

Western Australia

# Local Government Amendment Bill 2023

## Contents

### Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

### Part 2 — *Local Government Act 1995* amended

3.	Act amended	3
4.	Section 1.3 amended	3
5.	Section 1.4 amended	3
6.	Section 1.4A inserted	4
	1.4A. Caretaker period	4
7.	Section 2.2 amended	5
8.	Section 2.2A inserted	5
	2.2A. Regulations may provide that district cannot be divided into wards	5
9.	Section 2.11 amended	6
10.	Section 2.12B inserted	6
	2.12B. Regulations may require local government to use election by electors method	6
11.	Section 2.13 amended	8
12.	Section 2.14 amended	8
13.	Section 2.17 replaced	8

#### Subdivision 1 — Preliminary

2.16A.	Terms used	8
2.16B.	Population estimates	9

#### Subdivision 2 — Membership and size

2.17.	Members of council where mayor or president elected by electors	11
2.17A.	Members of council where mayor or president elected by council	12

**Local Government Amendment Bill 2023****Contents**

---

14.	Part 2 Division 4 Subdivision 3 heading inserted	13
	<b>Subdivision 3 — Orders</b>	
15.	Section 2.18 amended	13
16.	Section 2.18A inserted	13
	2.18A. Change orders	13
17.	Section 2.19 amended	17
18.	Section 2.25 amended	18
19.	Section 2.28 amended	18
20.	Section 2.32 amended	20
21.	Section 3.1 amended	20
22.	Section 3.59 amended	21
23.	Part 3 Division 5 inserted	21
	<b>Division 5 — Caretaker period</b>	
	3.73. Restrictions on what local government may do during caretaker period	21
24.	Section 4.4 amended	24
25.	Section 4.8 amended	24
26.	Section 4.13 amended	24
27.	Section 4.16 amended	25
28.	Section 4.17 amended	25
29.	Section 4.31 amended	25
30.	Section 4.32 amended	26
31.	Section 4.33 amended	29
32.	Section 4.35 amended	30
33.	Section 4.39 amended	30
34.	Section 4.40 amended	31
35.	Section 4.41 amended	31
36.	Section 4.42 amended	31
37.	Section 4.43 amended	32
38.	Section 4.46A inserted	32
	4.46A. Restrictions on use of information contained in rolls	32
39.	Section 4.47 amended	35
40.	Section 4.49 amended	36
41.	Section 4.51 amended	37
42.	Section 4.52 replaced	37
	4.52. Information about candidates to be published	37
43.	Section 4.53 amended	39
44.	Section 4.64 amended	39

**Local Government Amendment Bill 2023****Contents**

45.	Section 4.69 replaced	39
	4.69. How to vote	39
46.	Section 4.72 amended	40
47.	Section 4.72A inserted	40
	4.72A. Re-counts of votes	40
48.	Section 4.73 amended	41
49.	Section 4.73A inserted	42
	4.73A. Procedure when councillor whose term is not expiring is candidate for mayor or president	42
50.	Section 4.75 amended	43
51.	Section 4.76 amended	44
52.	Section 4.77 amended	44
53.	Section 4.80 amended	44
54.	Section 4.81 amended	45
55.	Section 5.18A inserted	46
	5.18A. Regulations in relation to functions of committees	46
56.	Section 5.19 amended	47
57.	Section 5.21 amended	47
58.	Section 5.23A inserted	48
	5.23A. Electronic broadcasting and video or audio recording of council meetings	48
59.	Section 5.25 deleted	49
60.	Section 5.28 amended	49
61.	Section 5.31 deleted	51
62.	Part 5 Division 2 Subdivision 5 inserted	51
	<b>Subdivision 5 — Regulations about meetings</b>	
	5.33A. Regulations about meetings of councils, committees or electors	51
63.	Section 5.38 replaced	54
	5.38. Annual review of CEO's performance	54
64.	Section 5.39AA inserted	55
	5.39AA. Publication of information relating to CEO's performance	55
65.	Section 5.39A amended	56
66.	Section 5.43 amended	57
67.	Section 5.53 amended	57
68.	Section 5.56 replaced	58
	5.56. Council plan	58

**Local Government Amendment Bill 2023****Contents**

---

69.	Part 5 Division 5A inserted	59
	<b>Division 5A — Community engagement</b>	
	5.56A. Community engagement charter	59
	5.56B. Community surveys	60
70.	Section 5.63 amended	61
71.	Section 5.68 amended	61
72.	Section 5.88 amended	62
73.	Section 5.92 amended	62
74.	Sections 5.92A to 5.92C inserted	62
	5.92A. Local government to have communications agreement	62
	5.92B. Default communications agreement	64
	5.92C. Local government may adopt communications agreement of its own	65
75.	Section 5.94 amended	66
76.	Section 5.95 amended	66
77.	Section 5.96A amended	67
78.	Section 5.96B inserted	67
	5.96B. Registers	67
79.	Section 5.98 amended	68
80.	Section 5.100 replaced	69
	5.100. Fees paid and expenses reimbursed to committee members	69
81.	Section 5.105 amended	71
82.	Section 5.129 inserted	72
	5.129. Fees and expenses	72
83.	Section 6.2 amended	74
84.	Section 6.4 amended	75
85.	Section 7.13 amended	75
86.	Section 9.61A inserted	75
	9.61A. Further provisions about regulations	75
87.	Section 9.63A inserted	77
	9.63A. Minister may grant exemptions from compliance with Act	77
88.	Section 9.63A amended	79
89.	Schedule 2.2 clause 3 amended	79
90.	Schedule 2.2 clause 6 amended	80

**Local Government Amendment Bill 2023****Contents**

91.	Schedules 4.1A and 4.1B inserted	80
	<b>Schedule 4.1A — Filling extraordinary vacancy without extraordinary election</b>	
	<b>Division 1 — Preliminary</b>	
1.	Terms used	80
	<b>Division 2 — Application of Schedule</b>	
2.	Certain extraordinary vacancies to be filled under Schedule instead of by extraordinary election	81
	<b>Division 3 — One office elections</b>	
	<b>Subdivision 1 — One office election: 2 candidates</b>	
3.	Application of Subdivision	83
4.	Filling of vacancy by unsuccessful candidate	83
	<b>Subdivision 2 — One office election: 3 or more candidates where former member elected under Schedule 4.1 clause 4</b>	
5.	Application of Subdivision	84
6.	Filling of vacancy by second placed candidate	85
7.	Filling of vacancy by third placed candidate	86
	<b>Subdivision 3 — One office election: 3 or more candidates where former member elected under Schedule 4.1 clause 5</b>	
8.	Application of Subdivision	87
9.	Filling of vacancy by second placed candidate	89
10.	Filling of vacancy by third placed candidate	90
	<b>Division 4 — Elections of 2 or more councillors</b>	
11.	Application of Division	91
12.	Filling of vacancy by first unelected candidate	93
13.	Filling of vacancy by second unelected candidate	94
	<b>Division 5 — Former member elected under cl. 6, 9 or 12</b>	
14.	Terms used	95
15.	Former member elected under cl. 6	96
16.	Former member elected under cl. 9	96
17.	Former member elected under cl. 12	97

**Local Government Amendment Bill 2023****Contents**

---

<b>Division 6 — Final provisions</b>		
18.	Regulations about notifications and time periods	98
19.	Declarations and notices under section 4.77 for purposes of Schedule	98
<b>Schedule 4.1B — Filling office of councillor who is elected elector mayor or president</b>		
1.	Vacancy caused by councillor becoming elector mayor or president not to be filled by extraordinary election in certain circumstances	100
2.	Concurrent election ascertained under Schedule 4.1 clause 2	101
3.	Concurrent election ascertained under Schedule 4.1 clause 4	101
4.	Concurrent election ascertained under Schedule 4.1 clause 5	102
5.	Concurrent election ascertained under Schedule 4.1 Division 3	102
92.	Schedule 4.1 replaced	104
<b>Schedule 4.1 — How to count votes and ascertain the result of an election</b>		
<b>Division 1 — Preliminary</b>		
1.	Terms used	104
<b>Division 2 — One office elections</b>		
2.	One office election: 2 candidates	105
3.	One office election: 3 or more candidates	105
4.	Count of first-preference votes	105
5.	Process if no candidate elected under clause 4	105
<b>Division 3 — Elections for 2 or more councillors</b>		
<b>Subdivision 1 — Preliminary</b>		
6.	Application of Division	108
7.	Terms used	108
<b>Subdivision 2 — Counting and transferring votes</b>		
8.	Count of first-preference votes and determination of quota	109
9.	Transfer of surplus votes (1)	109
10.	Transfer of surplus votes (2)	110
11.	Exclusion of candidates	112
<b>Subdivision 3 — Supplementary provisions</b>		
12.	No further transfers to elected candidates	114
13.	Filling last office	114

**Local Government Amendment Bill 2023****Contents**

14.	No need for further transfers of votes if number of continuing candidates equals number of vacancies	114
15.	Order of transfers of surpluses	114
16.	Procedure to determine excluded candidates if votes equal	115
17.	Setting aside ballot papers as finally dealt with or exhausted	116
18.	Transfers to be treated separately	116
93.	Schedule 4.2 clause 6 amended	117
94.	Schedule 4.2 clause 7 amended	117
95.	Schedule 4.2 clauses 7A and 7B inserted	118
96.	Schedule 4.2 clause 8 amended	120
97.	Schedule 4.2 clause 9 amended	120
98.	Schedule 4.2 clause 10 inserted	121
99.	Schedule 9.3 Division 6 inserted	121
<b>Division 6 — Provisions for Local Government Amendment Act 2023</b>		
57.	Term used: 2023 amendment Act	121
58.	Continued application of repealed provisions relating to membership and size of councils	121
59.	Transitional orders relating to constitution of local government	122
60.	Enrolment eligibility claims	124
61.	Electors' special meetings	125
62.	Transitional regulations	125
<b>Part 3 — Other written laws amended</b>		
<b>Division 1 — City of Perth Act 2016 amended</b>		
100.	Act amended	127
101.	Section 20 amended	127
<b>Division 2 — Local Government Amendment (Auditing) Act 2017 amended</b>		
102.	Act amended	127
103.	Section 2 amended	127
<b>Division 3 — Salaries and Allowances Act 1975 amended</b>		
104.	Act amended	128

**Local Government Amendment Bill 2023****Contents**

---

105.	Section 7BAA inserted	128
	7BAA. Determinations as to fees and allowances of members of local government committees	128
106.	Section 8 amended	129
107.	Section 10 amended	129
	<b>Division 4 — <i>Waste Avoidance and Resource Recovery Act 2007</i> amended</b>	
108.	Act amended	130
109.	Section 40 amended	130
110.	Section 42 amended	130



Western Australia

LEGISLATIVE ASSEMBLY

## **Local Government Amendment Bill 2023**

**A Bill for**

**An Act to amend the *Local Government Act 1995* and to make consequential and related amendments to other written laws.**

The Parliament of Western Australia enacts as follows:

**Local Government Amendment Bill 2023****Part 1** Preliminary**s. 1**

---

1

**Part 1 — Preliminary**

2

**1. Short title**

3

This is the *Local Government Amendment Act 2023*.

4

**2. Commencement**

5

This Act comes into operation as follows —

6

(a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);

7

8

(b) Part 2 (but only sections 3, 60, 86, 87 and 99) — on the day after assent day;

9

10

(c) Part 3 (but only Division 2) — on the day after assent day;

11

12

(d) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

13

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 3**

---

**Part 2 — Local Government Act 1995 amended**

**3. Act amended**

This Part amends the *Local Government Act 1995*.

**4. Section 1.3 amended**

Delete section 1.3(3).

**5. Section 1.4 amended**

(1) In section 1.4 insert in alphabetical order:

*caretaker period* has the meaning given in  
section 1.4A(1);

(2) In section 1.4 in the definition of *councillor* delete “2.17(2)(a) or (b)” and insert:

2.17(2) or 2.17A(2) or (3)

(3) In section 1.4 in the definition of *elector mayor or president* delete “district;” and insert:

district (including a person who is elected to an office of elector  
mayor or president under Schedule 4.1A);

(4) In section 1.4 in the definition of *member* paragraph (b) delete  
“2.17(2)(a) or (b)” and insert:

2.17(2) or 2.17A(2) or (3)

---

page 3

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 6**

---

**6. Section 1.4A inserted**

After section 1.4 insert:

**1.4A. Caretaker period**

(1) In this Act —

*caretaker period*, in relation to a local government,  
means a period that —

- (a) begins at the close of nominations (as defined in section 4.49(a)) for a relevant election for the local government; and
- (b) ends —
  - (i) on the day after the day on which the returning officer declares the result of the relevant election under section 4.77; or
  - (ii) if section 4.57(1) applies to the relevant election — on the day after the day on which the close of nominations falls; or
  - (iii) if section 4.58(1) applies to the relevant election — on the day after the day on which the candidate dies.

(2) In subsection (1) —

*relevant election* means any of the following —

- (a) an ordinary election;
- (b) an inaugural election;
- (c) an election under section 4.11, 4.12, 4.13 or 4.14;
- (d) an election under section 4.15 after an election that is a relevant election under paragraph (a), (b) or (c) or this paragraph is declared invalid.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 7**

---

**7. Section 2.2 amended**

After section 2.2(4) insert:

- (5) An order cannot be made under subsection (1) in relation to a district which, under regulations made for the purposes of section 2.2A(1)(a), cannot be divided into wards.

**8. Section 2.2A inserted**

After section 2.2 insert:

**2.2A. Regulations may provide that district cannot be divided into wards**

- (1) Regulations may —
- (a) provide that a district cannot be divided into wards; and
  - (b) if the district is divided into wards — abolish all of the wards.
- (2) If regulations are made for the purposes of subsection (1)(b) —
- (a) the abolition of the wards does not of itself cause a change in the number of offices of councillor on the council; and
  - (b) regulations may give directions to the effect that, in advance of the abolition of the wards taking effect, Part 4 applies for the purpose of preparing for, and conducting, an election as if the abolition had already taken effect; and
  - (c) the operation of Part 4 is modified to the extent necessary to give effect to any directions given for the purposes of paragraph (b); and

---

page 5

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 9**

---

- 1 (d) regulations may give other directions, including  
 2 directions modifying the operation of this Act,  
 3 for the purpose of giving effect to the abolition  
 4 of the wards.  
 5

**9. Section 2.11 amended**

6  
 7 After section 2.11(4) insert:  
 8

- 9 (5) This section and sections 2.12 and 2.12A are subject to  
 10 any regulations made for the purposes of  
 11 section 2.12B.  
 12

**10. Section 2.12B inserted**

13  
 14 After section 2.12A insert:  
 15

16 **2.12B. Regulations may require local government to use**  
 17 **election by electors method**

- 18 (1) Regulations may —  
 19 (a) provide that the method of filling the office of  
 20 mayor or president used by a local  
 21 government —  
 22 (i) must be the election by the electors  
 23 method; and  
 24 (ii) cannot be changed to the election by the  
 25 council method;  
 26 and  
 27 (b) if the method of filling the office of mayor or  
 28 president used by the local government is the  
 29 election by the council method — change the  
 30 method to the election by the electors method.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 10**

- 1           (2) If regulations are made for the purposes of  
2           subsection (1)(b) —
- 3               (a) regulations must, for the purposes of  
4               section 2.13(4)(a), provide for the change to  
5               have effect in relation to the filling of the office  
6               of mayor or president —
- 7                   (i) at the next ordinary elections for the  
8                   local government that are held after a  
9                   day provided for in regulations for the  
10                  purposes of this subparagraph; or
- 11                  (ii) subject to subsection (3), at another time  
12                  that coincides with the holding of a  
13                  different type of election for the local  
14                  government;
- 15               and
- 16               (b) regulations may give directions, including  
17               directions modifying the operation of this Act,  
18               for the purpose of giving effect to the change.
- 19           (3) Provision can be made as referred to in  
20           subsection (2)(a)(ii) only if the Minister is satisfied that  
21           the provision is appropriate because of particular  
22           circumstances.
- 23           Examples for this subsection:
- 24               1. The offices of members of the council have been declared  
25               vacant under section 2.37 and the next election for the local  
26               government will be an election under section 4.13.
- 27               2. The council has been dismissed under section 8.25(1) and  
28               the next election for the local government will be an election  
29               under section 4.14.
- 30

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 11**

---

1 **11. Section 2.13 amended**2 After section 2.13(3) insert:  
34 (4) A change made by regulations to the election by the  
5 electors method under section 2.12B(1)(b) has  
6 effect —7 (a) in accordance with regulations made as referred  
8 to in section 2.12B(2)(a); and

9 (b) from then on, subject to subsection (5).

10 (5) If a local government ceases to be subject to  
11 regulations made for the purposes of  
12 section 2.12B(1)(a), the election by the electors method  
13 must nevertheless be used for filling the office of  
14 mayor or president until a change under section 2.11(4)  
15 to the election by the council method takes effect.  
1617 **12. Section 2.14 amended**18 In section 2.14 delete “a mayor or president elected by the  
19 electors” and insert:  
2021 an elector mayor or president  
2223 **13. Section 2.17 replaced**24 Delete section 2.17 and insert:  
2526 **Subdivision 1 — Preliminary**27 **2.16A. Terms used**

28 In this Division —

29 *election* has the meaning given in section 4.1;



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 13**

***election day***, in relation to a local government, means a day fixed under this Act for the holding of any poll needed for an election for the local government (whether or not any poll is actually held);

***ordinary election day***, in relation to a local government, means a day fixed under this Act for the holding of any polls needed for ordinary elections for the local government (whether or not any polls are actually held);

***population***, in relation to a district, means the total number of people who reside permanently in the district, subject to section 2.16B.

**2.16B. Population estimates**

- (1) The Governor may, on the recommendation of the Minister, by order —
  - (a) specify an estimate of a district's population; and
  - (b) provide that the specified estimate is taken to be the district's population for the purposes of sections 2.17 and 2.17A.
- (2) The order must provide for the provision made under subsection (1)(b) to have effect —
  - (a) on and from an ordinary election day for the local government; or
  - (b) subject to subsection (3), on and from an election day for the local government that is not an ordinary election day.
- (3) Provision can be made under subsection (2)(b) only if the Minister is satisfied that the provision is appropriate because of particular circumstances.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 13**

---

- 1 Examples for this subsection:
- 2 1. The offices of members of the council have been declared
- 3 vacant under section 2.37 and the next election for the local
- 4 government will be an election under section 4.13.
- 5 2. The council has been dismissed under section 8.25(1) and
- 6 the next election for the local government will be an election
- 7 under section 4.14.
- 8 (4) Before making a recommendation under subsection (1),
- 9 the Minister must consult the Government Statistician.
- 10 (5) An estimate of a district's population recommended
- 11 under subsection (1) must be either —
- 12 (a) an estimate —
- 13 (i) that has been published under the
- 14 *Statistics Act 1907* section 14; or
- 15 (ii) that has been approved by the
- 16 Government Statistician in the course of
- 17 the consultation under subsection (4);
- 18 or
- 19 (b) an estimate that, in the Minister's opinion, is
- 20 substantially derived from statistics or other
- 21 information —
- 22 (i) that has been published under the
- 23 *Statistics Act 1907* section 14; or
- 24 (ii) that has been approved by the
- 25 Government Statistician in the course of
- 26 the consultation under subsection (4).
- 27 (6) The Minister must, in consultation with the
- 28 Government Statistician, review an estimate specified
- 29 in an order under this section at intervals of no more
- 30 than 5 years with a view to deciding whether the
- 31 estimate should be replaced.
- 32 (7) The Government Statistician must provide the Minister
- 33 with any assistance requested in the course of a
- 34 consultation under subsection (4) or (6).

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 13**

- 1           (8) In subsections (4) to (7) —  
2                 **Government Statistician** means the Government  
3                 Statistician appointed under the *Statistics Act 1907*.  
4           (9) The *Interpretation Act 1984* section 42 applies to an  
5                 order made under this section as if the order were  
6                 regulations made under this Act.

