of the regional council.

(4) Notification of the appointment of a deputy of a regional councillor shall be given by the constituent municipality to—

- (a) the Minister in the case of an appointment made before the regional council is constituted under section 701; or
- (b) the secretary of the regional council in the case of an appointment made after the regional council is so constituted.

(5) The deputy of a regional councillor is in the event of the absence of that regional councillor from a meeting of the regional council, entitled to attend that meeting and, when so attending, is deemed to be a regional councillor and has all the powers and duties of, and all the protection given to, a regional councillor under this Act.

Disqualifica-  
tion.

704. (1) Subject to subsection (2) of this section a person who is the holder of an office of profit of a regional council, or who has a direct or indirect pecuniary interest in an agreement to which a regional council is a party, is disqualified from being appointed or acting as a regional councillor, or the deputy of a regional councillor, of that regional council.

(2) Subsections (3), (4), (5) and (6) of section 67 shall apply to and in relation to a regional council.



705. (1) The office of a person who is a regional councillor or the deputy of a regional councillor becomes vacant if—

Extra-ordinary vacancies.

- (a) he ceases to be a member of the council of the municipality by which he was appointed;
- (b) the municipality by which he was appointed ceases to be a constituent municipality;
- (c) his resignation takes effect pursuant to subsections (1) and (3) of section 707;
- (d) he becomes disqualified under section 704; or
- (e) subject to subsection (2) of section 68, as applied by subsection (3) of this section, he is absent without leave of the regional council, granted by resolution thereof and recorded in the minute book, throughout 3 consecutive ordinary meetings.

(2) A person shall not be regarded as having ceased to be a member of the council of a municipality for the purposes of paragraph (a) of subsection (1) of this section where his term of office as a member of that council expires but he is re-elected as a member with effect from the expiration of his previous term.

(3) Subsection (2) of section 68 applies to and in relation to a regional council.

706. (1) A regional council shall have a chairman and a deputy chairman each of whom shall, subject to subsection (2) of this section, be a regional councillor of that regional council.

Chairman and deputy chairman.

(2) Subject to subsection (4) of this section a person elected or appointed to the office of chairman of a regional council shall hold that office for the remainder of his then current term as a regional councillor and, whether or not he is reappointed as a regional councillor, shall continue to hold the office of chairman after the expiry of that term until the office of chairman is filled in accordance with section 709 or a commissioner for the regional district is appointed pursuant to section 710.

(3) Subject to subsections (4) and (5) of this section a person elected or appointed to the office of deputy chairman of a regional council shall hold that office for the remainder of his then current term as a regional councillor.

(4) The office of the chairman or deputy chairman of a regional council shall become vacant if—

- (a) his resignation takes effect pursuant to subsections (2) and (3) of section 707; or
- (b) his office as a regional councillor becomes vacant pursuant to subsection (1) of section 705.

(5) The office of deputy chairman of a regional council becomes vacant if he is elected or appointed to the office of chairman of the regional council.

Resignations.

707. (1) A regional councillor or the deputy of a regional councillor may resign from his office, by written notice signed and dated by him and delivered to the clerk of the constituent municipality by which he was appointed with a copy to the secretary of the regional council.

(2) The chairman or deputy chairman of a regional council may resign from that office, by written notice signed and dated by him and delivered to the secretary of the regional council.

(3) A resignation from office pursuant to subsection (1) or (2) of this section shall take effect from the date of the notice unless a later date is specified therein, in which event the resignation shall take effect and the office shall become vacant on the later date therein specified.

708. The day, time and place of the first meeting of a regional council following the appointments of the regional councillors shall be—

First meeting  
of new  
regional  
councillors.

- (a) in the case of a newly constituted regional council, those appointed pursuant to paragraph (b) of subsection (2) of section 701;
- (b) in a case where those appointments have been made in compliance with subsection (6) of section 710, those appointed pursuant to subsection (7) of that section;
- (c) in any other case—
  - (i) those appointed by the outgoing regional council; or
  - (ii) if an appointment has not been made under subparagraph (i) of this paragraph, those appointed by the Minister by notice in writing delivered to the secretary of the regional council.

709. (1) At the commencement of any meeting referred to in section 708, and of any meeting of a regional council held when the office of chairman is for the time being vacant, the regional councillors shall, by secret ballot, elect one of their number to the office of chairman of the regional council.

