Western Australia

Local Government Amendment and Repeal Bill 2026

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Western Australia

LEGISLATIVE ASSEMBLY

Local Government Amendment and Repeal Bill 2026

A Bill for

An Act to amend the *Local Government Act 1995*, to repeal the *Local Government (Miscellaneous Provisions) Act 1960* and to make related and consequential amendments to other Acts.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Local Government Amendment and Repeal Act 2026*.

2. Commencement

(1) This Act comes into operation as follows —

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

(b) Part 2 — on 1 January 2031;

(c) Part 6 (but only sections 157, 158 and 172) — on the day after assent day;

(d) Part 7 — on the day after assent day;

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

(2) Subject to subsection (3), if Part 3, or a provision of Part 3, does not come into operation under subsection (1)(e) before 1 January 2031, Part 3 or the provision (as the case requires) comes into operation on 1 January 2031.

(3) If a provision of Part 3 listed in subsection (4) does not come into operation under subsection (1)(e) before 1 January 2031, the provision —

(a) does not come into operation; and

(b) is deleted on 1 January 2031.

(4) The provisions are sections 109, 112(3), 113(1), 115, 124(1), (2), (3) and (4) and 125.

Part 2 — General elections

Division 1 — *Local Government Act 1995* amended

3. Act amended

This Division amends the *Local Government Act 1995*.

4. Section 1.4 amended

(1) In section 1.4 delete the definitions of:

councillor

councillor mayor or president

election year

elector mayor or president

extraordinary election

inaugural election

member

ordinary election

ordinary elections day

(2) In section 1.4 insert in alphabetical order:

> ***councillor*** means a person who holds the office of councillor on a council (including a person who holds another office under section 2.17(2), 2.17A(2) or (3) or 4.5(3) as well as the office of councillor);
>
> ***councillor mayor or president*** means a mayor or president elected by the council from amongst the councillors (including one elected under section 4.5(4));
>
> ***elector mayor or president*** means a mayor or president elected by electors of a district;

extraordinary election has the meaning given in section 4.9;

general election has the meaning given in section 4.2(4);

general election day means the day on which any polls needed for general elections in a general election year must be held;

Notes for this definition:

1. See section 4.3, which is subject to sections 4.1B and 4.4.
2. The general election day in a general election year will be different for different local governments if the Governor exercises the Governor's power under section 4.1B, or the Electoral Commissioner exercises the Electoral Commissioner's power under section 4.4, in a way that does not defer the general election day for all local governments.

general election year has the meaning given in section 4.2(3);

member, in relation to the council of a local government, means —

(a) an elector mayor or president of the local government; or

(b) a councillor on the council (including a councillor who holds another office under section 2.17(2), 2.17A(2) or (3) or 4.5(3) as well as the office of councillor);

pre-general election period means a period that —

(a) begins on the 3rd Saturday in October of the year before a general election year; and

(b) ends on the general election day in that general election year;

5. Section 1.4A amended

Delete section 1.4A(2) and insert:

(2) In subsection (1) —

relevant election means any of the following —

(a) a general election;

(b) an election under section 4.15(4)(a), 4.16(4)(a), 4.17(4)(a) or 4.18(1)(b);

(c) an election under section 4.18A(1) after an election that is a relevant election under paragraph (a) or (b) or this paragraph is declared invalid.

6. Section 2.1 amended

At the end of section 2.1 insert:

Note for this section:
See also section 4.18.

7. Section 2.2 amended

At the end of section 2.2 insert:

Note for this section:
See also section 4.18.

8. Section 2.6 amended

At the end of section 2.6(4) insert:

Note for this subsection:

See section 4.14 in relation to the filling of the offices of members of the council for the 1st time.

9. Section 2.12B amended

(1) In section 2.12B(2)(a):

(a) in subparagraph (i) delete "ordinary elections for" and insert:

general elections of

(b) delete subparagraph (ii) and insert:

(ii) at another time that coincides with the holding by the local government of an election under section 4.15(4)(a), 4.16(4)(a), 4.17(4)(a) or 4.18(1)(b);

(2) Delete section 2.12B(3).