7                                 **Subdivision 2 — Membership and size**

8           **2.17. Members of council where mayor or president**  
9                 **elected by electors**

- 10           (1) If the method of filling the office of mayor or president  
11                 is election by electors, the council is to consist of —  
12                 (a) the mayor or president; and  
13                 (b) a number of councillors that is —  
14                         (i) not less than the minimum number of  
15                         councillors under subsection (3); but  
16                         (ii) not more than the maximum number of  
17                         councillors under subsection (4).

18                                 Note for this paragraph:

19   For the council of the City of Perth, the number of  
20   councillors is 8 — see the *City of Perth Act 2016* section 9.

- 21           (2) One of the councillors is to hold the office of deputy  
22                 mayor or deputy president in conjunction with their  
23                 office as a councillor.  
24           (3) For the purposes of subsection (1)(b)(i), the minimum  
25                 number of councillors is as follows —  
26                 (a) if the district's population is not more  
27                         than 75 000 — 4 councillors;  
28                 (b) otherwise — 8 councillors.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 13**

---

- 1           (4) For the purposes of subsection (1)(b)(ii), the maximum  
2           number of councillors is as follows —
- 3               (a) if the district's population is not more  
4               than 5 000 — 6 councillors;
- 5               (b) if the district's population is more than 5 000  
6               but not more than 75 000 — 8 councillors;
- 7               (c) otherwise — 14 councillors.
- 8           (5) This section is subject to section 2.18A(5).
- 9           **2.17A. Members of council where mayor or president**  
10           **elected by council**
- 11           (1) If the method of filling the office of mayor or president  
12           is election by the council, the council is to consist of a  
13           number of councillors that is —
- 14               (a) not less than the minimum number of  
15               councillors under subsection (4); but
- 16               (b) not more than the maximum number of  
17               councillors under subsection (5).
- 18           (2) One of the councillors is to hold the office of mayor or  
19           president in conjunction with their office as a  
20           councillor.
- 21           (3) Another of the councillors is to hold the office of  
22           deputy mayor or deputy president in conjunction with  
23           their office as a councillor.
- 24           (4) For the purposes of subsection (1)(a), the minimum  
25           number of councillors is as follows —
- 26               (a) if the district's population is not more  
27               than 75 000 — 5 councillors;
- 28               (b) otherwise — 9 councillors.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 14**

- 1           (5) For the purposes of subsection (1)(b), the maximum  
2           number of councillors is as follows —
- 3               (a) if the district's population is not more  
4               than 5 000 — 7 councillors;
- 5               (b) if the district's population is more than 5 000  
6               but not more than 75 000 — 9 councillors;
- 7               (c) otherwise — 15 councillors.
- 8           (6) This section is subject to section 2.18A(5).  
9

10 **14. Part 2 Division 4 Subdivision 3 heading inserted**

11 Before section 2.18 insert:  
12

13 **Subdivision 3 — Orders**  
14

15 **15. Section 2.18 amended**

16 After section 2.18(4) insert:  
17

- 18           (5) This section is subject to section 2.18A.  
19

20 **16. Section 2.18A inserted**

21 After section 2.18 insert:  
22

23 **2.18A. Change orders**

- 24           (1) The Governor may, on the recommendation of the  
25           Minister, by order (a *change order*) —
- 26               (a) specify the number of offices of councillor that  
27               the council of a local government is to have;  
28               and

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 16**

---

- 1 (b) if relevant — specify the number of offices of  
 2 councillor that each ward in the district is to  
 3 have.
- 4 (2) The Minister can make a recommendation under  
 5 subsection (1) specifying a number of offices only for  
 6 either of the following purposes —
- 7 (a) if there is, or will be, a change in the method of  
 8 filling the office of mayor or president used by  
 9 the local government —
- 10 (i) increasing the number of councillors  
 11 by 1, if the change is from the election  
 12 by the electors method to the election by  
 13 the council method; or
- 14 (ii) decreasing the number of councillors  
 15 by 1, if the change is from the election  
 16 by the council method to the election by  
 17 the electors method;
- 18 (b) if an order has been made under section 2.16B  
 19 that applies, or will apply, to the district —
- 20 (i) increasing the number of councillors to  
 21 ensure that that number is, or will be,  
 22 not less than the minimum number that  
 23 applies, or will apply, to the local  
 24 government under section 2.17 or 2.17A  
 25 in consequence of the order made under  
 26 section 2.16B; or
- 27 (ii) decreasing the number of councillors to  
 28 ensure that that number is, or will be,  
 29 not more than the maximum number  
 30 that applies, or will apply, to the local  
 31 government under section 2.17 or 2.17A  
 32 in consequence of the order made under  
 33 section 2.16B.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 16**

- 1           (3) A change order must provide for the increase or  
2           decrease in the number of councillors to have effect —
  - 3           (a) on and from an ordinary election day for the  
4           local government; or
  - 5           (b) subject to subsection (6), on and from an  
6           election day for the local government that is not  
7           an ordinary election day.
- 8           (4) However, if the increase or decrease in the number of  
9           councillors is more than 1, a change order may  
10          provide —
  - 11          (a) for part of the increase or decrease to have  
12          effect —
    - 13           (i) on and from an ordinary election day for  
14           the local government; or
    - 15           (ii) subject to subsection (6), on and from  
16           an election day for the local government  
17           that is not an ordinary election day;
  - 18          and
  - 19          (b) for the remaining part of the increase or  
20          decrease to have effect —
    - 21           (i) on and from the first ordinary election  
22           day for the local government that falls  
23           after the day on which the part increase  
24           or decrease under paragraph (a) takes  
25           effect; or
    - 26           (ii) subject to subsection (6), on and from  
27           an election day for the local government  
28           that is not an ordinary election day and  
29           that falls after the day on which the part  
30           increase or decrease under paragraph (a)  
31           takes effect.
- 32          (5) A part increase or decrease under subsection (4)(a) has  
33          effect despite section 2.17 or 2.17A.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 16**

---

- 1           (6) Provision can be made under subsection (3)(b)  
 2           or (4)(a)(ii) or (b)(ii) only if the Minister is satisfied  
 3           that the provision is appropriate because of particular  
 4           circumstances.
- 5           Examples for this subsection:
- 6           1.     The offices of members of the council have been declared  
 7           vacant under section 2.37 and the next election for the local  
 8           government will be an election under section 4.13.
- 9           2.     The council has been dismissed under section 8.25(1) and  
 10          the next election for the local government will be an election  
 11          under section 4.14.
- 12          (7) If the district is divided into wards, a change order may  
 13          abolish all of the wards on the day on which the  
 14          increase or decrease, or a part of the increase or  
 15          decrease, in the number of councillors takes effect.
- 16          (8) If the increase or decrease, or a part of the increase or  
 17          decrease, in the number of councillors takes effect on  
 18          an ordinary election day for the local government, a  
 19          change order may provide for this Act to apply as if the  
 20          Table to section 2.28 provided for the terms of all  
 21          councillors, or of all councillors for a ward, to end on  
 22          the ordinary election day.
- 23          (9) If provision is made under subsection (8), the ordinary  
 24          elections are to be held accordingly for the purpose of  
 25          filling all offices of councillor or of councillor for the  
 26          ward (as the number of those offices is increased or  
 27          decreased on the ordinary election day).
- 28          (10) The making of a change order does not prevent any  
 29          order being subsequently made under this Part that  
 30          applies to the local government or district.
- 31          (11) The *Interpretation Act 1984* section 42 applies to a  
 32          change order as if the change order were regulations  
 33          made under this Act.  
 34



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 17**

---

1     **17.     Section 2.19 amended**

2             After section 2.19(2) insert:

3

4             (2A)   Regulations may provide that an occupier is not  
5                   qualified under subsection (1)(b) unless prescribed  
6                   requirements are met.

7             (2B)   In subsection (2A) —  
8                   *occupier* means a person —

9                   (a)   who is eligible to be enrolled under  
10                   section 4.30(1); and

11                  (b)   whose eligibility claim referred to in  
12                   section 4.30(1)(c) is based on occupation of  
13                   rateable property.

14             (2C)   The requirements that may be prescribed for the  
15                   purposes of subsection (2A) include (without  
16                   limitation) the following —

17                  (a)   requirements relating to whether any person is  
18                   enrolled, or is regarded under section 4.29(2) as  
19                   being enrolled, as an elector for the Legislative  
20                   Assembly in respect of a residence that is the  
21                   rateable property;

22                  (b)   other requirements relating to the current, past  
23                   or future ownership, occupation or use of the  
24                   rateable property.

25             (2D)   In subsections (2B) and (2C), references to rateable  
26                   property include a portion of rateable property as  
27                   described in section 4.31(1D)(a) or (b).  
28

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 18**

---

**18. Section 2.25 amended**

(1) In section 2.25(5):

(a) in paragraph (b)(iii) delete “pending.” and insert:

4

5 pending;

6

7 (b) after paragraph (b) insert:

8

9 or

10 (c) if the non-attendance occurs during a period for  
11 which the member is entitled to parental leave  
12 under subsection (5B).  
13

14 (2) After section 2.25(5) insert:

15

16 (5B) For the purposes of subsection (5)(c), a member is  
17 entitled to parental leave for the period of 6 months  
18 beginning on the day on which the member or the  
19 member’s spouse or de facto partner —

20 (a) gives birth; or

21 (b) either alone or with another person and whether  
22 in the State or elsewhere — adopts, or becomes  
23 the guardian or foster parent of, a person who is  
24 under 16 years of age.  
25

**19. Section 2.28 amended**

27 (1) In item 3 in the Table to section 2.28 after “dealt with in item 4,”  
28 insert:

29

30 4A,  
31

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 19**

- (2) In item 4 in the Table to section 2.28 after “Elected at an ordinary election” insert:

not dealt with in item 4A

- (3) After item 4 in the Table to section 2.28 insert:

4A.	Councillor	Elected at an ordinary election which was an election for all offices of councillor, or for all offices of councillor for a ward, in a case where provision made by a change order under section 2.18A(8) applied	On the day after the ordinary elections day	On the day determined by the returning officer under section 4.78 (but note section 2.30)
-----	------------	---	---	---

- (4) After item 12 in the Table to section 2.28 insert:

13.	Elector mayor or president OR councillor	Elected under Schedule 4.1A	On the day on which the person is elected	On the day on which the former member’s term of office would have ended had the office not become vacant
-----	--	-----------------------------	---	--

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 20**

---

14.	Councillor	Elected under Schedule 4.1B	On the day after the day on which the poll for the concurrent election is held	On the day on which the former member's term of office would have ended had the office not become vacant
-----	------------	-----------------------------	--	--

1

2     **20.     Section 2.32 amended**

3             Delete section 2.32(f) and insert:

4

- 5                             (f)   while holding an office of councillor, is elected  
6                                     to the office of elector mayor or president on  
7                                     the council.

8

9     **21.     Section 3.1 amended**

10            After section 3.1(1) insert:

11

- 12                   (1A)   Without limiting subsection (1), the general function of  
13                             a local government must be performed having regard to  
14                             the following —

- 15                             (a)   the need —

- 16                                     (i)   to promote the economic, social and  
17    environmental sustainability of the  
18    district; and  
19                                     (ii)   to plan for, and to plan for mitigating,  
20    risks associated with climate change;  
21    and

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 22**

---

- 1 (iii) in making decisions, to consider  
2 potential long-term consequences and  
3 impacts on future generations;  
4 (b) the need —  
5 (i) to recognise the particular interests of  
6 Aboriginal people; and  
7 (ii) to involve Aboriginal people in  
8 decision-making processes;  
9 (c) the need to consider collaboration with other  
10 local governments.  
11

12 **22. Section 3.59 amended**

13 Delete section 3.59(3)(d) and insert:  
14

- 15 (d) its expected effect on matters referred to in any  
16 current council plan of the local government  
17 under section 5.56; and  
18

19 **23. Part 3 Division 5 inserted**

20 At the end of Part 3 insert:  
21

22 **Division 5 — Caretaker period**

23 **3.73. Restrictions on what local government may do**  
24 **during caretaker period**

- 25 (1) In this section —  
26 *emergency* means —  
27 (a) the occurrence, or imminent occurrence, of an  
28 event, situation or condition that is a hazard

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 23**

---

- 1 under the definition of that term in the  
 2 *Emergency Management Act 2005* section 3; or  
 3 (b) a public health emergency as defined in the  
 4 *Public Health Act 2016* section 4(1);  
 5 **land transaction** has the meaning given in  
 6 section 3.59(1);  
 7 **major land transaction** has the meaning given in  
 8 section 3.59(1);  
 9 **major trading undertaking** has the meaning given in  
 10 section 3.59(1);  
 11 **senior employee** means a senior employee under  
 12 section 5.37;  
 13 **significant act** means any of the following —  
 14 (a) making a local law (including making a local  
 15 law to amend or repeal a local law);  
 16 (b) entering into, or renewing or terminating, the  
 17 contract of employment of the CEO or of a  
 18 senior employee;  
 19 (c) entering into a major land transaction;  
 20 (d) entering into a land transaction that is  
 21 preparatory to entry into a major land  
 22 transaction;  
 23 (e) commencing a major trading undertaking;  
 24 (f) entering into a contract, or other agreement or  
 25 arrangement, in prescribed circumstances;  
 26 (g) inviting tenders in prescribed circumstances;  
 27 (h) deciding to do anything referred to in  
 28 paragraphs (a) to (g);  
 29 (i) an act done under a written law or otherwise  
 30 that is a prescribed act.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 23**

---

- 1           (2) During a caretaker period, a local government must not  
2           do a significant act.
- 3           (3) Subsections (4) to (6) apply despite subsection (2).
- 4           (4) A local government may do a significant act during a  
5           caretaker period if —
  - 6           (a) the local government's decision to do the  
7           significant act was made before the caretaker  
8           period; and
  - 9           (b) any prescribed requirements are met.
- 10          (5) A local government may do a significant act during a  
11          caretaker period if it is necessary for the local  
12          government to do the significant act during the  
13          caretaker period in order to comply with any of the  
14          following —
  - 15          (a) a written law;
  - 16          (b) an order of a court or tribunal;
  - 17          (c) a contractual obligation of the local government  
18          under a contract entered into by the local  
19          government before the caretaker period.
- 20          (6) The Departmental CEO may authorise a local  
21          government to do a significant act during a caretaker  
22          period if the Departmental CEO is satisfied that it is  
23          necessary for the local government to do the significant  
24          act during the caretaker period —
  - 25          (a) because of an emergency; or
  - 26          (b) to ensure the proper operation of the local  
27          government.  
28

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 24**

---

1 Note:  
 2 The description at the beginning of Part 3 is to be altered by  
 3 deleting paragraph (c) and inserting:  
 4

5 (c) *Division 4 allows functions to be performed by*  
 6 *regional local governments;*

7 (d) *Division 5 restricts what a local government may do*  
 8 *during a caretaker period.*  
 9

10 **24. Section 4.4 amended**

11 In section 4.4(3) delete “section 2.11,” and insert:  
 12

13 Part 2 Division 3,  
 14

15 **25. Section 4.8 amended**

16 Delete section 4.8(1) and insert:  
 17

18 (1) If the office of a councillor or of an elector mayor or  
 19 president becomes vacant under section 2.32, an  
 20 election to fill the office is to be held, except if the  
 21 vacancy is filled under Schedule 4.1A or 4.1B.  
 22

23 **26. Section 4.13 amended**

24 In section 4.13 delete “2.37 is to be held on the day fixed by  
 25 order under section 2.37(5).” and insert:  
 26

27 2.37, or after a commissioner of the local government has been  
 28 appointed under section 2.37A, is to be held on the day fixed by  
 29 order under section 2.37(5) or 2.37A(2).  
 30



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 27**

---

**27. Section 4.16 amended**

In section 4.16(4)(a) delete “January in” and insert:

October in the year before

**28. Section 4.17 amended**

(1) In section 4.17(2)(a) delete “January in” and insert:

October in the year before

(2) Delete section 4.17(3) to (4).

**29. Section 4.31 amended**

After section 4.31(1C) insert:

(1CA) Regulations may provide that, despite subsection (1C), a person is not to be regarded as occupying rateable property unless prescribed requirements (in addition to the requirement of subsection (1C)) are met.

(1CB) The requirements that may be prescribed for the purposes of subsection (1CA) include (without limitation) the following —

- (a) requirements relating to whether any person is enrolled, or is regarded under section 4.29(2) as being enrolled, as an elector for the Legislative Assembly in respect of a residence that is the rateable property;
- (b) other requirements relating to the current, past or future ownership, occupation or use of the rateable property.

---

page 25

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 30**

---

**30. Section 4.32 amended**

- (1) Delete section 4.32(2) to (4) and insert:
- (2) The claim must —
- (a) be made to the CEO in accordance with regulations; and
  - (b) without limiting paragraph (a), include, or be accompanied by, the following —
    - (i) any statutory declaration required under regulations;
    - (ii) any other prescribed information, document or item.
- (3) A claim for enrolment as an occupier cannot be accepted unless —
- (a) the claimant has had a right of occupation as referred to in section 4.31(1C) for the whole period of 12 months ending on the day before the day on which the claim is made; and
  - (b) if so prescribed (but without limiting paragraph (e)) — the claimant has paid rent in respect of the right of occupation referred to in paragraph (a) of at least the prescribed amount; and
  - (c) the claimant has a right of occupation as referred to in section 4.31(1C) for the whole period of 3 months beginning on the day on which the claim is made; and
  - (d) if so prescribed (but without limiting paragraph (e)) — the claimant is liable to pay rent in respect of the right of occupation referred to in paragraph (c) of at least the prescribed amount; and

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 30**

---

- 1                   (e) any prescribed requirements are met.
- 2           (3A) The right of occupation referred to in
- 3               subsection (3)(a) —
- 4               (a) must be for —
- 5                   (i) the rateable property to which the claim
- 6                       relates; or
- 7                   (ii) another rateable property which is
- 8                       situated (wholly or partly) in the district;
- 9                   and
- 10           (b) for different parts of the 12-month period, may
- 11               be for different rateable properties.
- 12           (3B) The right of occupation referred to in subsection (3)(c)
- 13               must be for the rateable property to which the claim
- 14               relates.
- 15           (3C) The requirements that may be prescribed for the
- 16               purposes of subsection (3)(e) include (without
- 17               limitation) the following —
- 18               (a) requirements relating to whether any person is
- 19                   or was enrolled, or is or was regarded under
- 20                   section 4.29(2) as being enrolled, as an elector
- 21                   for the Legislative Assembly in respect of a
- 22                   residence that is a relevant rateable property;
- 23               (b) other requirements relating to the current, past
- 24                   or future ownership, occupation or use of a
- 25                   relevant rateable property.
- 26           (3D) In subsection (3C) —
- 27               ***relevant rateable property*** means —
- 28               (a) the rateable property to which the claim relates;
- 29                   or

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 30**

---

- 1 (b) another rateable property that is relevant to the  
2 claim under subsection (3A).
- 3 (3E) In subsections (3A) to (3D) —
- 4 (a) subject to paragraph (b), references to a  
5 rateable property include a portion of a rateable  
6 property as described in section 4.31(1D)(a)  
7 or (b); and
- 8 (b) if the claim relates to a portion of a rateable  
9 property as described in section 4.31(1D)(a)  
10 or (b) — references to the rateable property to  
11 which the claim relates are to that portion.
- 12 (4) Except as provided for in subsection (5A), within  
13 14 days after receiving an enrolment eligibility claim,  
14 the CEO must —
- 15 (a) decide —
- 16 (i) whether the claimant is eligible under  
17 section 4.30(1)(a) and (b); and
- 18 (ii) if applicable — whether the  
19 requirements under subsection (3)(a)  
20 to (e) are met;
- 21 and
- 22 (b) accept or reject the claim accordingly.  
23
- 24 (2) After section 4.32(7) insert:  
25
- 26 (7A) Regulations may make provision in relation to how the  
27 CEO's reasons are to be set out.  
28

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 31**

1       (3) After section 4.32(8) insert:

2

3           (8A) Regulations may make provision in relation to the  
4               conduct of an appeal, including (without limitation)  
5               provision restricting, or authorising the Electoral  
6               Commissioner to restrict, the information, documents  
7               or items upon which an appellant can rely.  
8

9       **31. Section 4.33 amended**

10       (1) After section 4.33(1) insert:

11

12           (1A) If an enrolment eligibility claim made by a person on  
13               the basis of occupation of rateable property within the  
14               electorate is accepted under section 4.32(4) or (8), the  
15               claim expires —

16               (a) when the person ceases to occupy, as the case  
17               requires —

18                       (i) the rateable property to which the claim  
19                       relates; or

20                       (ii) the portion of a rateable property, as  
21                       described in section 4.31(1D)(a) or (b),  
22                       to which the claim relates;

23               or

24               (b) if the claim has not already expired under  
25               paragraph (a) — on the day provided for under  
26               subsections (2A) to (3).