Election of  
officers.

(2) Paragraphs (c), (d), (e) and (f) of subsection (1) of section 141 shall apply to and in relation to the filling of the office of chairman of a regional council.

(3) The regional councillors shall, by secret ballot, elect one of their number to the office of deputy chairman of the regional council—

- (a) at any meeting referred to in section 708, when the office of chairman of the regional council has been filled;
- (b) at any other meeting held when the office of deputy chairman is for the time being vacant.

(4) Subsections (4), (5) and (6) of section 143 apply to and in relation to the filling of the office of deputy chairman of a regional council.

(5) Without affecting the generality of subsection (1) of section 95, that subsection is expressly declared to apply to elections conducted pursuant to this section, provided however that subsection (6) of section 136 shall not apply to any such election.

*Division 3.—Appointment of Commissioner for Regional Council.*

Power to  
appoint  
commis-  
sioner for  
a regional  
council.

710. (1) Where—

- (a) a regional council has no regional councillors or has insufficient regional councillors to form a quorum; or
- (b) no regional councillor is willing to accept appointment to the office of chairman of a regional council under paragraph (f) of subsection (1) of section 141 as applied by subsection (2) of section 709,

the Governor may, by Order, dismiss the regional councillors (if any) and appoint such person as he thinks fit to be a commissioner for the regional district.

(2) The Governor may, by Order, remove a commissioner appointed for a regional district.

(3) A commissioner so appointed for a regional district is entitled to be paid such remuneration out of the municipal fund of the regional council as the Governor from time to time determines.

(4) A commissioner appointed for a regional district is regarded as being the regional council and has and may exercise the powers and shall discharge the duties of the regional council and the chairman of the regional council.

(5) In the Order appointing a commissioner under subsection (1) of this section or, if the Governor thinks fit, in a subsequent Order, the Governor shall direct the constituent municipalities to appoint qualified persons as regional councillors in accordance with the constitution agreement.

(6) As soon as practicable after a direction is given under subsection (5) of this section, each constituent municipality shall appoint a qualified person or qualified persons as a regional councillor or regional councillors in accordance with the constitution agreement and notify the Minister that it has made the appointment or appointments.

(7) When each constituent municipality has complied with subsection (6) of this section the Minister shall by notice published in the *Gazette* appoint a day, time and place for the holding of a meeting of the regional council.

(8) Subject to subsection (1) of section 705 a regional councillor appointed pursuant to subsection (6) of this section shall hold office for a term ending on and including 30 June in the year next following the year in which the meeting referred to in subsection (7) of this section is commenced.

(9) The powers and duties of the commissioner continue until the commencement of the meeting referred to in subsection (7) of this section.

*Division 4.—General Provisions as to Regional Council.*

Regional  
council a  
body  
corporate.

711. (1) A regional council is a body corporate having perpetual succession.

(2) A regional council shall have a common seal and subsection (3) of section 9 shall apply to and in relation to the common seal.

Secretary.

712. The chief non-elective executive office of a regional council is that of secretary.

Officers and  
employees.

713. The provisions of Part VI, other than sections 159 and 160, and of any other Act relating to officers and employees of a council apply to and in relation to a regional council and its officers and employees.

*Division 5.—Functions and Powers.*

Functions.

714. (1) A regional council may, under the name assigned to it in the constitution agreement, exercise the function or functions from time to time designated in the constitution agreement as being the function or functions to be performed by the regional council.

(2) The constitution agreement may designate a function if, and only if, it is a function of a kind that each of the constituent municipalities, or the council of each of the constituent municipalities, is authorized or required by or under this or another Act to perform in respect of the district of that constituent municipality.

(3) A function may be designated either wholly or in part and either without conditions or subject to such conditions or restrictions as are specified in the constitution agreement.

(4) Without limiting the generality of subsection (4) of section 697 the constituent municipalities may enter into an amending agreement pursuant to that subsection varying the constitution agreement so as to—

- (a) remove the designation of a function;
- (b) designate a further function;
- (c) alter the extent to which a function is designated; or
- (d) impose a condition or restriction on the designation of a function or alter or remove an existing condition or restriction,

and making any consequential amendments to the constitution agreement that may be necessary.