10. Section 2.13 amended

(1) In section 2.13(1) delete "ordinary" and insert:

general

(2) Delete section 2.13(2) and (3) and insert:

(2) A change under section 2.11(4) to the election by the council method has effect —

(a) in relation to the filling of the office of mayor or president at the 1st meeting of the council after the next general election or general elections of the local government held after the poll; and

(b) from then on until a decision under section 2.11(2) to change to the election by electors method takes effect.

(3) A decision under section 2.11(2) has no effect if it is made during, and a decision under section 2.12A(2) has no effect unless a poll resulting from it is held before, the period beginning on the 120th day before, and ending on, the next general election day after the decision is made.

11. Section 2.14 amended

In section 2.14 delete "the Table to".

12. Section 2.16A amended

In section 2.16A delete the definitions of:

election

election day

ordinary election day

Note: The heading to amended section 2.16A is to read:

Term used: population

13. Section 2.16B amended

Delete section 2.16B(2) and (3) and insert:

(2) The order must provide for the provision made under subsection (1)(b) to have effect on and from a general election day.

(3) Despite subsection (2), if the local government must hold an election under section 4.15(4)(a), 4.16(4)(a), 4.17(4)(a) or 4.18(1)(b), the order may provide for the provision made under subsection (1)(b) to have effect on and from a day specified in, or determined in accordance with, the order.

14. Section 2.17 amended

In section 2.17(5) delete "2.18A(5)." and insert:

4.5.

15. Section 2.17A amended

Delete section 2.17A(6).

16. Section 2.18 amended

At the end of section 2.18 insert:

Note for this section:
See also section 4.18.

17. Section 2.18A amended

Delete section 2.18A(3) to (9) and insert:

(3) A change order must provide for the increase or decrease in the number of councillors to have effect on and from a general election day.

(4) Despite subsection (3), if the local government must hold an election under section 4.15(4)(a), 4.16(4)(a), 4.17(4)(a) or 4.18(1)(b), a change order may provide for the increase or decrease in the number of councillors to have effect on and from a day specified in, or determined in accordance with, the change order.

(5) If the district is divided into wards, a change order may abolish all of the wards on the day on which the increase or decrease in the number of councillors takes effect.

18. Section 2.28 replaced

Delete section 2.28 and insert:

2.28. Terms of office

(1) The term of office of an elector mayor or president or a councillor who is elected at a general election —

(a) begins on the day after the general election day; and

(b) ends on the next general election day.

(2) The term of office of a councillor who is elected under Schedule 4.1A —

(a) begins on the day on which they are elected; and

(b) ends on the next general election day.

(3) The term of office of an elector mayor or president or a councillor who is elected at an extraordinary election or at an election under section 4.15(4)(a), 4.16(4)(a), 4.17(4)(a), 4.18(1)(b) or 4.18A(1) —

(a) begins on the day after —

(i) the day on which the poll is held; or

(ii) if no poll is held — the day of the declaration of nominations;

and

(b) ends on the next general election day.

(4) The term of office of a councillor mayor or president —

(a) begins when they are elected under Schedule 2.3; and

(b) ends —

(i) if the mayor or president is to be next elected at a general election — on the next general election day; or

(ii) if the mayor or president is to be next elected under Schedule 2.3 after the local government's next general election or general elections — at the start of the 1st meeting of the council after the local government's next general election or general elections.

(5) Subsection (4)(b)(ii) applies even if the holder of the office of councillor mayor or president is not elected to an office of councillor at the local government's next general election or general elections.

(6) The term of office of a deputy mayor or president —

(a) begins when they are elected under Schedule 2.3; and

(b) ends at the start of the 1st meeting of the council after the local government's next general election or general elections.

(7) Subsection (6)(b) applies even if the holder of the office of deputy mayor or president is not elected to an office of councillor at the local government's next general election or general elections.

Note for this section:

In relation to an elector mayor or president, see also section 2.14.

19. Section 2.30 deleted

Delete section 2.30.