27       Note for this subsection:

28               For the purposes of paragraph (a), the reference to the  
29               person ceasing to occupy must be construed in accordance  
30               with section 4.31(1C) and any regulations made for the  
31               purposes of section 4.31(1CA).  
32

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 32**

---

1 (2) In section 4.33(2B)(a) delete “49” and insert:

2

3 56

4

5 (3) In section 4.33(3) delete “50” and insert:

6

7 57

8

9 **32. Section 4.35 amended**

10 After section 4.35(4) insert:

11

12 (4A) Regulations may make provision in relation to the  
 13 conduct of an appeal, including (without limitation)  
 14 provision restricting, or authorising the Electoral  
 15 Commissioner to restrict, the information, documents  
 16 or items upon which an appellant can rely.  
 17

18 **33. Section 4.39 amended**

19 (1) In section 4.39(1) delete “50<sup>th</sup>” and insert:

20

21 57<sup>th</sup>

22

23 (2) In section 4.39(2):

24 (a) delete “70<sup>th</sup>” and insert:

25

26 77<sup>th</sup>

27

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 34**

---

1                   (b) delete “56<sup>th</sup>” and insert:

2

3                                   63<sup>rd</sup>

4

5   **34.       Section 4.40 amended**

6       (1) In section 4.40(1) delete “56<sup>th</sup>” and insert:

7

8                                   63<sup>rd</sup>

9

10       (2) In section 4.40(2) delete “36<sup>th</sup>” and insert:

11

12                                   43<sup>rd</sup>

13

14   **35.       Section 4.41 amended**

15                   In section 4.41(1) delete “36<sup>th</sup>” and insert:

16

17                                   43<sup>rd</sup>

18

19   **36.       Section 4.42 amended**

20                   After section 4.42(2) insert:

21

22       (3) Regulations may require, or otherwise make provision  
23           in relation to, any of the following in relation to a copy  
24           of a roll supplied under subsection (1) or (2) (the  
25           *supplied copy*) —

26                   (a) the destruction of the supplied copy;

27                   (b) if the supplied copy is in electronic form — the  
28                   deletion of the supplied copy;

---

page 31

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 37**

---

- 1 (c) the making of a statutory declaration relating to  
 2 the destruction or deletion of the supplied copy  
 3 and the providing of the statutory declaration to  
 4 the CEO or Electoral Commissioner.
- 5 (4) In subsection (3)(a) to (c), references to the supplied  
 6 copy include —
- 7 (a) other copies of the roll, or other documents or  
 8 information, derived (directly or indirectly and  
 9 wholly or partly) from the supplied copy; and
- 10 (b) any documents or information containing  
 11 details supplied under section 4.43(3b) relating  
 12 to the roll.  
 13

**37. Section 4.43 amended**

14 In section 4.43(1) delete “22<sup>nd</sup>” and insert:

15  
 16  
 17 29<sup>th</sup>  
 18

**38. Section 4.46A inserted**

19 At the end of Part 4 Division 9 Subdivision 2 insert:

**4.46A. Restrictions on use of information contained in rolls**

- 20 (1) In this section —
- 21 *enrolment information* —
- 22 (a) means any information that is supplied to a  
 23 person (*person X*) under section 4.42(2)  
 24 or 4.43(3b); and  
 25  
 26  
 27



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 38**

---

- 1                   (b) includes any information that is derived  
2                   (directly or indirectly and wholly or partly)  
3                   from any information supplied to person X as  
4                   referred to in paragraph (a);
- 5                   *supply* includes disclose;  
6                   *use* includes supply.
- 7           (2) Person X must not use enrolment information, except  
8           for any of the following purposes —
- 9                   (a) if applicable — a purpose connected with  
10                  person X's candidature in the election;
- 11                  (b) if applicable — the performance of person X's  
12                  functions as a member of the council after the  
13                  election;
- 14                  (c) a prescribed purpose.
- 15                  Penalty for this subsection: imprisonment for 1 year  
16                  and a fine of \$5 000.
- 17           (3) Subsection (2)(a) to (c) do not permit the use of  
18           enrolment information for a commercial purpose.
- 19           (4) Person X must not use enrolment information for a  
20           commercial purpose.
- 21                  Penalty for this subsection: imprisonment for 1 year  
22                  and a fine of \$10 000.
- 23           (5) Person X must take all reasonable steps to ensure that  
24           any person to whom any information that is enrolment  
25           information is supplied (whether by person X or  
26           another person) —
- 27                   (a) is informed, no later than the time of supply,  
28                   that, as the case requires —
- 29                           (i) the information was supplied to  
30                           person X under section 4.42(2) or  
31                           4.43(3b); or

---

page 33

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 38**

---

1 (ii) the information was derived (directly or  
 2 indirectly and wholly or partly) from  
 3 information supplied to person X under  
 4 section 4.42(2) or 4.43(3b);

5 and

6 (b) does not use the information except for a  
 7 purpose for which person X is permitted to use  
 8 the information under subsection (2)(a), (b)  
 9 or (c).

10 Penalty for this subsection: imprisonment for 1 year  
 11 and a fine of \$5 000.

12 (6) Except as permitted under subsection (7), a person  
 13 (*person Y*) must not use any information that is  
 14 enrolment information if person Y has been informed  
 15 or otherwise come to know, or has reasonable grounds  
 16 for believing, that the information —

17 (a) was supplied to person X under section 4.42(2)  
 18 or 4.43(3b); or

19 (b) was derived (directly or indirectly and wholly  
 20 or partly) from information supplied to  
 21 person X under section 4.42(2) or 4.43(3b).

22 Penalty for this subsection: imprisonment for 1 year  
 23 and a fine of \$5 000.

24 (7) Person Y may use the information for a purpose for  
 25 which person X is permitted to use the information  
 26 under subsection (2)(a), (b) or (c).

27 (8) A person (*person Z*) must not use any information that  
 28 is enrolment information for a commercial purpose if  
 29 person Z has been informed or otherwise come to  
 30 know, or has reasonable grounds for believing, that the  
 31 information —

32 (a) was supplied to person X under section 4.42(2)  
 33 or 4.43(3b); or

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 39**

---

- 1                   (b) was derived (directly or indirectly and wholly  
2                   or partly) from information supplied to  
3                   person X under section 4.42(2) or 4.43(3b).  
4                   Penalty for this subsection: imprisonment for 1 year  
5                   and a fine of \$10 000.
- 6                   (9) Without limiting section 4.97, a prosecution for either  
7                   of the following may be commenced by the Electoral  
8                   Commissioner or a person authorised by the Electoral  
9                   Commissioner —  
10                  (a) an offence against this section;  
11                  (b) an offence against section 4.95 of attempting to  
12                  commit an offence against this section.
- 13                  (10) Nothing in this section prevents a person from doing  
14                  anything to comply with regulations made for the  
15                  purposes of section 4.42(3).  
16

17   **39.       Section 4.47 amended**

- 18                  In section 4.47(1):  
19                  (a) delete “56<sup>th</sup>” and insert:  
20  
21                         63<sup>rd</sup>  
22  
23                  (b) delete “45<sup>th</sup>” and insert:  
24  
25                         52<sup>nd</sup>  
26

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 40**

---

1     **40.     Section 4.49 amended**

2         (1)   In section 4.49(a):

3             (a)   delete “44<sup>th</sup>” and insert:

4

5                     51<sup>st</sup>

6

7             (b)   delete “37<sup>th</sup>” and insert:

8

9                     44<sup>th</sup>

10

11         (2)   After section 4.49(b) insert:

12

13                     (ba)   the nomination paper is accompanied by any  
14                               prescribed information for publication under  
15                               section 4.52; and

16

17         (3)   Before section 4.49(c) insert:

18

19                     (bb)   if the candidate is an occupier (as defined in  
20                               section 2.19(2B)) — the nomination paper is  
21                               accompanied by the following for the purpose  
22                               of establishing that a requirement prescribed for  
23                               the purposes of section 2.19(2A) is met or was  
24                               met at the close of enrolments —25                               (i)   any statutory declaration required under  
26                                       regulations;27                               (ii)   any other prescribed information,  
28                                       document or item;

29                               and

30

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 41**

---

1     **41.     Section 4.51 amended**

2           (1)   After section 4.51(1)(ba) insert:

3

4                   (bb)   the candidate is not qualified, or was not  
5                           qualified as at the close of enrolments, to be  
6                           elected as a member of the council due to  
7                           regulations made for the purposes of  
8                           section 2.19(2A); or  
9

10          (2)   In section 4.51(2) delete “(b)” and insert:

11

12                   (b), (ba), (bb)  
13

14     **42.     Section 4.52 replaced**

15           Delete section 4.52 and insert:

16

17           **4.52.   Information about candidates to be published**

18           (1)   In this section —

19                   *relevant information*, in relation to a candidate,  
20                   means —

21                   (a)   the following details —

- 22                           (i)   the candidate’s name;
- 23                           (ii)   the name to appear on the ballot paper;
- 24                           (iii)   the ward (if any) in respect of which the  
25                                   candidate has nominated;
- 26                           (iv)   the office for which the candidate has  
27                                   nominated;
- 28                           (v)   the type of election in which the  
29                                   candidate has nominated;

30                                   and

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 42**

---

- 1 (b) the profile that accompanied the candidate's  
 2 nomination paper under section 4.49(b) (as  
 3 amended under section 4.51(3) if relevant); and
- 4 (c) any information that accompanied the  
 5 candidate's nomination paper under  
 6 section 4.49(ba); and
- 7 (d) any other prescribed information.
- 8 (2) If a nomination is accepted, the returning officer must  
 9 ensure that the candidate's relevant information is  
 10 published on the local government's official website.
- 11 (3) A candidate's relevant information must be kept on the  
 12 local government's official website —
- 13 (a) if section 4.55 or 4.57(2)(a) applies — until the  
 14 result is declared under section 4.77; or
- 15 (b) otherwise — until 6 p.m. on election day.
- 16 (4) Regulations may do either or both of the following —
- 17 (a) make provision in relation to how a candidate's  
 18 relevant information must be published on the  
 19 local government's official website under this  
 20 section;
- 21 (b) make provision for a candidate's relevant  
 22 information, or any part of a candidate's  
 23 relevant information, to be published, or  
 24 otherwise made available to electors, in ways in  
 25 addition to its publication on the local  
 26 government's official website under this  
 27 section.  
 28

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 43**

---

**43. Section 4.53 amended**

Delete section 4.53(3) and insert:

- (3) If a nomination is cancelled, the returning officer must ensure —
- (a) that the candidate's relevant information (as defined in section 4.52(1)) is removed from the local government's official website; and
  - (b) that notice of the cancellation is published on that website until the close of nominations.

**44. Section 4.64 amended**

In section 4.64(1) delete "19<sup>th</sup>" and insert:

26<sup>th</sup>

**45. Section 4.69 replaced**

Delete section 4.69 and insert:

**4.69. How to vote**

- (1) This section sets out how votes are cast at an election.
- (2) An elector must cast 1 first-preference vote by writing on the ballot paper the numeral 1 in the square opposite the name of the candidate for whom the elector votes as the elector's first preference.
- (3) If there are 2 or more other candidates, the elector may cast preference votes by writing consecutive numerals from 2 (without repetition of any numeral) in the squares opposite the names of other candidates to

---

page 39

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 46**

---

- 1 indicate the order of the elector's preference for those  
2 other candidates.
- 3 (4) The elector —
- 4 (a) may cast preference votes under subsection (3)  
5 for 1 or more of the other candidates; and
- 6 (b) does not have to cast preference votes for all of  
7 the other candidates.
- 8 (5) Regulations made for the purposes of  
9 section 4.71(1)(a) must provide for ballot papers to  
10 have squares opposite the names of candidates for the  
11 purpose of giving effect to subsections (2) and (3).  
12
- 13 **46. Section 4.72 amended**
- 14 After section 4.72(3) insert:
- 15
- 16 (4) The counting of votes may involve re-counts of votes  
17 under section 4.72A.  
18
- 19 **47. Section 4.72A inserted**
- 20 After section 4.72 insert:
- 21
- 22 **4.72A. Re-counts of votes**
- 23 (1) The returning officer may arrange for some or all of the  
24 votes to be re-counted if, and to the extent that, the  
25 returning officer considers appropriate.
- 26 (2) The returning officer may arrange a re-count under  
27 subsection (1) —
- 28 (a) on the returning officer's own initiative; or



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 48**

---

- 1                   (b) on the written request of a candidate or  
2                   scrutineer, which must —
- 3                   (i) be made before the returning officer  
4                   declares the result of the election under  
5                   section 4.77; and
- 6                   (ii) include the candidate's or scrutineer's  
7                   reasons for the request.
- 8           (3) Regulations may prescribe circumstances in which the  
9           returning officer must arrange for some or all of the  
10          votes to be re-counted to the extent prescribed.
- 11          (4) In the course of a re-count under subsection (1) or (3),  
12          the returning officer may review a decision to accept or  
13          reject a ballot paper.
- 14          (5) A re-count under subsection (1) or (3) must be  
15          conducted before the returning officer declares the  
16          result of the election under section 4.77.  
17

18   **48.       Section 4.73 amended**

19       Delete section 4.73(5) and insert:

- 20
- 21          (5) When votes are counted under subsection (3)(b)  
22          or (4) —
- 23               (a) if a ballot paper contains a first-preference vote  
24               for the candidate who has been elected to the  
25               office of mayor or president —
- 26                   (i) the first-preference vote must be  
27                   disregarded; and
- 28                   (ii) the ballot paper must be treated as if any  
29                   numeral indicating a preference for  
30                   another candidate had been altered  
31                   accordingly;

---

page 41

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 49**

---

- 1 and
- 2 (b) if a ballot paper contains a preference vote for
- 3 the candidate who has been elected mayor or
- 4 president —
- 5 (i) the preference vote must be disregarded;
- 6 and
- 7 (ii) the ballot paper must be treated as if any
- 8 numeral indicating a subsequent
- 9 preference for another candidate had
- 10 been altered accordingly.
- 11 (6) In subsection (5) —
- 12 *first-preference vote* has the meaning given in
- 13 Schedule 4.1 clause 1;
- 14 *preference vote* has the meaning given in Schedule 4.1
- 15 clause 1.
- 16

**49. Section 4.73A inserted**

18 After section 4.73 insert:

19

20 **4.73A. Procedure when councillor whose term is not**

21 **expiring is candidate for mayor or president**

- 22 (1) This section applies if —
- 23 (a) the election is to fill the office of mayor or
- 24 president; and
- 25 (b) any candidate is a councillor on the council
- 26 whose office would become vacant under
- 27 section 2.32(f) were they to be elected mayor or
- 28 president; and

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 50**

---

- 1 (c) on the same election day —
- 2 (i) if the district is not divided into
- 3 wards — there is an election to fill an
- 4 office or offices of councillor on the
- 5 council; or
- 6 (ii) if the district is divided into wards —
- 7 there is an election to fill an office or
- 8 offices of councillor on the council for
- 9 the ward for which the candidate
- 10 referred to in paragraph (b) is a
- 11 councillor.
- 12 (2) The result of the election for mayor or president must
- 13 be ascertained before the result of the election referred
- 14 to in subsection (1)(c)(i) or (ii).
- 15
- 16 **50. Section 4.75 amended**
- 17 (1) In section 4.75(1) delete “regulations.” and insert:
- 18
- 19 section 4.69.
- 20
- 21 (2) After section 4.75(2) insert:
- 22
- 23 (3) Regulations may do either or both of the following —
- 24 (a) without limiting the returning officer’s
- 25 discretion to accept a ballot paper under
- 26 subsection (1) —
- 27 (i) prescribe circumstances in which the
- 28 returning officer must accept a ballot
- 29 paper even if the ballot paper is not
- 30 marked precisely in accordance with
- 31 section 4.69; and

---

page 43

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 51**

---

- 1 (ii) prescribe how the returning officer must  
 2 treat a ballot paper when counting votes  
 3 if the ballot paper was accepted under  
 4 regulations made for the purposes of  
 5 subparagraph (i);
- 6 (b) prescribe circumstances in which the returning  
 7 officer must reject a ballot paper (despite  
 8 subsection (1) or otherwise).  
 9

10 Note: The heading to amended section 4.75 is to read:

11 **Acceptance and rejection of ballot papers**

12 **51. Section 4.76 amended**

13 In section 4.76 delete “votes.” and insert:

14

15 votes as referred to in section 4.72A(4).  
 16

17 **52. Section 4.77 amended**

18 At the end of section 4.77 insert:

19

20 Note for this section:

21 See Schedule 4.1A clause 19 and Schedule 4.1B  
 22 clause 1(5) for further provisions relating to declarations  
 23 and notices under this section.  
 24

25 **53. Section 4.80 amended**

26 Delete section 4.80(2) and insert:

27

28 (2) In this Division —

29 ***invalidity complaint*** means a complaint —

30 (a) that the election is invalid; or

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 54**

---

- 1                   (b) that another person should be declared elected;  
2                   or  
3                   (c) that the term of office of a councillor should be  
4                   longer or shorter than the term determined by  
5                   the returning officer; or  
6                   (d) that a declaration made under Schedule 4.1A  
7                   clause 19 or Schedule 4.1B clause 1(5) by the  
8                   returning officer should be changed.  
9

10 **54. Section 4.81 amended**

11       (1) After section 4.81(3)(b) insert:  
12

- 13                   (ba) any declaration made under Schedule 4.1A  
14                   clause 19 or Schedule 4.1B clause 1(5) by the  
15                   returning officer is of no effect; and  
16                   (bb) any office of member filled under  
17                   Schedule 4.1A or 4.1B by a candidate in the  
18                   election is vacant; and  
19

20       (2) After section 4.81(4) insert:  
21

- 22       (5) If the court declares that a declaration under  
23       Schedule 4.1A clause 19 or Schedule 4.1B clause 1(5)  
24       (the *original declaration*) should be changed —  
25                   (a) the court may make a declaration to replace the  
26                   original declaration; and  
27                   (b) if the court makes a declaration under  
28                   paragraph (a), the declaration —  
29                   (i) is to be regarded as a declaration under  
30                   Schedule 4.1A clause 19 or  
31                   Schedule 4.1B clause 1(5) (as the case  
32                   requires); and

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 55**

---

- 1 (ii) must be published in accordance with  
2 regulations;  
3 and  
4 (c) the court may otherwise make any orders that  
5 the court thinks fit, including (without  
6 limitation) any of the following —  
7 (i) an order that a person who has been  
8 elected to the council under  
9 Schedule 4.1A or 4.1B is not to act as a  
10 member of the council;  
11 (ii) an order that a person is to be regarded  
12 as having been elected to the council  
13 under Schedule 4.1A or 4.1B;  
14 (iii) an order that Schedule 4.1A or 4.1B be  
15 applied or reapplied, with any  
16 modifications specified in the order, in  
17 relation to a vacancy.  
18

**55. Section 5.18A inserted**

20 At the end of Part 5 Division 2 Subdivision 2 insert:  
21

**5.18A. Regulations in relation to functions of committees**

23 Regulations may make provision in relation to the  
24 functions of committees or the functions of types of  
25 committee.  
26

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 56**

---

**56. Section 5.19 amended**

(1) In section 5.19 delete “The quorum” and insert:

(1) The quorum

(2) At the end of section 5.19 insert:

(2) Subsection (3) applies despite subsection (1) if a council member is not present at any time during a meeting of —

(a) the council; or

(b) a committee of which the council member is a member.