(5) Where—

- (a) a constituent municipality serves written notice on each of the other constituent municipalities and on the Minister, requesting that the constitution agreement be varied so as to remove a designated function or reduce the extent to which a function is designated; and
- (b) at the expiration of the period of 12 months commencing on the date of the service of the notice on the Minister, an amending agreement to that effect has not been entered into by the constituent municipalities in accordance with the request,

the Minister may, by written notice served on each constituent municipality, vary the constitution agreement in accordance with the request and make any consequential amendments to the constitution agreement that may be necessary.

(6) A notice served by the Minister pursuant to subsection (5) of this section shall have effect according to its tenor on and from the date specified in the notice.

Constituent  
municipa-  
lities  
not to  
perform  
function.

715. (1) While and to the extent to which a function is a designated function of a regional council, that function shall not be performed in, or in any part of, the regional district, by any constituent municipality unless the constituent municipality does so—

- (a) on behalf of the regional council under and in accordance with a contract with the regional council; or
- (b) with the written approval of the regional council.

(2) A regional council and a constituent municipality are authorized to enter into a contract referred to in paragraph (a) of subsection (1) of this section.

By-laws.

716. (1) A regional council may make by-laws under Part VIII in relation to a designated function and Part VIII shall apply to and in relation to such by-laws and the making, confirmation and publication thereof.

(2) Where and to the extent that there is inconsistency between a by-law made by a constituent municipality and a by-law made by the regional council, the latter prevails.

Powers etc.

717. Subject to this Part, in and for the purposes of performing a designated function a regional council shall—

- (a) have the same powers, duties and responsibilities; and
- (b) be subject to the same controls, restrictions and procedures,



as a municipal council would have or be subject to under Parts IX to XXIII, both inclusive, or another Act if it were performing a function of that kind and the provisions of those Parts and other Acts shall apply to and in relation to the regional council accordingly.

*Division 6.—Financial.*

718. Subject to section 719 a regional council shall establish such funds as a council is required to establish under Part XXIV and the provisions of that Part, other than section 528 and paragraph (e) of section 529, shall apply to and in relation to funds established by a regional council.

Funds generally.

719. (1) A regional council shall not establish a reserve fund if the constitution agreement does not authorize it to do so.

Reserve Funds.

(2) Where a regional council establishes a reserve fund it shall record that fund and all transactions affecting that fund in its accounts under a designation which distinctly indicates the purpose of the fund and shall keep the records relating to that fund individually and distinct from those of any other reserve fund.

(3) A regional council may, subject to the constitution agreement, set aside in a reserve fund in any financial year an amount that has been approved in that regard by a majority of the constituent municipalities.

(4) A regional council may apply the money in a reserve fund for the purpose for which that fund was established.

(5) Where money is in a reserve fund and is no longer required for the purpose for which that fund was established that money may be applied for a purpose that has been approved by all the constituent municipalities.

No power  
to impose  
rate.

720. A regional council does not have power to impose or recover a rate under Part XXV.

Budgets and  
annual con-  
tributions.

721. (1) Not later than 15 July in each year a regional council shall prepare and adopt its budgets for the financial year ending on 30 June in the next following year.

(2) The regional council shall prepare a separate budget for each fund established and kept by the regional council.

(3) In preparing the budget for the municipal fund the regional council shall estimate for the current year—

- (a) the amounts required for disbursement upon the several works, matters and things to which the regional council is authorized to apply its municipal fund;
- (b) how far the several sources of ordinary revenue, independently of any initial and annual contributions, will be sufficient for that purpose; and
- (c) what sum will be required to make up the deficiency, if any, shown by comparing the sum required, with the estimated revenue of the regional council, independently of any initial and annual contributions.

(4) Where a regional council is authorized or required by another Act to expend money in carrying that Act into effect, it may, notwithstanding provisions of the other Act to the contrary, include the expenditure of that money in its municipal fund budget.

(5) In the budgets the regional council shall cause to be shown—

- (a) particulars of each item;
- (b) actual receipts and disbursements for the previous financial year; and
- (c) estimates of receipts and disbursements for the current financial year.

(6) The regional council shall observe each of the respective budgets and as nearly as possible balance the budgets and if at the end of the year there is a surplus or deficit in the budget for a fund, the regional council shall carry the surplus or deficit forward and take it into account in preparing the budget for that fund for the next ensuing year.

(7) At the close of each financial year authorizations of expenditure, and votes of money, for expenditure by the regional council lapse but an authorization or vote so lapsing may be reauthorized or revoted by the regional council.