20. Section 2.32 amended

In section 2.32(1)(f) delete "on the council." and insert:

of the local government at an election other than a general election.

21. Section 2.34 amended

(1) In section 2.34(1)(d) delete "council." and insert:

local government (including under section 4.5(4)).

(2) Delete section 2.34(2).

22. Section 2.35 deleted

Delete section 2.35.

23. Section 2.36A amended

After section 2.36A(3) insert:

(4) The power to make a declaration under this section may be exercised despite any other provision of this Act that relates to vacancies in offices of members of a council.

24. Section 2.37 amended

(1) After section 2.37(1) insert:

(1A) The Governor may, by order, declare all the offices of members of a council to be vacant if —

(a) the council is suspended and —

(i) the period of suspension begins during a pre-general election period; or

(ii) the period of suspension continues into a pre-general election period;

and

(b) the Minister is satisfied that the period of suspension will end, or is likely to end, after the pre-general election period.

(2) At the end of section 2.37(4) insert:

Note for this subsection:

See section 4.15 in relation to the filling of the offices of members of the council again.

(3) Delete section 2.37(5) to (8) and insert:

(5) A power to make a declaration under this section may be exercised despite any other provision of this Act that relates to vacancies in offices of members of a council.

25. Section 2.37A amended

(1) In section 2.37A(1) delete "2.37(1)" and insert:

2.37(1), (1A)

(2) At the end of section 2.37A(1) insert:

Note for this subsection:

See section 4.16 in relation to the filling of the offices of members of the council again.

(3) Delete section 2.37A(2) to (5) and insert:

(2) The power to appoint a commissioner of a local government under subsection (1) may be exercised despite any other provision of this Act that relates to vacancies in offices of members of a council.

26. Section 4.1 amended

(1) In section 4.1 delete the definitions of:

election

election day

electoral officer

(2) In section 4.1 insert in alphabetical order:

election means —

(a) an election to fill the office of mayor or president by electors; or

(b) an election to fill 1 or more offices of councillor whether in a district or in a ward;

election day, in relation to an election, means the day on which any poll needed for the election must be held;

electoral officer —

(a) means an electoral officer appointed by a returning officer under section 4.23(b); and

(b) includes a returning officer and a deputy returning officer, except in sections 4.23(b) and 4.27(1)(b);

(3) In section 4.1 in the definition of ***postal election*** delete "4.61(1);" and insert:

4.35A(2)(a);

(4) In section 4.1 in the definition of ***voting in person election*** delete "4.61(1)." and insert:

4.35A(2)(b).

27. Section 4.1AA inserted

After section 4.1 insert:

4.1AA. Application to Electoral Commissioner for approval to hold election

(1) This section applies in relation to a local government's application under section 4.6(3)(a), 4.7(4)(a), 4.8(4)(a), 4.57(2)(a), 4.57A(6)(a) or 4.58(2)(a) for approval to hold an election.

(2) The application must contain any prescribed information.

(3) The Electoral Commissioner may, in deciding whether to give approval, consider —

(a) any prescribed matter; and

(b) any other matter that, in the Electoral Commissioner's opinion, is relevant.

(4) The Electoral Commissioner must refuse approval if —

(a) the application is made during the excluded period; or

(b) the Electoral Commissioner is of the opinion that election day cannot be, or that it is not practicable for election day to be, before the excluded period begins.

(5) For the purposes of subsection (4), the ***excluded period*** is the period beginning on the 120th day before, and ending on, the next general election day after the application is made.

(6) Subsection (4) does not apply if the application is made under section 4.57A(6)(a) and the election at which not all offices were filled was a general election.

28. Section 4.1B replaced

Delete section 4.1B and insert:

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

(1) This section applies if a poll needed for an election cannot, under section 4.1A, be held on the day (the ***original election day***) on which the poll would otherwise be required to be held.

(2) The Governor may, by order made before the original election day, fix a later day as the day on which the poll must be held.

(3) The later day must be no later than the 14th day after the original election day.

(4) This section applies despite any other provision of this Act relating to the day on which any poll needed for an election must be held.