(3) The office held by the council member must be disregarded for the purpose of determining the quorum for the meeting at that time if the meeting is held during a period for which the council member is entitled to parental leave under section 2.25(5B).

(4) Despite subsection (3), the quorum for a meeting cannot be less than 2.

**57. Section 5.21 amended**

Delete section 5.21(4) and insert:

(4) If a matter is voted on at a meeting of a council or committee, the person presiding must cause the following information to be recorded in the minutes —

(a) the total votes cast for;

(b) the total votes cast against;

---

page 47

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 58**

---

- 1 (c) the individual vote of each member of the  
2 council or committee.
- 3 (4A) Subsection (4) does not apply to a vote that is required  
4 to be by secret ballot under Schedule 2.3.
- 5 (4B) Regulations may prescribe how information is to be  
6 recorded for the purposes of subsection (4)(a), (b)  
7 or (c).  
8

9 **58. Section 5.23A inserted**10 After section 5.23 insert:  
1112 **5.23A. Electronic broadcasting and video or audio**  
13 **recording of council meetings**

- 14 (1) In this section —  
15 *council meeting* means a meeting of a council or  
16 committee;  
17 *electronic broadcasting* means broadcasting by way of  
18 the Internet or other electronic means;  
19 *recording* means a video recording or an audio  
20 recording.
- 21 (2) Regulations may require, regulate or otherwise make  
22 provision in relation to any of the following —  
23 (a) the electronic broadcasting of council meetings  
24 (either live or with a delay);  
25 (b) the making or retaining of recordings of council  
26 meetings;  
27 (c) the making of recordings of council meetings  
28 publicly available;



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 59**

- 1 (d) the provision of, or otherwise making available  
2 of, recordings of council meetings to any  
3 person (on the person's request or otherwise).
- 4 (3) Regulations made for the purposes of subsection (2)  
5 cannot require or authorise —
- 6 (a) the electronic broadcasting of any part of a  
7 council meeting that is closed to members of  
8 the public; or
- 9 (b) a recording of any such part of a council  
10 meeting —
- 11 (i) to be made publicly available; or  
12 (ii) to be provided to, or otherwise made  
13 available to, any person other than the  
14 Departmental CEO or a person  
15 authorised by the Departmental CEO.
- 16 (4) Without limiting section 9.57A(2) or subsection (2),  
17 regulations made for the purposes of subsection (2)  
18 may provide for a local government, or any other  
19 person, to be not liable to an action for defamation in  
20 prescribed circumstances.

22 **59. Section 5.25 deleted**

23 Delete section 5.25.

24 **60. Section 5.28 amended**

25 (1) In section 5.28(1)(a) delete "100" and insert:

26

27 300

28

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 60**

---

- 1       (2) After section 5.28(4) insert:
- 2
- 3       (5) Despite subsection (4), the mayor or president may —
- 4           (a) decide that the special meeting is not to be held
- 5               if the mayor or president is satisfied that the
- 6               substance of each matter for discussion
- 7               specified in the request —
- 8               (i) was discussed at a special meeting that
- 9               was held during the period of 12 months
- 10              ending on the day on which the mayor
- 11              or president received the request; or
- 12              (ii) was, or will be, discussed at a special
- 13              meeting that was, or will be, held during
- 14              the period of 35 days after the day on
- 15              which the mayor or president received
- 16              the request;
- 17              or
- 18           (b) decide that a matter for discussion specified in
- 19               the request is not to be discussed at the special
- 20               meeting in whole or in part if the mayor or
- 21               president is satisfied that the substance of the
- 22               whole of the matter or the part of the matter (as
- 23               the case requires) —
- 24               (i) was discussed at a special meeting that
- 25               was held during the period of 12 months
- 26               ending on the day on which the mayor
- 27               or president received the request; or
- 28               (ii) was, or will be, discussed at a special
- 29               meeting that was, or will be, held during
- 30               the period of 35 days after the day on
- 31               which the mayor or president received
- 32               the request.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 61**

- 1           (6) If the mayor or president makes a decision under  
2 subsection (5)(a) or (b), each matter, or the whole or  
3 part of the matter, is to be considered at —  
4           (a) the first ordinary council meeting after the  
5 mayor or president makes the decision; or  
6           (b) if, when the mayor or president makes the  
7 decision, the CEO has already convened that  
8 first ordinary council meeting under  
9 section 5.5(1) — the second ordinary council  
10 meeting after the mayor or president makes the  
11 decision.
- 12           (7) The local government must give local public notice of  
13 any decision of the mayor or president made under  
14 subsection (5)(a) or (b) and of the reasons for the  
15 decision.  
16

17 **61. Section 5.31 deleted**

18 Delete section 5.31.

19 **62. Part 5 Division 2 Subdivision 5 inserted**

20 At the end of Part 5 Division 2 insert:  
21

22 **Subdivision 5 — Regulations about meetings**

23 **5.33A. Regulations about meetings of councils, committees**  
24 **or electors**

- 25           (1) Regulations may make provision in relation to  
26 meetings of councils, committees or electors.
- 27           (2) Without limiting subsection (1), regulations made for  
28 the purposes of that subsection may make provision in  
29 relation to any of the following —  
30           (a) the matters to be dealt with at meetings;

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 62**

---

- 1 (b) the procedure to be followed at, or in respect of,
- 2 meetings;
- 3 (c) the holding of meetings by telephone, video
- 4 conference or other electronic means;
- 5 (d) methods of voting at meetings;
- 6 (e) the circumstances and manner in which a
- 7 decision made at a meeting may be revoked or
- 8 changed (which may differ from the manner in
- 9 which the decision was made);
- 10 (f) the content and confirmation of minutes of
- 11 meetings;
- 12 (g) the keeping and preserving of documents that
- 13 relate to meetings;
- 14 (h) the publication or otherwise making available
- 15 for inspection by the public (including in
- 16 advance of meetings) of documents that relate
- 17 to meetings;
- 18 (i) the giving of public notice of the date and
- 19 agenda for meetings;
- 20 (j) the giving of directions, by the person presiding
- 21 at a meeting, to a council or committee member
- 22 or to any other person;
- 23 (k) the exclusion from a meeting of a council or
- 24 committee member or any other person —
- 25 (i) who fails to comply with a direction
- 26 given by the person presiding at the
- 27 meeting; or
- 28 (ii) whose conduct at the meeting is
- 29 offensive or disruptive or otherwise not
- 30 conducive to the proper conduct of the
- 31 meeting;

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 62**

---

- 1                   (l) the steps to be taken if a council or committee  
2                   member, or any other person, refuses to leave a  
3                   meeting after having been excluded as referred  
4                   to in paragraph (k).
- 5           (3) If regulations made for the purposes of subsection (1)  
6           provide for meetings to be held by telephone, video  
7           conference or other electronic means, regulations may  
8           modify the application of this Act in relation to those  
9           meetings to the extent necessary or convenient to  
10          facilitate the holding of those meetings in that way.
- 11          (4) In subsection (2)(g) and (h), references to documents  
12          that relate to meetings include (without limitation) the  
13          following —  
14                  (a) minutes of meetings (confirmed or  
15                  unconfirmed);  
16                  (b) notice papers or agendas for meetings;  
17                  (c) reports or other documents that are tabled,  
18                  produced or presented at meetings;  
19                  (d) reports or other documents that are intended to  
20                  be tabled, produced or presented at meetings.
- 21          (5) Regulations made for the purposes of subsection (1)  
22          may, in relation to a member of the public who raises a  
23          question at a meeting under section 5.24, make  
24          provision about how the member is to be referred to in  
25          a document that is made available for inspection under  
26          section 5.94(n) or (p) or is published under  
27          section 5.96A(1)(f) or (h).
- 28          (6) Regulations made for the purposes of subsection (1)  
29          may prescribe model provisions that must or may be  
30          adopted by a local government.
- 31

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 63**

---

1     **63.     Section 5.38 replaced**

2             Delete section 5.38 and insert:

3

4             **5.38.     Annual review of CEO's performance**5             (1)   A local government must review the performance of  
6                   the CEO if the CEO is employed for a term of more  
7                   than 1 year.8             (2)   A review under subsection (1) must be conducted at  
9                   least once in relation to each year of the CEO's  
10                  employment.11            (3)   If a local government reviews the performance of the  
12                  CEO under subsection (1), the local government  
13                  must —

14                   (a)   prepare a report of the review; and

15                   (b)   provide a copy of the report to the CEO; and

16                   (c)   give the CEO a reasonable opportunity to  
17                          respond to the report.18            (4)   The report under subsection (3)(a) must include, for  
19                  publication under section 5.39AA(1)(b), a statement  
20                  that —21                   (a)   sets out each performance criterion against  
22                          which the CEO's performance was reviewed;  
23                          and24                   (b)   for each performance criterion, summarises the  
25                          outcome of the review; and

26                   (c)   includes any prescribed information.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 64**

- 1           (5) The CEO's response under subsection (3)(c) may  
2           include, for publication under section 5.39AA(1)(c), a  
3           statement responding to the statement under  
4           subsection (4).
- 5           (6) A report or response under subsection (3)(a) or (c),  
6           including any statement under subsection (4) or (5),  
7           must comply with any prescribed requirements relating  
8           to its form or content.

**64. Section 5.39AA inserted**

After section 5.39 insert:

**5.39AA. Publication of information relating to CEO's performance**

- 15           (1) A local government must publish the following in  
16           accordance with regulations —
  - 17               (a) the performance criteria specified in the CEO's  
18               contract of employment under  
19               section 5.39(3)(b);
  - 20               (b) a copy of any statement under section 5.38(4)  
21               relating to a review of the CEO's performance;
  - 22               (c) a copy of any statement of the CEO under  
23               section 5.38(5) responding to a statement under  
24               section 5.38(4).
- 25           (2) The Departmental CEO may, if satisfied that it is in the  
26           public interest to do so, direct that specified  
27           information be excluded from anything published  
28           under subsection (1).

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 65**

---

**65. Section 5.39A amended**

2 After section 5.39A(2) insert:

3

4 (3) Without limiting subsection (1), the model standards  
5 may —

- 6 (a) provide for a local government to involve, in  
7 ways specified in the model standards, a  
8 member of a panel of persons established by  
9 the Departmental CEO; and
- 10 (b) confer functions on members of the panel; and
- 11 (c) provide for the Departmental CEO to authorise  
12 a local government not to involve a member of  
13 the panel as the local government would  
14 otherwise be required to under a provision  
15 included in the model standards under  
16 paragraph (a).

17 (4) For the purposes of any provision included in the  
18 model standards under subsection (3), regulations may  
19 provide for the establishment of a panel of persons by  
20 the Departmental CEO.

21 (5) Without limiting subsection (4), regulations made for  
22 the purposes of that subsection may do any of the  
23 following —

- 24 (a) provide for a local government to pay fees to a  
25 member of the panel;
- 26 (b) provide for a local government to reimburse  
27 expenses of a member of the panel;
- 28 (c) for the purposes of paragraph (a) or (b) (but  
29 without limiting either of those paragraphs),  
30 provide for any provision of section 5.100 to  
31 apply (with or without modifications) as if the  
32 member of the panel were a committee  
33 member.  
34



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 66**

---

**66. Section 5.43 amended**

In section 5.43(e) delete “5.99A or 5.100;” and insert:

3

5.99A, 5.100 or 5.129;

5

**67. Section 5.53 amended**

Delete section 5.53(2) and insert:

8

(2) Regulations may prescribe information or other contents that must be contained in an annual report.

10

(3) Without limiting subsection (2), regulations may prescribe any of the following for the purposes of that subsection —

11

12

13

(a) a report from the mayor or president;

14

(b) a report from the CEO;

15

(c) an overview of any current council plan under section 5.56, including major initiatives that are proposed under that plan to commence or to continue in the next financial year;

16

17

18

19

(d) the financial report for the financial year;

20

(e) information relating to payments made to employees;

21

22

(f) details of entries made under section 5.121 during the financial year in the register of complaints.

23

24

25

(4) An annual report must contain —

26

(a) the auditor’s report prepared under section 7.12AD(1) for the financial year; and

27

28

---

page 57

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 68**

---

- 1 (b) any report required under the *Disability*  
 2 *Services Act 1993* section 29(2).  
 3

4 **68. Section 5.56 replaced**

5 Delete section 5.56 and insert:  
 6

7 **5.56. Council plan**

- 8 (1) A local government must, in accordance with  
 9 regulations —  
 10 (a) prepare a council plan; and  
 11 (b) publish, review and modify the council plan.
- 12 (2) A *council plan* is a plan for —  
 13 (a) the future services and facilities for the district  
 14 that are to be provided by the local government;  
 15 and  
 16 (b) any prescribed matters.
- 17 (3) Without limiting subsections (1) and (2)(b), regulations  
 18 may prescribe any of the following —  
 19 (a) information and other contents to be contained  
 20 in a council plan;  
 21 (b) the period which a council plan is to cover;  
 22 (c) when a council plan is to be prepared,  
 23 published, reviewed, modified or replaced;  
 24 (d) procedures to be followed in preparing,  
 25 reviewing, modifying or replacing a council  
 26 plan.

27 Note for this section:

28 See the *Waste Avoidance and Resource Recovery*  
 29 *Act 2007* Part 4 Division 3 for provisions relating to the  
 30 inclusion of waste plans in council plans.  
 31

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 69**

---

**69. Part 5 Division 5A inserted**

After Part 5 Division 5 insert:

**Division 5A — Community engagement**

**5.56A. Community engagement charter**

(1) In this section —

*community member*, in relation to a local government —

- (a) means a person who is a member of the district's community or who otherwise has an interest in the local government's activities; and
- (b) includes a person of a prescribed class.

(2) A local government must prepare and adopt\* a community engagement charter that sets out principles to be applied, and things to be done, by the local government for, or in relation to, the following —

- (a) ascertaining opinions of, and otherwise receiving feedback from, a diverse range of community members;
- (b) facilitating and otherwise promoting the participation of a diverse range of community members in the local government's decision-making processes;
- (c) otherwise engaging with a diverse range of community members.

*\* Absolute majority required.*

(3) The local government may amend\* its community engagement charter.

*\* Absolute majority required.*

---

page 59

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 69**

---

- 1           (4) The CEO must publish an up-to-date version of the  
2           local government's community engagement charter on  
3           the local government's official website.
- 4           (5) Regulations may do any of the following —
- 5               (a) make provision in relation to the form or  
6               content of a community engagement charter;
- 7               (b) prescribe a deadline for the adoption of a  
8               community engagement charter;
- 9               (c) prescribe things that a local government must  
10              do when preparing its community engagement  
11              charter or an amendment to it;
- 12              (d) make other provision in relation to community  
13              engagement charters.
- 14           **5.56B. Community surveys**
- 15           (1) Regulations may require a local government to conduct  
16           surveys of persons of a prescribed class —
- 17               (a) to ascertain opinions on prescribed matters; or  
18               (b) otherwise to receive feedback on prescribed  
19               matters; or
- 20               (c) for any other prescribed purpose.
- 21           (2) Any survey must be conducted in accordance with any  
22           prescribed requirements.
- 23           (3) Without limiting subsection (2), regulations may  
24           prescribe the form, content or frequency of surveys.
- 25           (4) Regulations may require the CEO to publish the results  
26           of a survey in any prescribed way.  
27

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 70**

---

**70. Section 5.63 amended**

In section 5.63(1)(c):

(a) in subparagraph (iii) delete “5.101A;” and insert:

5.101A; or

(b) after subparagraph (iii) insert:

(iv) a fee or reimbursement of an expense in accordance with a policy adopted by the local government under section 5.129;

**71. Section 5.68 amended**

Delete section 5.68(1A) and insert:

(1A) Subsection (1) does not apply if —

- (a) the interest disclosed is an interest relating to a gift; and
- (b) subsection (1B) or (1C) applies to the gift.

(1B) This subsection applies to the gift if the disclosing member was or is required by regulations under section 4.59(a) to provide information about the gift in relation to an election.

(1C) This subsection applies to the gift if —

- (a) the amount of the gift exceeds the amount prescribed for the purposes of this subsection;
- or

---

page 61

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 72**

---

- 1 (b) the gift is 1 of 2 or more gifts made by 1 person  
 2 to the disclosing member at any time during a  
 3 year and the sum of the amounts of those 2 or  
 4 more gifts exceeds the amount prescribed for  
 5 the purposes of this subsection.  
 6

7 **72. Section 5.88 amended**8 After section 5.88(2) insert:  
9

- 10 (2A) The CEO must publish an up-to-date version of the  
 11 record required under subsection (2)(b) on the local  
 12 government's official website.  
 13

14 **73. Section 5.92 amended**15 After section 5.92(2) insert:  
16

- 17 (3) The right of a council member or committee member to  
 18 access information under this section must be exercised  
 19 in accordance with the local government's  
 20 communications agreement (see sections 5.92A  
 21 to 5.92C).  
 22

23 **74. Sections 5.92A to 5.92C inserted**24 After section 5.92 insert:  
25

26 **5.92A. Local government to have communications**  
 27 **agreement**

- 28 (1) A local government must have a communications  
 29 agreement.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 74**

- 1           (2) A communications agreement is a written agreement  
2           between the council and the CEO that regulates the  
3           following —
  - 4           (a) the access of council members and committee  
5           members to information held by the local  
6           government under section 5.92 or otherwise,  
7           including the following —
    - 8           (i) the steps that a council member or  
9           committee member who wants access to  
10           information must take;
    - 11           (ii) the steps that the CEO must take if a  
12           council member or committee member  
13           wants access to information;
  - 14           (b) other requests for information that council  
15           members and committee members may make to  
16           the local government, including the  
17           following —
    - 18           (i) the steps that a council member or  
19           committee member who wants to  
20           request information must take;
    - 21           (ii) the steps that the CEO must take if a  
22           council member or committee member  
23           requests information;
  - 24           (c) the way in which, and the circumstances in  
25           which, dealings may be had, and  
26           communications may be made, between —
    - 27           (i) a council member or committee  
28           member; and
    - 29           (ii) an employee;
  - 30           (d) any prescribed matter.
- 31           (3) A person who is a council member, committee member  
32           or employee must (when acting in their capacity as  
33           such) comply with the communications agreement.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 74**

---

- 1           (4) Regulations may do any of the following —
- 2               (a) prescribe content that must be included in a
- 3               communications agreement;
- 4               (b) prescribe content that must not be included in a
- 5               communications agreement;
- 6               (c) make other provision in relation to
- 7               communications agreements.

**5.92B. Default communications agreement**

- 9           (1) The Minister must, by order, set out a form of
- 10           communications agreement (the *default*
- 11           *communications agreement*).

12           Note for this subsection:

13               The default communications agreement can be amended or

14               replaced from time to time by a variation to the order in

15               which the default communications agreement is set out or

16               by the making of an order that supersedes that order — see

17               section 9.65(2).

- 18           (2) For the purposes of section 5.92A, the default
- 19           communications agreement is taken to be a local
- 20           government's communications agreement at any time
- 21           when the local government does not have a
- 22           communications agreement of its own under
- 23           section 5.92C.
- 24           (3) The version of the default communications agreement
- 25           that is taken to be a local government's
- 26           communications agreement at any time under
- 27           subsection (2) is the version that is current at that time.
- 28           (4) An order under subsection (1) may set out different
- 29           forms of communications agreement for different local
- 30           governments or different classes of local government.



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 74**

---

- 1           (5) For the purposes of subsection (4), an order under  
2           subsection (1) may (without limitation) adopt or  
3           otherwise apply classifications of local governments or  
4           districts used in a determination made under the  
5           *Salaries and Allowances Act 1975* section 7A or 7B.

6           **5.92C. Local government may adopt communications**  
7           **agreement of its own**

- 8           (1) A local government may prepare and adopt\* a  
9           communications agreement of its own.