(8) Ordinary payments by the regional council before the budgets for a financial year are adopted are authorized and the regional council shall include them in those budgets.

(9) If the regional council makes payment in a financial year from a fund which payment has not been provided for in the budget for that fund for that year, the payment, unless authorized by an absolute majority of the regional council, is unauthorized expenditure.

(10) On the adoption of the budgets the regional council shall forthwith cause a copy thereof to be served on each constituent municipality.

(11) Where the municipal fund budget discloses a deficiency that deficiency shall be met by contributions from the constituent municipalities determined in accordance with the constitution agreement.

722. (1) A regional council may obtain advances from a bank on overdraft. Borrowing on overdraft.

(2) Sections 599 and 600 apply to and in relation to borrowings by a regional council under subsection (1) of this section.

Raising  
money  
for works,  
undertakings  
and  
liquidation  
of loans.

723. (1) Where—

(a) a regional council considers that in order to—

(i) carry out works or undertakings relating to a designated function; or

(ii) liquidate the principal money owing by the regional council on account of an existing loan,

it is necessary for the regional council to raise money in addition to initial and annual contributions; and

(b) the constitution agreement confers authority on the regional council to borrow money by the issue and sale of debentures,

the regional council may serve a written proposition on each constituent municipality proposing the raising of that money.

(2) A proposition served under subsection (1) of this section shall contain details of—

(a) the purpose for which the money is proposed to be raised; and

(b) the amount that is proposed to be raised.

(3) As soon as practicable after the proposition is served on it a constituent municipality shall by written notice served on the regional council—

(a) advise the regional council whether or not the constituent municipality agrees to the proposition; and

(b) make an election (to have effect in the event of the proposition being approved) between—

(i) contributing to the costs of meeting the interest and repayments or sinking fund instalments on a loan raised for the purpose mentioned in the proposition; or

(ii) contributing, for application towards the purpose mentioned in the proposition, a capital sum determined in accordance with the constitution agreement.

(4) For the purposes of this section the proposition shall be taken to be approved if, and only if, a majority of the constituent municipalities agree to the proposition in accordance with paragraph (a) of subsection (3) of this section within 70 days after it is served on them.

(5) Where the proposition is approved the regional council may raise the amount mentioned in the proposition by—

(a) collecting a capital sum determined in accordance with the constitution agreement from each constituent municipality (if any) that has elected to contribute such a sum pursuant to subparagraph (ii) of paragraph (b) of subsection (3) of this section; and

(b) borrowing the balance (if any) of the amount by the issue and sale of debentures.

(6) A regional council shall, from time to time, while money borrowed by it pursuant to paragraph (b) of subsection (5) of this section remains unpaid include in the estimates of expenditure in its municipal fund budget

prepared under section 721 a sum sufficient to meet the interest and repayments or sinking fund instalments on the loan.

(7) Notwithstanding subsection (11) of section 721 if a constituent municipality has, pursuant to paragraph (a) of subsection (5) of this section, paid a capital sum to be applied towards a purpose for which money has been borrowed by the regional council pursuant to paragraph (b) of that subsection the annual contributions of constituent municipalities shall be determined by—

(a) applying the provisions in the constitution agreement for the determination of those contributions to the difference between the deficiency shown in the municipal fund budget and the sum included in that budget under subsection (6) of this section in respect of the loan; and

(b) adding to the contribution so determined in respect of a constituent municipality that did not contribute such a capital sum a proportion, to be determined in accordance with the constitution agreement, of the sum included in the municipal fund budget under subsection (6) of this section in respect of the loan.

(8) The provisions of Divisions 1 and 3 of Part XXVI, other than subsections (1), (2) and (4) of section 603, sections 609 to 614 (both inclusive) and section 624A, apply to and in relation to borrowings by a regional council pursuant to paragraph (b) of subsection (5) of this section.

Payment of  
contributions  
and capital  
sums.

724. (1) When—

(a) an initial or annual contribution; or

(b) a capital sum mentioned in section 723, becomes payable by a constituent municipality—

(c) that contribution or sum is a debt due by the constituent municipality to the regional council; and

(d) without prejudice to the generality of Part XXIV and notwithstanding subsection (12) of section 547, the constituent municipality is hereby authorized to pay the contribution or sum to the regional council.