29. Sections 4.1C and 4.1D deleted

Delete sections 4.1C and 4.1D.

30. Part 4 Divisions 2 to 6 replaced

Delete Part 4 Divisions 2 to 6 and insert:

Division 2 — General elections

4.2. Local governments to hold general elections every 4 years

(1) In a general election year, a local government must —

(a) hold an election to fill all offices of councillor if the district is not divided into wards; or

(b) hold, for each ward in the district, an election to fill all offices of councillor in the ward.

(2) In a general election year, a local government must hold an election to fill the office of mayor or president by electors if that is the method used by the local government to fill the office of mayor or president.

(3) For the purposes of this Act, each of the following is a ***general election year*** —

(a) 2031;

(b) 2035;

(c) 2039;

(d) 2043;

(e) the 4th year after a year that is a general election year under paragraph (d) or this paragraph.

(4) In this Act —

general election means an election under this section.

4.3. Polling day for general elections

Any polls needed for general elections in a general election year must be held on the 3rd Saturday in October of the general election year.

4.4. Deferment of polling day for general elections

(1) Despite section 4.3, the Electoral Commissioner may, by notice published in the *Gazette*, fix 1 of the following as the day on which any polls needed for general elections in a general election year must be

held instead of the 3rd Saturday in October of the general election year —

(a) a later Saturday in October of the general election year;

(b) the 1st Saturday in November of the general election year;

(c) the 2nd Saturday in November of the general election year;

(d) the 3rd Saturday in November of the general election year.

(2) The Electoral Commissioner's power under subsection (1) —

(a) can be exercised only if the Electoral Commissioner is satisfied that it would not be in the public interest to hold polls on the 3rd Saturday in October of the general election year; and

(b) may be exercised in respect of —

(i) all local governments; or

(ii) 1 or more local governments specified in the notice under subsection (1); or

(iii) 1 or more classes of local government specified in the notice under subsection (1).

(3) In the notice under subsection (1), or by a later notice published in the *Gazette*, the Electoral Commissioner may adjust any time, period or date fixed under this Act to take account of the deferment under subsection (1).

Division 3 — Extraordinary vacancies and extraordinary elections

Subdivision 1 — Extraordinary vacancies

4.5. Elector mayor or president

(1) This section applies if the office of an elector mayor or president of a local government becomes vacant under section 2.32.

(2) The office is to remain vacant for the unfinished part of the elector mayor or president's term of office.

(3) For the unfinished part of the elector mayor or president's term of office, the office of mayor or president of the local government is to be held by a councillor in conjunction with their office as a councillor.

(4) The councillor is to be elected to the office of mayor or president by the council under Schedule 2.3 Division 1.

4.6. Councillor: vacancy during pre-general election period

(1) This section applies if the office of a councillor of a local government becomes vacant under section 2.32 during a pre-general election period.

(2) The office is to remain vacant for the unfinished part of the councillor's term of office.

(3) Despite subsection (2) —

(a) the local government may apply to the Electoral Commissioner for approval to hold an election to fill the vacancy; and

(b) if the Electoral Commissioner so approves — the local government must hold an election to fill the vacancy.

4.7. Councillor: vacancy in district not divided into wards and s. 4.6 does not apply

(1) This section applies to a local government if its district is not divided into wards.

(2) If the office of a councillor becomes vacant under section 2.32 and section 4.6 does not apply, Schedule 4.1A applies for the purpose of filling the vacancy.

(3) If the vacancy cannot be filled under Schedule 4.1A, the office is to remain vacant for the unfinished part of the councillor's term of office.

(4) Despite subsection (3) —

(a) the local government may apply to the Electoral Commissioner for approval to hold an election to fill the vacancy; and

(b) if the Electoral Commissioner so approves — the local government must hold an election to fill the vacancy.

(5) If, at the end of a day that is not in a pre-general election period, more than 25% of all offices of councillor are vacant under subsection (3) —

(a) subsection (3) ceases to apply to all those vacant offices; and

(b) the local government must hold an election to fill all those vacant offices.