10           *\* Absolute majority required.*

- 11           (2) A local government cannot adopt a communications  
12           agreement of its own at any time during a caretaker  
13           period.

- 14           (3) If a local government adopts a communications  
15           agreement of its own, for the purposes of  
16           section 5.92A —

17           (a) the communications agreement has effect as the  
18           local government's communications agreement  
19           from when it is adopted until the earlier of the  
20           following —

- 21                   (i) the next time a caretaker period ends;  
22                   (ii) the end of the employment of the CEO  
23                   who agreed to the adoption of the  
24                   communications agreement under  
25                   subsection (4);

26           and

- 27           (b) the local government may amend\* the  
28           communications agreement at any time when it  
29           is in effect under paragraph (a), except during a  
30           caretaker period.

31           *\* Absolute majority required.*

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 75**

---

- 1           (4) A local government cannot adopt or amend a  
2           communications agreement of its own without the  
3           agreement of the CEO.
- 4           (5) If a local government has a communications agreement  
5           of its own, the CEO must publish an up-to-date version  
6           of the communications agreement on the local  
7           government's official website.  
8

**75.       Section 5.94 amended**

9           Delete section 5.94(f) and insert:

- 10                           (f) any current council plan under section 5.56;  
11  
12  
13

**76.       Section 5.95 amended**

14           (1) After section 5.95(4) insert:

- 15  
16
- 17           (4A) A person's right to inspect information referred to in  
18           section 5.94(n) or (p) is subject to any provision of  
19           regulations made for the purposes of section 5.33A(1)  
20           as referred to in section 5.33A(5).  
21

22           (2) After section 5.95(8) insert:

- 23
- 24           (9) Information may be prescribed for the purposes of  
25           section 5.94(u)(ii) whether or not the information is  
26           required to be generated, obtained, provided or kept  
27           under another provision of this Act.  
28

29           Note: The heading to amended section 5.95 is to read:

30                           **Further provisions relating to right to inspect local government**  
31                           **information**

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 77**

---

**77. Section 5.96A amended**

(1) Delete section 5.96A(1)(e) and insert:

3

(e) any current council plan under section 5.56;

5

(2) After section 5.96A(3) insert:

7

(3A) The publication of information referred to in subsection (1)(f) or (h) must comply with any provision of regulations made for the purposes of section 5.33A(1) as referred to in section 5.33A(5).

12

(3) Before section 5.96A(4) insert:

14

(3B) A kind of information may be prescribed for the purposes of subsection (1) as provided for by subsection (1)(i) whether or not that kind of information is required to be generated, obtained, provided or kept under another provision of this Act.

20

**78. Section 5.96B inserted**

After section 5.96A insert:

23

**5.96B. Registers**

(1) Regulations may require the CEO to keep a register containing prescribed information relating to a prescribed matter.

27

---

page 67

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 79**

---

- 1           (2) Without limiting subsection (1), the matters that may  
 2           be prescribed for the purposes of that subsection  
 3           include the following —
- 4               (a) leases of land for which the local government is  
 5               the lessor or lessee;
- 6               (b) grants of money made by the local government;
- 7               (c) contracts for goods or services entered into by  
 8               the local government;
- 9               (d) matters relating to a function of the local  
 10              government under the *Planning and*  
 11              *Development Act 2005*.
- 12           (3) A register must be in the form that is prescribed (if  
 13           any).
- 14           (4) A register must be updated from time to time in  
 15           accordance with regulations.
- 16           (5) The CEO must publish a register (as updated from time  
 17           to time) on the local government's official website.

**79. Section 5.98 amended**

- 20           (1) Delete section 5.98(6) and insert:
- 21
- 22               (6) A local government cannot make any payment to, or  
 23               reimburse an expense of, a person who is a council  
 24               member or a mayor or president in that person's  
 25               capacity as council member, mayor or president unless  
 26               the payment or reimbursement is in accordance with —
- 27                   (a) this Division; or
- 28                   (b) a policy adopted by the local government under  
 29                   section 5.129.
- 30
- 31           (2) Delete section 5.98(7).

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 80**

---

**80. Section 5.100 replaced**

Delete section 5.100 and insert:

**5.100. Fees paid and expenses reimbursed to committee members**

(1) In this section —

*committee member* means a person who is a committee member but who is neither a council member nor an employee;

*determined* means determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7BAA.

(2) A committee member who attends a meeting of the committee is entitled to be paid —

(a) the fee determined for attending a committee meeting; or

(b) if the local government has set a fee within the range determined for committee meeting attendance fees — that fee.

(3) A committee member who attends a meeting of a prescribed type at the request of the council is entitled to be paid —

(a) the fee determined for attending a meeting of that type; or

(b) if the local government has set a fee within the range determined for meetings of that type — that fee.

---

page 69

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 80**

---

- 1           (4) Subsection (5) applies if a committee member  
2           incurs —
- 3               (a) an expense that is of a kind prescribed as being  
4               an expense to be reimbursed by all local  
5               governments; or
- 6               (b) an expense —
- 7                   (i) that is of a kind prescribed as being an  
8                   expense which may be approved by any  
9                   local government for reimbursement by  
10                  the local government; and
- 11                  (ii) which has been approved by the local  
12                  government for reimbursement.
- 13           (5) The committee member must be reimbursed for the  
14           expense —
- 15               (a) if the extent of reimbursement for the expense  
16               has been determined — to that extent; or
- 17               (b) if the local government has set the extent to  
18               which the expense can be reimbursed and that  
19               extent is within the range determined for  
20               reimbursement — to that extent.
- 21           (6) If an expense is of a kind that may be approved by a  
22           local government for reimbursement, the local  
23           government may approve reimbursement of the  
24           expense either generally or in a particular case but  
25           nothing in this subsection limits the application of  
26           subsection (5) if the local government has approved  
27           reimbursement of the expense in a particular case.
- 28           (7) A local government cannot make any payment to, or  
29           reimburse an expense of, a person who is a committee  
30           member in that person's capacity as committee  
31           member unless the payment or reimbursement is in  
32           accordance with this section.  
33

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 81**

---

**81. Section 5.105 amended**

(1) After section 5.105(1)(a) insert:

3

(aa) contravenes a provision of regulations made for the purposes of section 5.33A(1), contravention of which regulations specify to be a minor breach; or

8

(2) After section 5.105(1A) insert:

10

(1AA) Regulations cannot specify that contravention of a provision of regulations made for the purposes of section 5.33A(1) is a minor breach if contravention of the provision would, in addition to being a minor breach under subsection (1), also be a serious breach under subsection (3).

17

(3) After section 5.105(3) insert:

19

(4) In this section, references to a provision of regulations made for the purposes of section 5.33A(1) include a model provision prescribed as referred to in section 5.33A(6) that has been adopted by the local government.

25

---

page 71

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 82**

---

1     **82.     Section 5.129 inserted**

2             At the end of Part 5 Division 10 insert:

3

4             **5.129.   Fees and expenses**5             (1)   A local government may prepare and adopt\* a policy  
6                   under which the local government undertakes to do  
7                   1 or more of the following —8                   (a)   pay a fee to a council member in relation to  
9                           their participation in a course of training that  
10                          they are required to complete under  
11                          section 5.126;12                  (b)   reimburse a council member for a fee or other  
13                          expense incurred by the council member in  
14                          relation to their participation in a course of  
15                          training that they are required to complete  
16                          under section 5.126;17                  (c)   pay a fee to a council member in relation to  
18                          their participation in continuing professional  
19                          development under the local government's  
20                          policy under section 5.128;21                  (d)   reimburse a council member for a fee or other  
22                          expense incurred by the council member in  
23                          relation to their participation in continuing  
24                          professional development under the local  
25                          government's policy under section 5.128.26                           *\* Absolute majority required.*

27             (2)   The local government may do the following —

28                   (a)   amend\* the policy at any time;

29                   (b)   revoke\* the policy at any time (with or without  
30                          replacing it).31                           *\* Absolute majority required.*



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 82**

- 1           (3) The CEO must publish an up-to-date version of the  
2           policy on the local government's official website.
- 3           (4) Regulations may do any of the following —
- 4               (a) prescribe monetary limits or ranges in respect  
5               of amounts that may be paid or reimbursed  
6               under a policy;
- 7               (b) provide that a policy can apply only in respect  
8               of prescribed courses of training or prescribed  
9               types of continuing professional development;
- 10              (c) otherwise provide for restrictions on the  
11              amounts that may be paid or reimbursed under  
12              a policy;
- 13              (d) make other provision in relation to the content  
14              of a policy;
- 15              (e) make provision in relation to the form of a  
16              policy;
- 17              (f) otherwise make provision in relation to  
18              policies.
- 19           (5) Despite any regulations made for the purposes of  
20           subsection (4), the Departmental CEO may authorise a  
21           local government to apply its policy to a course of  
22           training, or to any continuing professional  
23           development, to which the local government would not  
24           otherwise be authorised to apply the policy because of  
25           those regulations.
- 26           (6) Neither the *Salaries and Allowances Act 1975*  
27           section 7B nor a determination made under that section  
28           limits or otherwise affects what can be done under this  
29           section.  
30

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 83**

---

**83. Section 6.2 amended**

- (1) In section 6.2(2) delete “the plan for the future of the district made in accordance with” and insert:
- any current council plan under
- (2) Delete section 6.2(4) and (5) and insert:
- (4) Regulations may prescribe information or other contents that must be contained in the annual budget or contained in documents accompanying the annual budget.
- (5) Without limiting subsection (4), regulations may prescribe any of the following for the purposes of that subsection —
- (a) particulars of the estimated expenditure proposed to be incurred by the local government;
  - (b) information relating to the rates and service charges which will apply to land within the district, including —
    - (i) the amount it is estimated will be yielded by the general rate; and
    - (ii) the rate of interest (if any) to be charged by the local government on unpaid rates and service charges;
  - (c) the fees and charges proposed to be imposed by the local government;
  - (d) the particulars of borrowings and other financial accommodation proposed to be entered into by the local government;

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 84**

---

- 1                   (e) details of the amounts to be set aside in, or used  
2                   from, reserve accounts and of the purpose for  
3                   which they are to be set aside or used;  
4                   (f) particulars of proposed land transactions and  
5                   trading undertakings (as those terms are defined  
6                   in and for the purpose of section 3.59) of the  
7                   local government.  
8                   (6) Regulations may provide for the form of the annual  
9                   budget.  
10

11 **84. Section 6.4 amended**

12 In section 6.4(2)(b) delete “information.” and insert:  
13  
14 information or other contents.  
15

16 **85. Section 7.13 amended**

17 In section 7.13(2) delete “under section 5.25 in relation to” and  
18 insert:  
19  
20 for the purposes of section 5.33A(1) in relation to meetings of  
21

22 **86. Section 9.61A inserted**

23 After section 9.61 insert:  
24

25 **9.61A. Further provisions about regulations**

- 26 (1) Any power to make regulations may be exercised in  
27 either or both of the following ways —

---

page 75

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 86**

---

- 1                   (a) it may be exercised in relation to —
- 2                         (i) only certain local governments or
- 3                         districts; or
- 4                         (ii) only a certain class of local government
- 5                         or district;
- 6                   (b) it may be exercised so as to make different
- 7                         provisions for —
- 8                         (i) different local governments or districts;
- 9                         or
- 10                        (ii) different classes of local government or
- 11                        district.
- 12           (2) For the purposes of subsection (1)(a) and (b),
- 13                regulations may confer a power on the Minister, by
- 14                order, to specify, or to make provision for determining,
- 15                the local governments or districts, or class of local
- 16                government or district, to which a provision of
- 17                regulations applies.
- 18           (3) Either of the following may (without limitation) adopt
- 19                or otherwise apply classifications of local governments
- 20                or districts used in a determination made under the
- 21                *Salaries and Allowances Act 1975* section 7A or 7B —
- 22                       (a) regulations made as referred to in
- 23                        subsection (1)(a) or (b);
- 24                       (b) an order made in the exercise of a power
- 25                        conferred under subsection (2).
- 26           (4) This section does not limit the *Interpretation Act 1984*
- 27                section 43(7) or (8).
- 28

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 87**

---

1     **87.     Section 9.63A inserted**

2             After section 9.63 insert:

3

4             **9.63A.   Minister may grant exemptions from compliance**  
5                         **with Act**

6             (1)   In this section —

7                         **emergency** means —

8                             (a)   the occurrence, or imminent occurrence, of an  
9   event, situation or condition that is a hazard  
10   under the definition of that term in the  
11   *Emergency Management Act 2005* section 3; or

12                             (b)   a public health emergency as defined in the  
13   *Public Health Act 2016* section 4(1);

14                         **excluded provision** means —

15                             (a)   Part 2 or a provision of that Part; or

16                             (b)   Schedule 2.1, 2.2, 2.3, 2.4 or 2.5 or a provision  
17   of any of those Schedules; or

18                             (c)   Part 3 Division 2 or a provision of that  
19   Division; or

20                             (d)   Part 4 or a provision of that Part; or

21                             (e)   Schedule 4.1 or 4.2 or a provision of either of  
22   those Schedules; or

23                             (f)   an order or regulations, or a provision of an  
24   order or regulations, if the order or regulations  
25   or provision is made under, or for the purposes  
26   of, anything referred to in paragraphs (a) to (e).

27             (2)   A local government may apply to the Minister for an  
28                         exemption under this section if the local government is  
29                         satisfied that the exemption is reasonably necessary for  
30                         either of the following purposes —

---

page 77

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 87**

---

- 1 (a) to enable the local government to respond  
2 urgently to an emergency;
- 3 (b) to enable the local government to respond, on a  
4 temporary basis, to unusual circumstances.
- 5 (3) An exemption under this section is an exemption from  
6 a provision of this Act, or a requirement of a provision  
7 of this Act, as specified in the local government's  
8 application.
- 9 Note for this subsection:  
10 References to this Act include any subsidiary legislation  
11 made under this Act — see the *Interpretation Act 1984*  
12 section 46.
- 13 (4) If the Minister receives an application, the Minister  
14 may, by written notice to the local government, grant  
15 the exemption if the Minister is satisfied —
- 16 (a) that the exemption is not from an excluded  
17 provision or a requirement of an excluded  
18 provision; and
- 19 (b) that the exemption is reasonably necessary to  
20 enable the local government —
- 21 (i) to respond urgently to an emergency; or  
22 (ii) to respond, on a temporary basis, to  
23 unusual circumstances;
- 24 and
- 25 (c) in the case of an exemption for an  
26 emergency — that the application was made as  
27 soon as was reasonably practicable; and
- 28 (d) that the exemption will not undermine good  
29 government in the local government's district;  
30 and
- 31 (e) that the exemption is in the public interest.
- 32 (5) The exemption must be granted for a specified period.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 88**

- 1           (6) In the case of an exemption for an emergency, the
- 2                 specified period may be a period that began, or that
- 3                 began and ended, before the exemption is granted.
- 4           (7) The exemption may be expressed to apply —
- 5                 (a) only for specified activities; and
- 6                 (b) subject to any other type of limitation.
- 7           (8) The exemption may be granted subject to specified
- 8                 conditions.
- 9           (9) If the exemption is granted subject to a specified
- 10                condition, the exemption has no effect at any time
- 11                when the condition is being contravened.
- 12          (10) The local government must give local public notice of
- 13                the exemption.
- 14

15      **88. Section 9.63A amended**

16           In section 9.63A(1) in the definition of *excluded provision*

17           delete paragraph (e) and insert:

18

- 19                   (e) Schedule 4.1A, 4.1B, 4.1 or 4.2 or a provision
- 20                   of any of those Schedules; or
- 21

22      **89. Schedule 2.2 clause 3 amended**

23           After Schedule 2.2 clause 3(2) insert:

24

- 25           (3) A submission that an order be made to do any or all of the
- 26                things referred to in section 2.2(1) cannot be made to a local
- 27                government if the district is a district which, under
- 28                regulations made for the purposes of section 2.2A(1)(a),
- 29                cannot be divided into wards.
- 30

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 90**

---

1 **90. Schedule 2.2 clause 6 amended**

2 (1) In Schedule 2.2 clause 6(1) delete “8” and insert:

3

4 10

5

6 (2) After Schedule 2.2 clause 6(1) insert:

7

8 (1A) If an order under section 2.2(1) establishes a ward system  
 9 for a district, the local government must carry out its first  
 10 review of the ward system as described in subclause (1)  
 11 within 10 years after the establishment of the ward system.  
 12

13 (3) Delete Schedule 2.2 clause 6(2).

14 (4) In Schedule 2.2 clause 6(3) delete “or (2)”.

15 **91. Schedules 4.1A and 4.1B inserted**

16 After Schedule 3.2 insert:

17

18 **Schedule 4.1A — Filling extraordinary vacancy**  
 19 **without extraordinary election**

20 [s. 4.8]

21 **Division 1 — Preliminary**22 **1. Terms used**

23 In this Schedule —

24 *former member* means the councillor or elector mayor or  
 25 president referred to in clause 2(1)(a);

26 *vacancy day* has the meaning given in clause 2(1)(c);



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 91**

**working day** means a day other than —

- (a) a Saturday or Sunday; or
- (b) a public holiday throughout the State; or
- (c) a public holiday in an area that is or includes the district or any part of the district.

**Division 2 — Application of Schedule**

**2. Certain extraordinary vacancies to be filled under Schedule instead of by extraordinary election**

(1) Subclauses (2) to (5) apply if —

- (a) the office of a councillor, or of an elector mayor or president, becomes vacant under section 2.32; and
- (b) the former member —
  - (i) was elected under Schedule 4.1 clause 2, 4 or 5 or under Schedule 4.1 Division 3; or
  - (ii) was elected under clause 6, 9 or 12 of this Schedule;

and

- (c) the office becomes vacant on a day (the **vacancy day**) that is within the period of 12 months beginning on the day on which the former member's term began; and
- (d) none of the following applies —
  - (i) any poll needed for the extraordinary election to fill the vacancy must be held on an ordinary elections day under section 4.16(2) or (3);
  - (ii) the council may, with the approval of the Electoral Commissioner, fix an ordinary elections day as the day for the holding of any poll needed for the extraordinary election to fill the vacancy under section 4.16(4);

page 81

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 91**

---

- 1 (iii) the vacancy must remain unfilled under  
2 section 4.17(1);
- 3 (iv) the council may, with the approval of the  
4 Electoral Commissioner, allow the vacancy  
5 to remain unfilled under section 4.17(2);
- 6 and
- 7 (e) the vacancy is not required to be filled under  
8 Schedule 4.1B.
- 9 (2) The CEO must proceed under the applicable provisions of  
10 Division 3, 4 or 5 to determine whether the vacancy can be  
11 filled under this Schedule.
- 12 (3) In so proceeding, the CEO is bound by any applicable  
13 declaration made under clause 19.
- 14 (4) If the vacancy is filled, the CEO must declare, and give  
15 notice of, the election in accordance with regulations.
- 16 (5) If the vacancy cannot be filled, the CEO must notify the  
17 council.
- 18 (6) For the purposes of this Schedule, an office is taken to  
19 become vacant under section 2.32(b) when the CEO  
20 receives notice of the resignation —
- 21 (a) even if the resignation takes effect on a later day;  
22 but
- 23 (b) not if that later day is after the 12-month period  
24 referred to in subclause (1)(c).
- 25 Note for this clause:
- 26 If a person who is a councillor on a council is elected under  
27 this Schedule to fill the office of elector mayor or president  
28 on the council, the person's office as councillor becomes  
29 vacant under section 2.32(f) accordingly.