(2) A constituent municipality may, in accordance with Division 3 of Part XXVI, borrow the whole or a portion of the money required to pay a contribution or sum referred to in subsection (1) of this section.

725. (1) The provisions of Part XXVII, other than section 638, apply to and in relation to a regional council. Accounts,  
audit and  
inspection.

(2) For the purposes of the application of section 636 a regional council shall be deemed to be a municipality that is a shire.

(3) For the purposes of the application of section 637 a regional council shall be deemed to be a municipality that is a shire specified in the Twenty-seventh Schedule.

*Division 7.—Miscellaneous.*

726. As soon as practicable after 30 June a regional council shall prepare a report on its activities for the year ending on that day and furnish to each constituent municipality— Annual  
report.

(a) a copy of the report so prepared; and

- (b) a copy of each statement prepared by the regional council in respect of that year pursuant to section 630 together with a copy of any certificate or report of the auditor in relation thereto.

Application  
of  
miscel-  
laneous  
provisions.

727. In addition to the provisions previously mentioned in this Part the following provisions of this Act apply to and in relation to a regional council, that is to say—

- (a) section 144;
- (b) Part VII, other than section 171;
- (c) Part XXVIII, other than section 691A.

Construction  
of applied  
provisions.

728. Where pursuant to this Part any provisions of this or another Act apply to or in relation to a regional council, or to or in relation to any act, matter or thing pertaining to a regional council,—

- (a) those provisions shall so apply *mutatis mutandis* subject to such modifications, additions or deletions, if any, as are prescribed by this Part or by regulations made under this Part; and
- (b) any regulation, order or other statutory instrument made under or for the purposes of those provisions shall so apply in like manner.

Regulations.

729. The Governor may make regulations prescribing all matters that are required or permitted by this Part to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Part. ” .

(2) If this section comes into operation before the coming into operation of the Local Government Amendment Act 1981 Part XXIX of the principal Act as inserted by subsection (1) of this section



shall, until the coming into operation of the Local Government Amendment Act 1981, be read and construed as if—

- (a) the reference in subsection (2) of section 704 to subsections (3), (4), (5) and (6) of section 67 was a reference to subsections (2), (3) and (4) of section 37;
- (b) the references in paragraph (e) of subsection (1) and subsection (3) of section 705 to subsection (2) of section 68 were references to subsection (2) of section 39;
- (c) the reference in subsection (2) of section 709 to paragraphs (c), (d), (e) and (f) of subsection (1) of section 141 was a reference to paragraphs (c), (d), (e) and (f) of section 73;
- (d) the reference in subsection (4) of section 709 to subsections (4), (5) and (6) of section 143 was a reference to subsections (5), (6) and (7) of section 75;
- (e) the reference in subsection (5) of section 709 to subsection (1) of section 95 was a reference to subsection (1) of section 119;
- (f) the reference in subsection (5) of section 709 to subsection (6) of section 136 was a reference to subsection (6) of section 127;
- (g) the reference in paragraph (b) of subsection (1) of section 710 to paragraph (f) of subsection (1) of section 141 was a reference to paragraph (f) of section 73; and
- (h) the reference in paragraph (a) of section 727 to section 144 was a reference to section 77.

Seventeenth  
Schedule  
amended.

30. The Seventeenth Schedule to the principal Act is amended by deleting—

“ Division 5 of Part XXV, of the above-mentioned Act provides the grounds on which and the time and manner in which individual appeals in respect of valuations may be instituted, and s. 681 relates to general appeals. ”

and substituting the following—

“ Appeals.—

Part IV of the Valuation of Land Act 1978 provides the grounds on which and the time and manner in which, objections and appeals may be instituted by a person who is dissatisfied with a valuation.

Division 5 of Part XXV of the Local Government Act 1960 provides the grounds on which and the time and manner in which, objections and appeals may be instituted with respect to the ownership of rateable property or the question of whether property is rateable.

Section 681 of the Local Government Act 1960 relates to general appeals. ” .

PART II.—AMENDMENT TO LOCAL GOVERNMENT  
AMENDMENT ACT 1981.

Section 11  
of No. 27 of  
1981 amended

31. The Local Government Amendment Act 1981 is amended, in subparagraph (iii) of paragraph (a) of subsection (3) of the section to be inserted by section 11 of that Act as section 67 of the principal Act, by inserting before “(h)” the following—

“ (ga), ” .

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