Example for this subsection:

If the local government has 9 offices of councillor and, at the end of a day that is not in a pre-general election period, 3 of those offices are vacant under subsection (3) —

(a) subsection (3) ceases to apply to those 3 vacant offices; and

(b) the local government must hold an election to fill those 3 vacant offices.

Note for this subsection:

See also section 4.57A(7).

(6) If the local government must hold an election under subsection (5)(b), the CEO must notify the Electoral Commissioner, in writing, of that requirement.

4.8. Councillor: vacancy in district divided into wards and s. 4.6 does not apply

(1) This section applies to a local government if its district is divided into wards.

(2) If the office of a councillor in a ward becomes vacant under section 2.32 and section 4.6 does not apply, Schedule 4.1A applies for the purpose of filling the vacancy.

(3) If the vacancy cannot be filled under Schedule 4.1A —

(a) the local government must hold an election to fill the vacancy if the number of offices of councillor in the ward (including the vacant office) is 1, 2 or 3; or

(b) if paragraph (a) does not apply — the office is to remain vacant for the unfinished part of the councillor's term of office.

(4) Despite subsection (3)(b) —

(a) the local government may apply to the Electoral Commissioner for approval to hold an election to fill the vacancy; and

(b) if the Electoral Commissioner so approves — the local government must hold an election to fill the vacancy.

(5) If, at the end of a day that is not in a pre-general election period, more than 25% of all offices of

councillor in a ward are vacant under subsection (3)(b) —

(a) subsection (3)(b) ceases to apply to all those vacant offices in the ward; and

(b) the local government must hold an election to fill all those vacant offices in the ward.

Example for this subsection:

If a ward has 4 offices of councillor and, at the end of a day that is not in a pre-general election period, 2 of those offices are vacant under subsection (3)(b) —

(a) subsection (3)(b) ceases to apply to those 2 vacant offices; and

(b) the local government must hold an election to fill those 2 vacant offices.

Note for this subsection:

See also section 4.57A(7).

(6) If the local government must hold an election under subsection (3)(a) or (5)(b), the CEO must notify the Electoral Commissioner, in writing, of that requirement.

Subdivision 2 — Extraordinary elections

4.9. Term used: extraordinary election

In this Act —

extraordinary election means an election that a local government must hold under section 4.6(3)(b), 4.7(4)(b) or (5)(b), 4.8(3)(a), (4)(b) or (5)(b), 4.57(1), 4.57A(3) or (6)(b) or 4.58(1) or (4).

4.10. Polling day for extraordinary election

(1) Any poll needed for an extraordinary election of a local government must be held on a day fixed by the Electoral Commissioner.

(2) The Electoral Commissioner must —

(a) consult the CEO before fixing a day; and

(b) notify the CEO of the day fixed.

4.11. Consolidation of extraordinary elections

(1) If a district is not divided into wards and 2 or more extraordinary elections to fill offices of councillor in the district have the same election day, Division 9 applies to the extraordinary elections as if they were 1 election to fill all the offices of councillor to be filled at the extraordinary elections.

(2) If 2 or more extraordinary elections to fill offices of councillor in the same ward have the same election day, Division 9 applies to the extraordinary elections as if they were 1 election to fill all the offices of councillor to be filled at the extraordinary elections.

(3) For the purposes of subsections (1) and (2), an election under section 4.18(1)(b) is taken to be an extraordinary election.

Subdivision 3 — Cases in which Division does not apply

4.12. All offices of members of council vacant

(1) If a declaration is made under section 2.36A or 2.37 in relation to a local government, a vacancy in an office of a member of the council that already exists when the declaration takes effect cannot be filled under this Division (including Schedule 4.1A).

Note for this subsection:

See section 4.15 in relation to the filling of all offices of members of a council again after a declaration is made under section 2.37.

(2) If a commissioner is appointed under section 2.37A(1) for a local government, an existing vacancy, or a vacancy that is going to occur, as referred to in section 2.37A(1) cannot be filled under this Division (including Schedule 4.1A).

Note for this subsection:

See section 4.16 in relation to the filling of all offices of members of a council again after a commissioner is appointed under section 2.37A(1).