- 1 **Division 3 — One office elections**
- 2 **Subdivision 1 — One office election: 2 candidates**
- 3 **3. Application of Subdivision**
- 4 This Subdivision applies if the former member was elected
- 5 under Schedule 4.1 clause 2.
- 6 **4. Filling of vacancy by unsuccessful candidate**
- 7 (1) Within 5 working days after the vacancy day, the CEO must
- 8 notify the candidate who was not elected at the election (the
- 9 *unsuccessful candidate*) —
- 10 (a) that the office has become vacant; and
- 11 (b) that the unsuccessful candidate may fill the
- 12 vacancy.
- 13 (2) If the unsuccessful candidate is notified under subclause (1),
- 14 the unsuccessful candidate may, within 5 working days after
- 15 the day on which they are notified, notify the CEO —
- 16 (a) that they want to fill the vacancy; and
- 17 (b) that they consider that they are qualified to be
- 18 elected to the council under section 2.19.
- 19 (3) If the unsuccessful candidate notifies the CEO under
- 20 subclause (2), the unsuccessful candidate is elected to the
- 21 vacant office on the day after —
- 22 (a) the day on which the CEO is notified; or
- 23 (b) if later in the case of a vacancy under
- 24 section 2.32(b) — the day on which the resignation
- 25 takes effect.
- 26 (4) Despite subclauses (1) to (3), the vacancy cannot be filled
- 27 under this clause —
- 28 (a) if any of the following applies —
- 29 (i) the unsuccessful candidate was elected to a
- 30 vacant office under Schedule 4.1B clause 2;

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 91**

---

- 1 (ii) on the vacancy day, the unsuccessful  
 2 candidate is a member of the council, unless  
 3 the vacant office is that of elector mayor or  
 4 president;  
 5 (iii) the unsuccessful candidate has died before  
 6 the vacancy day;  
 7 (iv) the unsuccessful candidate does not notify  
 8 the CEO under subclause (2);  
 9 (v) the unsuccessful candidate dies before the  
 10 day on which they are elected under  
 11 subclause (3);  
 12 or  
 13 (b) in any prescribed circumstances.

14 **Subdivision 2 — One office election: 3 or more candidates where**  
 15 **former member elected under Schedule 4.1 clause 4**

16 **5. Application of Subdivision**

- 17 (1) This Subdivision applies if the former member was elected  
 18 under Schedule 4.1 clause 4.  
 19 (2) In this Subdivision —  
 20 ***candidate*** —  
 21 (a) means a candidate in the election at which the  
 22 former member was elected; but  
 23 (b) does not include —  
 24 (i) the former member; or  
 25 (ii) a candidate who was elected to a vacant  
 26 office under Schedule 4.1B clause 3;  
 27 ***first-preference vote*** has the meaning given in Schedule 4.1  
 28 clause 1;  
 29 ***second placed candidate***, subject to subclause (3), means  
 30 the candidate —  
 31 (a) who is the only candidate; or  
 32 (b) who had the highest number of first-preference  
 33 votes of all the candidates;

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 91**

1                    ***third placed candidate***, subject to subclause (3), means the  
2                    candidate who had the second highest number of  
3                    first-preference votes of all the candidates.

4                    (3) If 2 or more candidates had the same number of  
5                    first-preference votes and if the case requires it to be done,  
6                    lots must be drawn, in accordance with regulations, to  
7                    determine either or both of the following as the case  
8                    requires —

- 9                    (a) the candidate who is the second placed candidate;  
10                    (b) the candidate who is the third placed candidate.

11                    **6. Filling of vacancy by second placed candidate**

12                    (1) Within 5 working days after the vacancy day, the CEO must  
13                    notify the second placed candidate —

- 14                    (a) that the office has become vacant; and  
15                    (b) that the second placed candidate may fill the  
16                    vacancy.

17                    (2) If the second placed candidate is notified under  
18                    subclause (1), the second placed candidate may, within  
19                    5 working days after the day on which they are notified,  
20                    notify the CEO —

- 21                    (a) that they want to fill the vacancy; and  
22                    (b) that they consider that they are qualified to be  
23                    elected to the council under section 2.19.

24                    (3) If the second placed candidate notifies the CEO under  
25                    subclause (2), the second placed candidate is elected to the  
26                    vacant office on the day after —

- 27                    (a) the day on which the CEO is notified; or  
28                    (b) if later in the case of a vacancy under  
29                    section 2.32(b) — the day on which the resignation  
30                    takes effect.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 91**

---

- 1           (4) Despite subclauses (1) to (3), the vacancy cannot be filled  
2           under this clause —
- 3               (a) if any of the following applies —
- 4                   (i) on the vacancy day, the second placed  
5                   candidate is a member of the council, unless  
6                   the vacant office is that of elector mayor or  
7                   president;
- 8                   (ii) the second placed candidate has died before  
9                   the vacancy day;
- 10                  (iii) the second placed candidate does not notify  
11                  the CEO under subclause (2);
- 12                  (iv) the second placed candidate dies before the  
13                  day on which they are elected under  
14                  subclause (3);
- 15                   or
- 16               (b) in any prescribed circumstances.
- 17       **7. Filling of vacancy by third placed candidate**
- 18           (1) This clause applies only if the vacancy cannot be filled  
19           under clause 6.
- 20           (2) Within 15 working days after the vacancy day, the CEO  
21           must notify the third placed candidate —
- 22               (a) that the office has become vacant; and
- 23               (b) that the third placed candidate may fill the vacancy.
- 24           (3) If the third placed candidate is notified under subclause (2),  
25           the third placed candidate may, within 5 working days after  
26           the day on which they are notified, notify the CEO —
- 27               (a) that they want to fill the vacancy; and
- 28               (b) that they consider that they are qualified to be  
29               elected to the council under section 2.19.
- 30           (4) If the third placed candidate notifies the CEO under  
31           subclause (3), the third placed candidate is elected to the  
32           vacant office on the day after —
- 33               (a) the day on which the CEO is notified; or

23 **8. Application of Subdivision**

- 24 (1) This Subdivision applies if the former member was elected  
25 under Schedule 4.1 clause 5.
- 26 (2) In this Subdivision —  
27 *continuing candidate* —
- 28 (a) means a candidate in the election who was a  
29 continuing candidate under Schedule 4.1 clause 5(8)  
30 for the purposes of the last count; but

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 91**

---

- 1 (b) does not include —
- 2 (i) the former member; or
- 3 (ii) a candidate who was elected to a vacant
- 4 office under Schedule 4.1B clause 4;
- 5 ***election*** means the election at which the former member
- 6 was elected;
- 7 ***last count*** means the count under Schedule 4.1
- 8 clause 5(2)(d) on which the former member was elected;
- 9 ***second placed candidate***, subject to subclauses (3) to (5),
- 10 means the continuing candidate —
- 11 (a) who is the only continuing candidate; or
- 12 (b) who, on the last count, had the highest number of
- 13 votes of all the continuing candidates;
- 14 ***third placed candidate***, subject to subclauses (3) to (5),
- 15 means the continuing candidate who, on the last count, had
- 16 the second highest number of votes of all the continuing
- 17 candidates.
- 18 (3) If 2 or more continuing candidates had the same number of
- 19 votes on the last count and if the case requires it to be done,
- 20 lots must be drawn, in accordance with regulations, to
- 21 determine either or both of the following as the case
- 22 requires —
- 23 (a) the continuing candidate who is the second placed
- 24 candidate;
- 25 (b) the continuing candidate who is the third placed
- 26 candidate.
- 27 (4) If there are no continuing candidates —
- 28 (a) the candidate in the election who was the last
- 29 candidate to be excluded under Schedule 4.1
- 30 clause 5(2)(a) is to be the second placed candidate;
- 31 and
- 32 (b) the candidate in the election who was the second
- 33 last candidate to be excluded under Schedule 4.1
- 34 clause 5(2)(a) is to be the third placed candidate.



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 91**

- 1           (5) If there is only 1 continuing candidate, the candidate at the  
2           election who was the last candidate to be excluded under  
3           Schedule 4.1 clause 5(2)(a) is to be the third placed  
4           candidate.
- 5           **9. Filling of vacancy by second placed candidate**
- 6           (1) Within 5 working days after the vacancy day, the CEO must  
7           notify the second placed candidate —
    - 8           (a) that the office has become vacant; and
    - 9           (b) that the second placed candidate may fill the  
10           vacancy.
  - 11          (2) If the second placed candidate is notified under  
12          subclause (1), the second placed candidate may, within  
13          5 working days after the day on which they are notified,  
14          notify the CEO —
    - 15          (a) that they want to fill the vacancy; and
    - 16          (b) that they consider that they are qualified to be  
17          elected to the council under section 2.19.
  - 18          (3) If the second placed candidate notifies the CEO under  
19          subclause (2), the second placed candidate is elected to the  
20          vacant office on the day after —
    - 21          (a) the day on which the CEO is notified; or
    - 22          (b) if later in the case of a vacancy under  
23          section 2.32(b) — the day on which the resignation  
24          takes effect.
  - 25          (4) Despite subclauses (1) to (3), the vacancy cannot be filled  
26          under this clause —
    - 27          (a) if any of the following applies —
      - 28               (i) on the vacancy day, the second placed  
29               candidate is a member of the council, unless  
30               the vacant office is that of elector mayor or  
31               president;
      - 32               (ii) the second placed candidate has died before  
33               the vacancy day;

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 91**

---

- 1 (iii) the second placed candidate does not notify  
2 the CEO under subclause (2);
- 3 (iv) the second placed candidate dies before the  
4 day on which they are elected under  
5 subclause (3);
- 6 or
- 7 (b) in any prescribed circumstances.
- 8 **10. Filling of vacancy by third placed candidate**
- 9 (1) This clause applies only if the vacancy cannot be filled  
10 under clause 9.
- 11 (2) Within 15 working days after the vacancy day, the CEO  
12 must notify the third placed candidate —
- 13 (a) that the office has become vacant; and  
14 (b) that the third placed candidate may fill the vacancy.
- 15 (3) If the third placed candidate is notified under subclause (2),  
16 the third placed candidate may, within 5 working days after  
17 the day on which they are notified, notify the CEO —
- 18 (a) that they want to fill the vacancy; and  
19 (b) that they consider that they are qualified to be  
20 elected to the council under section 2.19.
- 21 (4) If the third placed candidate notifies the CEO under  
22 subclause (3), the third placed candidate is elected to the  
23 vacant office on the day after —
- 24 (a) the day on which the CEO is notified; or  
25 (b) if later in the case of a vacancy under  
26 section 2.32(b) — the day on which the resignation  
27 takes effect.
- 28 (5) Despite subclauses (2) to (4), the vacancy cannot be filled  
29 under this clause —
- 30 (a) if any of the following applies —  
31 (i) there is no third placed candidate;

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 91**

---

- 1 (ii) on the vacancy day, the third placed  
2 candidate is a member of the council, unless  
3 the vacant office is that of elector mayor or  
4 president;  
5 (iii) the third placed candidate has died before  
6 the vacancy day;  
7 (iv) the third placed candidate does not notify  
8 the CEO under subclause (3);  
9 (v) the third placed candidate dies before the  
10 day on which they are elected under  
11 subclause (4);  
12 or  
13 (b) in any prescribed circumstances.

14 **Division 4 — Elections of 2 or more councillors**

15 **11. Application of Division**

- 16 (1) This Division applies if the former member was elected  
17 under Schedule 4.1 Division 3.  
18 (2) In this Division —  
19 **candidate** —  
20 (a) means a candidate in the election; but  
21 (b) does not include a candidate who was elected to a  
22 vacant office under Schedule 4.1B clause 5;  
23 **election** means the election at which the former member  
24 was elected;  
25 **first unelected candidate**, subject to subclauses (3) to (6),  
26 means the unelected candidate —  
27 (a) who is the only unelected candidate; or  
28 (b) who, when the last office to be filled at the election  
29 was filled, had the highest number of votes of all  
30 the unelected candidates;

---

page 91

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 91**

---

- 1                    *second unelected candidate*, subject to subclauses (3) to (6),  
 2                    means the unelected candidate who, when the last office to  
 3                    be filled at the election was filled, had the second highest  
 4                    number of votes of all the unelected candidates;  
 5                    *unelected candidate* means a candidate who was neither  
 6                    elected nor excluded under Schedule 4.1 Division 3;  
 7                    *votes* has the meaning given in Schedule 4.1 clause 7.
- 8                    (3) If 2 or more unelected candidates had the same number of  
 9                    votes when the last office to be filled at the election was  
 10                    filled and if the case requires it to be done, subclause (4)  
 11                    must be applied for the purpose of determining either or  
 12                    both of the following as the case requires —
- 13                    (a) the unelected candidate who is the first unelected  
 14                    candidate;  
 15                    (b) the unelected candidate who is the second unelected  
 16                    candidate.
- 17                    (4) For the purposes of subclause (3), the first unelected  
 18                    candidate or the second unelected candidate or both —
- 19                    (a) must be determined by reference to the number of  
 20                    votes that each of the 2 or more unelected  
 21                    candidates referred to in subclause (3) had at the  
 22                    last count or transfer of votes under Schedule 4.1  
 23                    Division 3 at which each of those unelected  
 24                    candidates had a different number of votes; but  
 25                    (b) if there was no such count or transfer — must be  
 26                    determined by the drawing of lots in accordance  
 27                    with regulations.
- 28                    (5) If there are no unelected candidates —
- 29                    (a) the candidate who was the last candidate to be  
 30                    excluded under Schedule 4.1 clause 11 is to be the  
 31                    first unelected candidate; and  
 32                    (b) the candidate who was the second last candidate to  
 33                    be excluded under Schedule 4.1 clause 11 is to be  
 34                    the second unelected candidate.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 91**

- 1           (6) If there is only 1 unelected candidate, the candidate who  
2           was the last candidate to be excluded under Schedule 4.1  
3           clause 11 is to be the second unelected candidate.
- 4           **12. Filling of vacancy by first unelected candidate**
- 5           (1) Within 5 working days after the vacancy day, the CEO must  
6           notify the first unelected candidate —
    - 7           (a) that the office has become vacant; and
    - 8           (b) that the first unelected candidate may fill the  
9           vacancy.
  - 10          (2) If the first unelected candidate is notified under  
11          subclause (1), the first unelected candidate may, within  
12          5 working days after the day on which they are notified,  
13          notify the CEO —
    - 14          (a) that they want to fill the vacancy; and
    - 15          (b) that they consider that they are qualified to be  
16          elected to the council under section 2.19.
  - 17          (3) If the first unelected candidate notifies the CEO under  
18          subclause (2), the first unelected candidate is elected to the  
19          vacant office on the day after —
    - 20          (a) the day on which the CEO is notified; or
    - 21          (b) if later in the case of a vacancy under  
22          section 2.32(b) — the day on which the resignation  
23          takes effect.
  - 24          (4) Despite subclauses (1) to (3), the vacancy cannot be filled  
25          under this clause —
    - 26          (a) if any of the following applies —
      - 27               (i) there is no first unelected candidate;
      - 28               (ii) on the vacancy day, the first unelected  
29               candidate is a member of the council;
      - 30               (iii) the first unelected candidate has died before  
31               the vacancy day;

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 91**

---

- 1 (iv) the first unelected candidate does not, or  
 2 cannot because of subclause (5), notify the  
 3 CEO under subclause (2);
- 4 (v) the first unelected candidate dies before the  
 5 day on which they are elected under  
 6 subclause (3);
- 7 or
- 8 (b) in any prescribed circumstances.
- 9 (5) The first unelected candidate cannot notify the CEO under  
 10 subclause (2) if the first unelected candidate notifies, or has  
 11 notified, the CEO under that subclause in relation to another  
 12 vacancy.
- 13 **13. Filling of vacancy by second unelected candidate**
- 14 (1) This clause applies only if the vacancy cannot be filled  
 15 under clause 12.
- 16 (2) Within 15 working days after the vacancy day, the CEO  
 17 must notify the second unelected candidate —
- 18 (a) that the office has become vacant; and  
 19 (b) that the second unelected candidate may fill the  
 20 vacancy.
- 21 (3) If the second unelected candidate is notified under  
 22 subclause (2), the second unelected candidate may, within  
 23 5 working days after the day on which they are notified,  
 24 notify the CEO —
- 25 (a) that they want to fill the vacancy; and  
 26 (b) that they consider that they are qualified to be  
 27 elected to the council under section 2.19.
- 28 (4) If the second unelected candidate notifies the CEO under  
 29 subclause (3), the second unelected candidate is elected to  
 30 the vacant office on the day after —
- 31 (a) the day on which the CEO is notified; or

## 14. Terms used

In this Division —

***original former member*** means the person to whose vacant office the former member was elected under clause 6, 9 or 12 (as the case requires);

**original vacancy** means the vacancy in the office of the original former member.

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 91**

---

- 1           **15.       Former member elected under cl. 6**
- 2           (1) This clause applies if the former member was elected under
- 3           clause 6.
- 4           (2) Clause 7 applies in relation to the filling of the vacancy as
- 5           follows —
- 6               (a) as if the original vacancy could not be filled under
- 7               clause 6;
- 8               (b) as if references to the vacancy day were to the
- 9               vacancy day in relation to the former member
- 10              (rather than the original former member);
- 11              (c) as if the number of working days referred to in
- 12              subclause (2) were 5;
- 13              (d) subclause (4)(b) applies —
- 14                   (i) by reference to whether the former
- 15                   member's vacancy is under section 2.32(b)
- 16                   (rather than the original former member's
- 17                   vacancy); and
- 18                   (ii) accordingly, as if the reference to the
- 19                   resignation were to the former member's
- 20                   resignation (rather than that of the original
- 21                   former member).
- 22           **16.       Former member elected under cl. 9**
- 23           (1) This clause applies if the former member was elected under
- 24           clause 9.
- 25           (2) Clause 10 applies in relation to the filling of the vacancy as
- 26           follows —
- 27               (a) as if the original vacancy could not be filled under
- 28               clause 9;
- 29               (b) as if references to the vacancy day were to the
- 30               vacancy day in relation to the former member
- 31               (rather than the original former member);



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 91**

---

- 1 (c) as if the number of working days referred to in  
2 subclause (2) were 5;
- 3 (d) subclause (4)(b) applies —
- 4 (i) by reference to whether the former  
5 member's vacancy is under section 2.32(b)  
6 (rather than the original former member's  
7 vacancy); and
- 8 (ii) accordingly, as if the reference to the  
9 resignation were to the former member's  
10 resignation (rather than that of the original  
11 former member).

12 **17. Former member elected under cl. 12**

- 13 (1) This clause applies if the former member was elected under  
14 clause 12.
- 15 (2) Clause 13 applies in relation to the filling of the vacancy as  
16 follows —
- 17 (a) as if the original vacancy could not be filled under  
18 clause 12;
- 19 (b) as if references to the vacancy day were to the  
20 vacancy day in relation to the former member  
21 (rather than the original former member);
- 22 (c) as if the number of working days referred to in  
23 subclause (2) were 5;
- 24 (d) subclause (4)(b) applies —
- 25 (i) by reference to whether the former  
26 member's vacancy is under section 2.32(b)  
27 (rather than the original former member's  
28 vacancy); and
- 29 (ii) accordingly, as if the reference to the  
30 resignation were to the former member's  
31 resignation (rather than that of the original  
32 former member).

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 91**

---

**Division 6 — Final provisions****18. Regulations about notifications and time periods**

- (1) Regulations may make provision in relation to notifications under this Schedule.
- (2) Without limiting subclause (1), regulations made for the purposes of that subclause may do any of the following —
  - (a) prescribe the form or content of notifications;
  - (b) require notifications to be accompanied by statutory declarations or other prescribed information, documents or items;
  - (c) make provision in relation to the giving of notifications (including by email or other electronic means);
  - (d) provide for the CEO to be able to give local public notice of a vacancy instead of notifying a candidate;
  - (e) prescribe the time at which a candidate or the CEO is taken to be notified, including in cases where —
    - (i) local public notice is given as referred to in paragraph (d); or
    - (ii) the candidate or CEO is not actually notified.
- (3) Except as otherwise provided in regulations, regulations made for the purposes of subclause (1) apply instead of sections 9.50 to 9.53.
- (4) Regulations may provide for the extension of any time period provided for in this Schedule.

**19. Declarations and notices under section 4.77 for purposes of Schedule**

- (1) The requirement under section 4.77 to declare and give notice of the result of an election that was ascertained under Schedule 4.1 clause 4 includes a requirement to declare and

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 91**

---

- 1 give notice of the following for the purposes of Division 3  
2 Subdivision 2 of this Schedule —
- 3 (a) the second placed candidate;  
4 (b) the third placed candidate or that there is no third  
5 placed candidate.
- 6 (2) The requirement under section 4.77 to declare and give  
7 notice of the result of an election that was ascertained under  
8 Schedule 4.1 clause 5 includes a requirement to declare and  
9 give notice of the following for the purposes of Division 3  
10 Subdivision 3 of this Schedule —
- 11 (a) the second placed candidate;  
12 (b) the third placed candidate or that there is no third  
13 placed candidate.
- 14 (3) The requirement under section 4.77 to declare and give  
15 notice of the result of an election that was ascertained under  
16 Schedule 4.1 Division 3 includes a requirement to declare  
17 and give notice of the following for the purposes of  
18 Division 4 of this Schedule —
- 19 (a) the first unelected candidate or that there is no first  
20 unelected candidate;  
21 (b) the second unelected candidate or that there is no  
22 second unelected candidate.
- 23 (4) For the purposes of subclauses (1) to (3), the returning  
24 officer must, if necessary, draw lots as required under  
25 clause 5(3), 8(3) or 11(4)(b).

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 91**

---

**Schedule 4.1B — Filling office of councillor who is  
elected elector mayor or president**

[s. 4.8]

**1. Vacancy caused by councillor becoming elector mayor  
or president not to be filled by extraordinary election in  
certain circumstances**

(1) Subclause (3) applies if —

(a) there is an election to fill the office of elector mayor  
or president (the *mayor or president election*); and

(b) the candidate (the *former member*) who is elected  
at the mayor or president election to be the elector  
mayor or president is a councillor on the council  
whose office, because of their election, becomes  
vacant under section 2.32(f); and

(c) there is an election (the *concurrent election*) that  
has the same election day as the mayor or president  
election and that is —

(i) if the district is not divided into wards — an  
election to fill an office or offices of  
councillor on the council; or

(ii) if the district is divided into wards — an  
election to fill an office or offices of  
councillor for the ward for which the former  
member was a councillor;

and

(d) the result of the concurrent election is ascertained  
under Schedule 4.1 clause 2, 4 or 5 or under  
Schedule 4.1 Division 3.

(2) In subclause (1)(c) —

*election day* has the meaning given in section 4.1.

(3) The vacancy caused by the former member's election as  
elector mayor or president must be filled under this  
Schedule.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 91**

---

- 1           (4) Despite subclause (3), regulations may prescribe  
2           circumstances in which the vacancy cannot be filled under  
3           this Schedule.
- 4           (5) If the vacancy is filled under this Schedule, the requirement  
5           under section 4.77 to declare and give notice of the result of  
6           the concurrent election includes a requirement to declare  
7           and give notice of the election filling the vacancy.
- 8           **2. Concurrent election ascertained under Schedule 4.1**  
9           **clause 2**
- 10          (1) This clause applies if the result of the concurrent election is  
11          ascertained under Schedule 4.1 clause 2.
- 12          (2) The candidate who is not elected at the concurrent election  
13          is elected to the former member's vacant office.
- 14          **3. Concurrent election ascertained under Schedule 4.1**  
15          **clause 4**
- 16          (1) This clause applies if the result of the concurrent election is  
17          ascertained under Schedule 4.1 clause 4.
- 18          (2) The candidate who finishes second in the concurrent  
19          election is elected to the former member's vacant office.
- 20          (3) For the purposes of subclause (2) —  
21               (a) the question of which candidate finishes second  
22               must be determined by reference to the number of  
23               first-preference votes received by each candidate in  
24               the concurrent election who is not elected at the  
25               concurrent election; and  
26               (b) if 2 or more candidates received the same number  
27               of first-preference votes and if the case requires it to  
28               be done — the returning officer for the concurrent  
29               election must, in accordance with regulations, draw  
30               lots to determine the candidate who finishes second.
- 31          (4) In subclause (3) —  
32               *first-preference vote* has the meaning given in Schedule 4.1  
33               clause 1.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 91**

---

- 1           **4.       Concurrent election ascertained under Schedule 4.1**  
2                   **clause 5**
- 3           (1) In this clause —
- 4                   *continuing candidate* means a candidate in the concurrent  
5                   election who is a continuing candidate under Schedule 4.1  
6                   clause 5(8) for the purposes of the last count but is not  
7                   elected;
- 8                   *last count* means the last count under Schedule 4.1  
9                   clause 5(2)(d) for the concurrent election;
- 10                  *second placed candidate*, subject to subclause (4), means  
11                  the continuing candidate —
- 12                   (a) who is the only continuing candidate; or
- 13                   (b) who, on the last count, had the highest number of  
14                   votes of all the continuing candidates.
- 15           (2) This clause applies if the result of the concurrent election is  
16                  ascertained under Schedule 4.1 clause 5.
- 17           (3) The second placed candidate is elected to the former  
18                  member's vacant office.
- 19           (4) If 2 or more continuing candidates had the same number of  
20                  votes on the last count and if the case requires it to be done,  
21                  the returning officer for the concurrent election must, in  
22                  accordance with regulations, draw lots to determine the  
23                  continuing candidate who is the second placed candidate.
- 24           **5.       Concurrent election ascertained under Schedule 4.1**  
25                   **Division 3**
- 26           (1) In this clause —
- 27                   *first unelected candidate*, subject to subclauses (4) to (6),  
28                   means the unelected candidate who, when the last office to  
29                   be filled at the concurrent election is filled —
- 30                   (a) is the only unelected candidate; or
- 31                   (b) has the highest number of votes of all the unelected  
32                   candidates;

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 91**

---

- 1                    ***unelected candidate*** means a candidate in the concurrent  
2                    election who is neither elected nor excluded under  
3                    Schedule 4.1 Division 3;  
4                    ***votes*** has the meaning given in Schedule 4.1 clause 7.
- 5                    (2) This clause applies if the result of the concurrent election is  
6                    ascertained under Schedule 4.1 Division 3.
- 7                    (3) The first unelected candidate is elected to the former  
8                    member's vacant office.
- 9                    (4) If 2 or more unelected candidates have the same number of  
10                    votes when the last office to be filled at the concurrent  
11                    election is filled and if the case requires it to be done, the  
12                    returning officer for the concurrent election must apply  
13                    subclause (5) for the purpose of determining the unelected  
14                    candidate who is the first unelected candidate.
- 15                    (5) For the purposes of subclause (4) —
- 16                            (a) the first unelected candidate must be determined by  
17                            reference to the number of votes that each of the  
18                            2 or more unelected candidates referred to in  
19                            subclause (4) had at the last count or transfer of  
20                            votes under Schedule 4.1 Division 3 at which each  
21                            of those unelected candidates had a different  
22                            number of votes; but
- 23                            (b) if there was no such count or transfer — the  
24                            returning officer for the concurrent election must  
25                            draw lots in accordance with regulations to  
26                            determine the first unelected candidate.
- 27                    (6) If there are no unelected candidates, the candidate in the  
28                    concurrent election who was the last candidate to be  
29                    excluded under Schedule 4.1 clause 11 is to be the first  
30                    unelected candidate.  
31

**s. 92**

**92. Schedule 4.1 replaced**

Delete Schedule 4.1 and insert:

### Schedule 4.1 — How to count votes and ascertain the result of an election

[s. 4.74]

## Division 1 — Preliminary

## 1. Terms used

In this Schedule —

*first-preference vote* —

- (a) means a vote cast under section 4.69(2); and
- (b) includes a vote accepted by the returning officer as a first-preference vote under section 4.75(1) or under regulations made for the purposes of section 4.75(3)(a);

***one office election*** means an election to fill the office of mayor or president or to fill 1 office of councillor;

*preference vote* —

- (a) means a vote cast under section 4.69(3); and
- (b) includes a vote accepted by the returning officer as a preference vote under section 4.75(1) or under regulations made for the purposes of section 4.75(3)(a).

Note for this clause:

For the purposes of the definitions of **first-preference vote** and **preference vote**, see also section 4.73(5) which provides for a ballot paper to be treated as if a numeral indicating a preference had been altered.



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 92**

**Division 2 — One office elections**

**2. One office election: 2 candidates**

- (1) If there are only 2 candidates in a one office election —
- (a) the first-preference votes for each candidate must be counted; and
  - (b) the candidate who has the greater number of first-preference votes is elected.
- (2) If the candidates have the same number of first-preference votes, the returning officer must draw lots in accordance with regulations to determine which candidate is elected.

**3. One office election: 3 or more candidates**

Clauses 4 and 5 apply if there are 3 or more candidates in a one office election.

**4. Count of first-preference votes**

- (1) The first-preference votes for each candidate must be counted.
- (2) A candidate is elected if the number of first-preference votes for the candidate exceeds 50% of the total number of all the first-preference votes for candidates.

**5. Process if no candidate elected under clause 4**

- (1) The process in subclause (2) —
- (a) must be followed if no candidate is elected under clause 4; and
  - (b) as necessary, must be repeated until a candidate is elected under subclause (3).

Notes for this subclause:

1. Subclauses (4) to (6) supplement subclauses (2) and (3) for cases where candidates have the same number of votes.
2. Subclauses (7) and (8) explain how the terms ballot paper and continuing candidate are used in this clause.

page 105

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 92**

---

- 1                   (2) The process is as follows —
- 2                   (a) exclude the candidate (the *excluded candidate*)
- 3                   with —
- 4                   (i) if this process is being followed for the first
- 5                   time — the fewest first-preference votes; or
- 6                   (ii) if this process is being repeated — the
- 7                   fewest votes on the last count under
- 8                   paragraph (d);
- 9                   (b) set aside as exhausted any ballot paper of the
- 10                  excluded candidate that contains —
- 11                  (i) no preference votes at all; or
- 12                  (ii) no preference votes for any continuing
- 13                  candidates;
- 14                  (c) transfer any remaining ballot papers of the excluded
- 15                  candidate that indicate the next available preference
- 16                  for a particular continuing candidate to that
- 17                  continuing candidate;
- 18                  (d) count the number of votes for each of the
- 19                  continuing candidates by totalling the following —
- 20                  (i) the number of first-preference votes for the
- 21                  continuing candidate;
- 22                  (ii) if this process is being followed for the first
- 23                  time — the total number of ballot papers
- 24                  transferred to the continuing candidate
- 25                  under paragraph (c);
- 26                  (iii) if this process is being repeated — the total
- 27                  number of ballot papers transferred to the
- 28                  continuing candidate under paragraph (c) on
- 29                  this or a previous occasion.
- 30                  (3) A continuing candidate is elected if, on a count under
- 31                  subclause (2)(d), the number of votes for the continuing
- 32                  candidate exceeds 50% of the total number of all the votes
- 33                  for continuing candidates.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 92**

- 
- 1           (4) Subclause (6) applies if subclause (2)(a) cannot otherwise be  
2           applied because, as the case requires —
- 3               (a) 2 or more candidates have the same number of  
4               first-preference votes (no other candidates having  
5               fewer first-preference votes); or
- 6               (b) 2 or more candidates have the same number of  
7               votes on the last count under subclause (2)(d) (no  
8               other candidates having fewer votes).
- 9           (5) Subclause (6) also applies if subclause (3) cannot otherwise  
10          be applied because —
- 11               (a) there are only 2 continuing candidates in a count  
12               under subclause (2)(d); and
- 13               (b) on the count, the continuing candidates have the  
14               same number of votes.
- 15          (6) The returning officer must draw lots in accordance with  
16          regulations to determine, as the case requires —
- 17               (a) the candidate to be excluded; or
- 18               (b) the continuing candidate to be elected.
- 19          (7) For the purposes of the process in subclause (2), a ballot  
20          paper is a ballot paper of the excluded candidate if either of  
21          the following applies —
- 22               (a) the ballot paper contains a first-preference vote for  
23               the excluded candidate;
- 24               (b) the process is being repeated and the ballot paper  
25               was transferred to the excluded candidate under  
26               subclause (2)(c) on a previous occasion.
- 27          (8) For the purposes of the process in subclause (2), a  
28          continuing candidate is a candidate to whom neither of the  
29          following applies —
- 30               (a) the candidate is the excluded candidate;
- 31               (b) the process is being repeated and the candidate was  
32               excluded under subclause (2)(a) on a previous  
33               occasion.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 92**

---

1

**Division 3 — Elections for 2 or more councillors**

2

**Subdivision 1 — Preliminary**

3

**6. Application of Division**

4

This Division applies to an election that is not a one office election.

5

6

**7. Terms used**

7

In this Division —

8

*ballot paper*, of a candidate, means a first-preference ballot paper, or a transferred ballot paper, of the candidate;

9

*continuing candidate* means a candidate who has not already been elected or excluded under this Division;

10

*first-preference ballot paper*, of a candidate, means a ballot paper that contains a first-preference vote for the candidate;

11

*quota* means the quota determined under clause 8;

12

*surplus votes*, for a candidate who has been elected under this Division, means the votes for the candidate in excess of the quota (if any);

13

*transferred ballot paper*, of a candidate, means a ballot paper that has been transferred to the candidate under this Division;

14

*transfer value*, in relation to a ballot paper — see clauses 9(3)(a), 10(3)(b) and 11(3)(b) and (4)(c);

15

*votes*, for a candidate, means —

16

(a) the first-preference votes for the candidate; and

17

(b) the preference votes for the candidate as added (at the applicable transfer value) to the votes for the candidate under clause 9(3)(c), 10(3)(c)(iv) or 11(3)(b) or (4)(d).

18

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 92**

**Subdivision 2 — Counting and transferring votes**

Note for this Subdivision:

Subdivision 3 contains provisions that explain how certain things are to be done under this Subdivision and that otherwise supplement this Subdivision.

**8. Count of first-preference votes and determination of quota**

- (1) The first-preference votes for each candidate must be counted.
- (2) A quota must then be determined in accordance with subclauses (3) and (4).
- (3) Divide amount A by amount B, where —
  - (a) amount A is the total number of all the first-preference votes for candidates; and
  - (b) amount B is the number of offices to be filled plus 1.
- (4) The quota is the resulting number (disregarding any remainder) plus 1.
- (5) A candidate is elected if the number of first-preference votes for the candidate is equal to, or exceeds, the quota.
- (6) Go to clause 9 if 1 or more, but not all, of the offices are filled under this clause.
- (7) Go to clause 11 if none of the offices is filled under this clause.

**9. Transfer of surplus votes (1)**

- (1) In this clause —  
*elected candidate* means a candidate elected under clause 8.
- (2) This clause applies if 1 or more, but not all, of the offices are filled under clause 8.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 92**

---

- 1           (3) The surplus votes for each elected candidate who has  
 2           surplus votes must be transferred to the continuing  
 3           candidates as follows —
- 4               (a) determine the *transfer value* that applies to each  
 5               first-preference ballot paper of the elected  
 6               candidate, being the fraction calculated by dividing  
 7               amount C by amount D, where —
- 8                   (i) amount C is the number of surplus votes for  
 9                   the elected candidate; and
- 10               (ii) amount D is the number of first-preference  
 11               votes for the elected candidate;
- 12               (b) multiply, by the transfer value, the number of  
 13               first-preference ballot papers of the elected  
 14               candidate that indicate the next available preference  
 15               for a particular continuing candidate;
- 16               (c) add the resulting number (disregarding any fraction)  
 17               to the votes for that continuing candidate;
- 18               (d) transfer the ballot papers referred to in  
 19               paragraph (b) to that continuing candidate.
- 20           (4) A continuing candidate is elected if, on the completion of a  
 21           transfer under this clause of the surplus votes for an elected  
 22           candidate, the number of votes for the continuing candidate  
 23           is equal to, or exceeds, the quota.
- 24           (5) Go to clause 10 if 1 or more, but not all, of the remaining  
 25           offices are filled under this clause.
- 26           (6) Go to clause 11 if none of the remaining offices is filled  
 27           under this clause.
- 28       **10.       Transfer of surplus votes (2)**
- 29           (1) In this clause —
- 30           *elected candidate* means a candidate elected under clause 9,  
 31           this clause or clause 11.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 92**

- 
- 1           (2) This clause applies —
- 2               (a) if 1 or more, but not all, of the remaining offices are
- 3               filled under clause 9; and
- 4               (b) as otherwise provided under clause 11(7).
- 5           (3) The surplus votes for each elected candidate who has
- 6           surplus votes must be transferred to the continuing
- 7           candidates as follows —
- 8               (a) determine the *surplus fraction* for the elected
- 9               candidate, being the fraction calculated by dividing
- 10              amount E by amount F, where —
- 11               (i) amount E is the number of surplus votes for
- 12               the elected candidate; and
- 13               (ii) amount F is the number of votes for the
- 14               elected candidate;
- 15              (b) determine the *transfer value* that applies to each
- 16              ballot paper of the elected candidate, being —
- 17               (i) if the ballot paper is a first-preference ballot
- 18               paper of the elected candidate — the
- 19               surplus fraction; or
- 20               (ii) if the ballot paper is a transferred ballot
- 21               paper of the elected candidate — the
- 22               fraction calculated by multiplying the
- 23               surplus fraction by the transfer value that
- 24               applied to the ballot paper when the ballot
- 25               paper was transferred to the elected
- 26               candidate;
- 27              (c) do the following —
- 28               (i) identify the ballot papers of the elected
- 29               candidate that indicate the next available
- 30               preference for a particular continuing
- 31               candidate;
- 32               (ii) take the number of those ballot papers to
- 33               which a particular transfer value applies;
- 34               (iii) multiply that number by that transfer value;

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 92**

---

- 1 (iv) add the resulting number (disregarding any  
2 fraction) to the votes for that continuing  
3 candidate;
- 4 (v) transfer the ballot papers referred to in  
5 subparagraph (ii) to that continuing  
6 candidate.
- 7 (4) A continuing candidate is elected if, on the completion of a  
8 transfer under this clause of the surplus votes for an elected  
9 candidate, the number of votes for the continuing candidate  
10 is equal to, or exceeds, the quota.
- 11 (5) Go, or go back, to clause 11 if not all of the remaining  
12 offices are filled under this clause.
- 13 **11. Exclusion of candidates**
- 14 (1) This clause applies if, after the counting of first-preference  
15 votes or the transfer of surplus votes (if any) under clauses 8  
16 to 10, 1 or more of the offices remain unfilled as referred to  
17 in clause 8(7), 9(6) or 10(5).
- 18 (2) The candidate with the fewest votes is excluded.
- 19 (3) If there are first-preference votes for the excluded candidate,  
20 the first-preference votes must be transferred to the  
21 continuing candidates as follows —
- 22 (a) take the number of first-preference ballot papers of  
23 the excluded candidate that indicate the next  
24 available preference for a particular continuing  
25 candidate;
- 26 (b) add that number to the votes for that continuing  
27 candidate (the *transfer value* that applies to each of  
28 those ballot papers being 1);
- 29 (c) transfer those ballot papers to that continuing  
30 candidate.
- 31 (4) If there are preference votes for the excluded candidate, the  
32 preference votes must be transferred to the continuing  
33 candidates as follows in the order of the transfers on which



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 92**

- 
- 1           the excluded candidate received them, the preference votes  
2           received on the earliest transfer being transferred first —
- 3           (a)   identify the transferred ballot papers of the excluded  
4                candidate that were transferred to the excluded  
5                candidate from a particular candidate;
- 6           (b)   take the number of those ballot papers that indicate  
7                the next available preference for a particular  
8                continuing candidate;
- 9           (c)   multiply that number by the *transfer value* that  
10                applies to the ballot papers referred to in  
11                paragraph (b), being the transfer value that applied  
12                to the ballot papers when the ballot papers were  
13                transferred to the excluded candidate;
- 14           (d)   add the resulting number (disregarding any fraction)  
15                to the votes for that continuing candidate;
- 16           (e)   transfer the ballot papers referred to in  
17                paragraph (b) to that continuing candidate.
- 18       (5)   If there are both first-preference votes and preference votes  
19           for the excluded candidate, the first-preference votes must  
20           be transferred under subclause (3) before the preference  
21           votes are transferred under subclause (4).
- 22       (6)   A continuing candidate is elected if, on the completion of a  
23           transfer under this clause of votes for an excluded candidate,  
24           the number of votes for the continuing candidate is equal to,  
25           or exceeds, the quota.
- 26       (7)   If there are surplus votes for that candidate and 1 or more  
27           offices remain unfilled, the surplus votes must be transferred  
28           under clause 10, but not before all the votes for the excluded  
29           candidate that remain to be transferred (if any) have been  
30           transferred to continuing candidates.
- 31       (8)   If, after the transfer under this clause of all the votes for an  
32           excluded candidate, no candidate is elected under  
33           subclause (6) with a number of votes that exceeds the quota  
34           and 1 or more offices remain unfilled —
- 35           (a)   the continuing candidate with the fewest votes is  
36                excluded; and

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 92**

---

- 1 (b) that candidate's votes must be transferred under  
2 subclauses (3) to (5).

3 **Subdivision 3 — Supplementary provisions**4 **12. No further transfers to elected candidates**

- 5 (1) If a candidate is elected under clause 9 or 10 on the  
6 completion of a transfer under clause 9 or 10 of the surplus  
7 votes for a candidate, no surplus votes for any other  
8 candidate may be transferred to the candidate so elected.
- 9 (2) If a candidate is elected under clause 11 on the completion  
10 of a transfer under clause 11 of votes for an excluded  
11 candidate, no other votes for the excluded candidate may be  
12 transferred to the candidate so elected.

13 **13. Filling last office**

- 14 (1) This clause applies, despite any other provision of this  
15 Division, to the last office to be filled if there are only 2  
16 continuing candidates left.
- 17 (2) The candidate with the greater number of votes is elected  
18 even if that number is less than the quota.
- 19 (3) If the candidates have the same number of votes, the  
20 returning officer must draw lots in accordance with  
21 regulations to determine which candidate is elected.

22 **14. No need for further transfers of votes if number of**  
23 **continuing candidates equals number of vacancies**

24 Despite any other provision of this Division, if the number  
25 of continuing candidates is equal to the number of  
26 remaining unfilled offices, those candidates are elected.

27 **15. Order of transfers of surpluses**

- 28 (1) If, after any count or transfer under this Division, 2 or more  
29 candidates have surplus votes, the order of any transfers of  
30 the surplus votes of those candidates is to be in accordance

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 92**

- 1 with the relative sizes of the surpluses, the larger or largest  
2 surplus being transferred first.
- 3 (2) If 2 or more of the candidates referred to in subclause (1)  
4 have equal surpluses —
- 5 (a) the order of any transfers of the surplus votes of  
6 those candidates is to be in accordance with the  
7 relative numbers of votes of those candidates at the  
8 last count or transfer at which each of those  
9 candidates had a different number of votes, the  
10 surplus of the candidate with the larger or largest  
11 number of votes at that count or transfer being  
12 transferred first; but
- 13 (b) if there has been no such count or transfer — the  
14 returning officer must draw lots in accordance with  
15 regulations to determine which candidate is, as  
16 between those candidates, taken to have had the  
17 larger or largest surplus.
- 18 (3) Despite subclauses (1) and (2), if a candidate is elected on  
19 the completion of a transfer under this Division (the *later*  
20 *transfer*), the surplus votes for the candidate must not be  
21 transferred before the transfer of the surplus votes for any  
22 other candidate who was elected before the later transfer.
- 23 **16. Procedure to determine excluded candidates if votes**  
24 **equal**
- 25 (1) This clause applies if —
- 26 (a) the continuing candidate with the fewest votes is to  
27 be excluded under clause 11(2) or (8); and
- 28 (b) 2 or more continuing candidates (the *tied*  
29 *candidates*) have an equal number of votes (no  
30 other continuing candidate having fewer votes).
- 31 (2) Whichever of the tied candidates had the fewer or fewest  
32 votes at the last count or transfer at which each of the tied  
33 candidates had a different number of votes is excluded.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 92**

---

- 1                   (3) If there has been no such count or transfer, the returning  
2                   officer must draw lots in accordance with regulations to  
3                   determine which of the tied candidates is excluded.
- 4                   **17.       Setting aside ballot papers as finally dealt with or**  
5                   **exhausted**
- 6                   (1) If a candidate is elected under this Division with a number  
7                   of votes equal to the quota, all the ballot papers of that  
8                   candidate must be set aside as finally dealt with.
- 9                   (2) Subclause (3) applies to any ballot paper of a candidate who  
10                  is elected under this Division with a number of votes in  
11                  excess of the quota.
- 12                  (3) The ballot paper must be set aside as exhausted if the ballot  
13                  paper contains —
- 14                      (a) no preference votes at all; or  
15                      (b) no preference vote for any continuing candidate.
- 16                  **18.       Transfers to be treated separately**
- 17                  Each of the following constitutes a separate transfer for the  
18                  purposes of this Division —
- 19                      (a) a transfer under clause 9 or 10 of all the surplus  
20                      votes for an elected candidate;
- 21                      (b) a transfer under clause 11(3) of all the  
22                      first-preference votes for an excluded candidate;
- 23                      (c) a transfer under clause 11(4) of all the preference  
24                      votes for an excluded candidate that were  
25                      transferred to the excluded candidate from a  
26                      particular candidate.  
27

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

---

**s. 93**

1     **93.     Schedule 4.2 clause 6 amended**

2             In Schedule 4.2 clause 6:

3                 (a)   delete “declared elected by the returning officer,” and  
4                         insert:

5  
6                         elected,

7  
8                 (b)   delete “declared elected unopposed,” and insert:

9  
10                         elected unopposed,

11  
12                 (c)   after “lots” insert:

13  
14                         in accordance with regulations

15

16     **94.     Schedule 4.2 clause 7 amended**

17             In Schedule 4.2 clause 7:

18                 (a)   delete “declared elected by the returning officer,” and  
19                         insert:

20  
21                         elected,

22  
23                 (b)   delete “declared elected unopposed,” and insert:

24  
25                         elected unopposed,

26  
27                 (c)   after “lots” insert:

28  
29                         in accordance with regulations

30

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 95**

---

**95. Schedule 4.2 clauses 7A and 7B inserted**

After Schedule 4.2 clause 7 insert:

7A. For the purposes of clauses 6 and 7 —

- (a) if 2 or more councillors were elected under Schedule 4.1 clause 8(5) —
  - (i) the order of their election is to be determined by reference to the number of first-preference votes that each had, with the councillor having the highest number of first-preference votes being regarded as having been elected first and so on; and
  - (ii) if 2 or more of those councillors had the same number of first-preference votes — the returning officer must draw lots in accordance with regulations to determine the order in which the councillors with the same number of first-preference votes were elected;

and

- (b) if 2 or more councillors were elected under Schedule 4.1 clause 9(4), 10(4) or 11(6) on the completion of the same transfer of votes —
  - (i) the order of their election is to be determined by reference to the number of votes that each had on the completion of that transfer, with the councillor having the highest number of votes being regarded as having been elected first and so on; and
  - (ii) if 2 or more of those councillors had the same number of votes on the completion of that transfer — clause 7B applies for the purpose of determining the order in which the councillors with the same number of votes were elected;

and

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 95**

---

- 1 (c) if 2 or more councillors were elected under  
2 Schedule 4.1 clause 14 —
- 3 (i) the order of their election is to be  
4 determined by reference to the number of  
5 votes that each had when they were elected,  
6 with the councillor having the highest  
7 number of votes being regarded as having  
8 been elected first and so on; and
- 9 (ii) if 2 or more of those councillors had the  
10 same number of votes when they were  
11 elected — clause 7B applies for the purpose  
12 of determining the order in which the  
13 councillors with the same number of votes  
14 were elected;
- 15 and
- 16 (d) if section 4.73(3)(b) applies —
- 17 (i) the order of the election of the councillors  
18 who are elected unopposed is to be  
19 determined by reference to the number of  
20 first-preference votes that each had (after  
21 any alterations required under  
22 section 4.73(5)(a)), with the councillor  
23 having the highest number of  
24 first-preference votes being regarded as  
25 having been elected first and so on; and
- 26 (ii) if 2 or more of those councillors had the  
27 same number of first-preference votes (after  
28 any alterations required under  
29 section 4.73(5)(a)) — the returning officer  
30 must draw lots in accordance with  
31 regulations to determine the order in which  
32 the councillors with the same number of  
33 first-preference votes were elected.

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 96**

---

- 1           7B. For the purposes of clause 7A(b)(ii) and (c)(ii), the order in  
 2           which the councillors with the same number of votes were  
 3           elected —
- 4                   (a) is to be determined by reference to the votes that  
 5                   each had on the completion of the last count or  
 6                   transfer of votes under Schedule 4.1 Division 3 at  
 7                   which each had a different number of votes, with  
 8                   the councillor having the highest number of votes  
 9                   being regarded as having been elected first and so  
 10                  on; but
- 11                  (b) if there was no such count or transfer — is to be  
 12                  determined by the returning officer drawing lots in  
 13                  accordance with regulations.

**96.       Schedule 4.2 clause 8 amended**

In Schedule 4.2 clause 8:

- 17           (a) delete “votes” (each occurrence) and insert:  
 18  
 19                   first-preference votes
- 21           (b) in paragraph (b) after “lots” insert:  
 22  
 23                   in accordance with regulations

**97.       Schedule 4.2 clause 9 amended**

In Schedule 4.2 clause 9(a) after “lots” insert:

28           in accordance with regulations



**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 98**

---

**98. Schedule 4.2 clause 10 inserted**

At the end of Schedule 4.2 insert:

10. In this Schedule —

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

*votes* has the meaning given in Schedule 4.1 clause 7.

**99. Schedule 9.3 Division 6 inserted**

At the end of Schedule 9.3 insert:

**Division 6 — Provisions for *Local Government Amendment Act 2023***

**57. Term used: 2023 amendment Act**

In this Division —

*2023 amendment Act* means the *Local Government Amendment Act 2023*.

**58. Continued application of repealed provisions relating to membership and size of councils**

(1) In this clause —

*amendment day* means the day on which section 13 of the 2023 amendment Act comes into operation;

*transitional time*, in relation to a local government, means any time that falls —

(a) on or after amendment day; and

(b) before —

(i) an order has been made under section 2.16B, as inserted by section 13 of the 2023 amendment Act, specifying an

---

page 121

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 99**

---

- 1 estimate of the district's population for the  
2 first time; and
- 3 (ii) the provision made by the order under  
4 section 2.16B(1)(b) in respect of the  
5 specified estimate has taken effect in  
6 accordance with the provision made under  
7 section 2.16B(2).
- 8 (2) Despite the amendment made by section 13 of the  
9 2023 amendment Act, section 2.17, as in force immediately  
10 before amendment day, continues to apply in relation to a  
11 local government at all transitional times.
- 12 (3) This clause does not apply to the City of Perth.
- 13 **59. Transitional orders relating to constitution of local**  
14 **government**
- 15 (1) In this clause —  
16 *amendment day* means the day on which section 16 of the  
17 2023 amendment Act comes into operation;  
18 *election* has the meaning given in section 4.1;  
19 *election day*, in relation to a local government, means —  
20 (a) an ordinary election day for the local government;  
21 or  
22 (b) any other day —  
23 (i) that is fixed under this Act for the holding  
24 of any poll needed for an election for the  
25 local government (whether or not any poll  
26 is actually held); and  
27 (ii) that is no later than 4 years after amendment  
28 day;  
29 *ordinary election day*, in relation to a local government,  
30 means a day —  
31 (a) that is fixed under this Act for the holding of any  
32 polls needed for ordinary elections for the local  
33 government (whether or not any polls are actually  
34 held); and

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 99**

---

- 1                   (b) that is no later than 4 years after amendment day.
- 2           (2) The Governor may, by order (a *transitional order*), do
- 3           anything authorised under this clause.
- 4           (3) A transitional order may abolish all of the wards in a district
- 5           on an election day for the local government.
- 6           (4) A transitional order may specify —
- 7                   (a) the number of offices of councillor that a council is
- 8                   to have on and from an election day for the local
- 9                   government; and
- 10                  (b) if relevant — the number of offices of councillor
- 11                  that each ward in the district is to have on and from
- 12                  the election day.
- 13           (5) A transitional order —
- 14                  (a) may specify —
- 15                          (i) the number of offices of councillor that a
- 16                          council is to have on and from an election
- 17                          day for the local government until a
- 18                          subsequent election day for the local
- 19                          government; and
- 20                          (ii) if relevant — the number of offices of
- 21                          councillor that each ward in the district is to
- 22                          have on and from the election day until the
- 23                          subsequent election day;
- 24                  and
- 25                  (b) may specify —
- 26                          (i) the number of offices of councillor that the
- 27                          council is to have on and from the
- 28                          subsequent election day; and
- 29                          (ii) if relevant — the number of offices of
- 30                          councillor that each ward in the district is to
- 31                          have on and from the subsequent election
- 32                          day.

---

page 123

**Local Government Amendment Bill 2023****Part 2**

Local Government Act 1995 amended

**s. 99**

---

- 1 (6) Any provision made under subclause (5)(a) has effect  
 2 despite section 2.17 or 2.17A as inserted by section 13 of  
 3 the 2023 amendment Act.
- 4 (7) A transitional order may provide for this Act to apply as if  
 5 the Table to section 2.28 provided for the terms of all  
 6 councillors on a council, or of all councillors on a council  
 7 for a ward, to end on an ordinary election day for the local  
 8 government.
- 9 (8) If provision is made under subclause (7) —
- 10 (a) the ordinary elections are to be held accordingly for  
 11 the purpose of filling all offices of councillor or of  
 12 councillor for the ward (as the number of those  
 13 offices may be increased or decreased on the  
 14 ordinary election day by provision made under  
 15 subclause (4) or (5)); and
- 16 (b) item 4A in the Table to section 2.28, as inserted by  
 17 section 19(3) of the 2023 amendment Act, applies  
 18 to a councillor elected at the ordinary elections as if  
 19 the provision made under subclause (7) were a  
 20 provision made by a change order under  
 21 section 2.18A(8) as inserted by section 16 of the  
 22 2023 amendment Act.
- 23 (9) A transitional order does not prevent an order being  
 24 subsequently made under Part 2 in relation to a local  
 25 government or district.
- 26 (10) The *Interpretation Act 1984* section 42 applies to a  
 27 transitional order as if the transitional order were regulations  
 28 made under this Act.
- 29 **60. Enrolment eligibility claims**
- 30 (1) Despite the amendment made by section 30(1) of the  
 31 2023 amendment Act, section 4.32(2) to (4), as in force  
 32 immediately before the day on which section 30(1) of the  
 33 2023 amendment Act comes into operation, continue to  
 34 apply on and after that day to enrolment eligibility claims  
 35 made before that day.

**Local Government Amendment Bill 2023**  
Local Government Act 1995 amended **Part 2**

**s. 99**

---

- 1           (2) Section 4.33(1A)(a), as inserted by section 31(1) of the  
2           2023 amendment Act, does not apply to enrolment  
3           eligibility claims made before the day on which  
4           section 31(1) of the 2023 amendment Act comes into  
5           operation.
- 6           **61. Electors' special meetings**
- 7           (1) In this clause —  
8           *amendment day* means the day on which section 60 of the  
9           2023 amendment Act comes into operation.
- 10          (2) The amendment made by section 60(1) of the  
11          2023 amendment Act does not affect the requirement to  
12          hold a special meeting on a request made before amendment  
13          day.
- 14          (3) Section 5.28(5), as inserted by section 60(2) of the  
15          2023 amendment Act, does not apply if the request for the  
16          special meeting is made before amendment day.
- 17          **62. Transitional regulations**
- 18          (1) In this clause —  
19          *specified* means specified or described in regulations made  
20          for the purposes of subclause (2);  
21          *transitional matter* —  
22                  (a) means a matter or issue of a transitional nature that  
23                  arises as a result of any of the amendments to this  
24                  Act, or to any other written law, made by the  
25                  2023 amendment Act; and  
26                  (b) includes a saving or application matter.
- 27          (2) Regulations may prescribe anything required, necessary or  
28          convenient to be prescribed in relation to a transitional  
29          matter.

**Local Government Amendment Bill 2023****Part 2** Local Government Act 1995 amended**s. 99**

---

- 1           (3) Without limiting subclause (2), regulations made for the  
2           purposes of that subclause may provide that specified  
3           provisions of this Act or any other written law —  
4           (a) do not apply to, or in relation to, a specified matter  
5           or thing; or  
6           (b) apply with specified modifications to, or in relation  
7           to, a specified matter or thing.  
8

**Local Government Amendment Bill 2023**  
 Other written laws amended **Part 3**  
 City of Perth Act 2016 amended **Division 1**  
**s. 100**

---

1 **Part 3 — Other written laws amended**

2 **Division 1 — *City of Perth Act 2016* amended**

3 **100. Act amended**

4 This Division amends the *City of Perth Act 2016*.

5 **101. Section 20 amended**

6 After section 20(2) insert:

7

8 (3) The *Local Government Act 1995* Schedule 4.1A  
 9 applies to the office of Lord Mayor.

10 Note for this subsection:

11 The *Local Government Act 1995* Schedule 4.1A sets out  
 12 how a vacancy in the office of an elector mayor or president  
 13 (as defined in section 1.4 of that Act) is to be filled in certain  
 14 circumstances.

15

16 **Division 2 — *Local Government Amendment (Auditing) Act 2017***  
 17 **amended**

18 **102. Act amended**

19 This Division amends the *Local Government Amendment*  
 20 *(Auditing) Act 2017*.

21 **103. Section 2 amended**

22 (1) In section 2 delete “This Act” and insert:

23

24 (1) This Act

25

**Local Government Amendment Bill 2023****Part 3** Other written laws amended**Division 3** Salaries and Allowances Act 1975 amended**s. 104**

---

1 (2) At the end of section 2 insert:

2

3 (2) Despite subsection (1)(c), if the *Local Government*  
 4 *Amendment Act 2023* section 67 comes into operation  
 5 on or before the day fixed by proclamation under  
 6 section 22(2), section 7(2) —

7 (a) does not come into operation; and

8 (b) is deleted when the *Local Government*  
 9 *Amendment Act 2023* section 67 comes into  
 10 operation.  
 11

12 **Division 3 — *Salaries and Allowances Act 1975* amended**

13 **104. Act amended**

14 This Division amends the *Salaries and Allowances Act 1975*.

15 **105. Section 7BAA inserted**

16 After section 7B insert:  
 17

18 **7BAA. Determinations as to fees and allowances of**  
 19 **members of local government committees**

20 (1) In this section —

21 *committee member* has the meaning given in the *Local*  
 22 *Government Act 1995* section 5.100(1).

23 (2) The Tribunal must, from time to time as provided by  
 24 this Act, inquire into and determine —

25 (a) the amount of fees, or the minimum and  
 26 maximum amounts of fees, to be paid under the  
 27 *Local Government Act 1995* to committee  
 28 members for attendance at meetings; and



**Local Government Amendment Bill 2023**

Other written laws amended

**Part 3**

Salaries and Allowances Act 1975 amended

**Division 3****s. 106**

1 (b) the amount of expenses, or the minimum and  
 2 maximum amounts of expenses, to be  
 3 reimbursed under the *Local Government*  
 4 *Act 1995* to committee members.

5 (3) Section 6(2) and (3) apply to a determination under this  
 6 section.  
 7

8 **106. Section 8 amended**

9 After section 8(1)(d) insert:  
 10

11 (da) not more than a year elapses between one  
 12 determination under section 7BAA(2) and  
 13 another; and  
 14

15 **107. Section 10 amended**

16 In section 10(4)(c):

17 (a) in subparagraph (ii) delete “7B;” and insert:  
 18

19 7B; or  
 20

21 (b) after subparagraph (ii) insert:  
 22

23 (iii) the fees and expenses to be paid to  
 24 committee members referred to in  
 25 section 7BAA;  
 26