(3) If a council is dismissed, a vacancy in an office of a member of the council that already exists when the dismissal occurs cannot be filled under this Division (including Schedule 4.1A).

Note for this subsection:

See section 4.17 in relation to the filling of all offices of members of a council again after the council is dismissed.

4.13. Council suspended

(1) If a council is suspended, a vacancy in an office of a member of the council —

(a) that exists when the suspension begins; or

(b) that occurs during the suspension,

cannot be filled under this Division (including Schedule 4.1A) during the suspension.

(2) When the suspension ends, this Division (including Schedule 4.1A) applies as if the vacancy occurs when the suspension ends.

(3) Subsection (2) does not apply if the suspension —

(a) ends because the council is dismissed; or

(b) ends under section 8.28(2A).

Division 4 — Other cases where vacancies are to be filled

4.14. Newly established local government

If a local government is established, all offices of members of the council are to be open for election for the 1st time at the 1st general election or general elections of the local government.

Example for this section:

If a local government is established in 2034, all offices of members of the council are to be open for election for the 1st time at the general election or general elections of the local government scheduled for 2035.

4.15. Offices declared vacant under s. 2.37

(1) If a declaration is made under section 2.37 in relation to a local government, all offices of members of the council are to be open for election again at the general election or general elections of the local government for which election day is the 1st general election day after the declaration takes effect.

Example for this subsection:

If the declaration takes effect in 2033, all offices of members of the council are to be open for election again at the general election or general elections of the local government scheduled for 2035.

(2) Despite subsection (1), if the declaration takes effect during a pre-general election period, the Governor may, by order, cancel the general election or general elections referred to in subsection (1) (even if steps have already been taken under the electoral requirements in relation to it or them).

Example for this subsection:

If the declaration takes effect in January 2035, the Governor may cancel the general election or general elections of the local government scheduled for 2035.

(3) If an order is made under subsection (2), all offices of members of the council are to be open for election again at the 1st general election or general elections of the local government after the cancelled general election or general elections.

Example for this subsection:

If the Governor cancels the general election or general elections of the local government scheduled for 2035, all offices of members of the council are to be open for election again at the general election or general elections of the local government scheduled for 2039.

(4) Despite subsection (3), an order under subsection (2) —

(a) may require the local government to hold an earlier election or earlier elections to fill all offices of members of the council again; and

(b) if the order does so — must fix the day on which any poll needed for a required election must be held.

Example for this subsection:

If the Governor cancels the general election or general elections of the local government scheduled for 2035, the Governor may require the local government to hold an election or elections in 2036 to fill all offices of members of the council again.

(5) An order under subsection (2) may be included in the order that makes the declaration under section 2.37.

4.16. Commissioner appointed under s. 2.37A(1)

(1) If a commissioner is appointed under section 2.37A(1) for a local government, all offices of members of the council are to be open for election again at the general election or general elections of the local government for which election day is the 1st general election day after the appointment takes effect.

Example for this subsection:

If the appointment takes effect in 2033, all offices of members of the council are to be open for election again at the general election or general elections of the local government scheduled for 2035.

(2) Despite subsection (1), if the appointment takes effect during a pre-general election period, the Governor may, by order, cancel the general election or general elections referred to in subsection (1) (even if steps have already been taken under the electoral requirements in relation to it or them).

Example for this subsection:

If the appointment takes effect in January 2035, the Governor may cancel the general election or general elections of the local government scheduled for 2035.

(3) If an order is made under subsection (2), all offices of members of the council are to be open for election again at the 1st general election or general elections of the local government after the cancelled general election or general elections.

Example for this subsection:

If the Governor cancels the general election or general elections of the local government scheduled for 2035, all offices of members of the council are to be open for election again at the general election or general elections of the local government scheduled for 2039.

(4) Despite subsection (3), an order under subsection (2) —

(a) may require the local government to hold an earlier election or earlier elections to fill all offices of members of the council again; and

(b) if the order does so — must fix the day on which any poll needed for a required election must be held.

Example for this subsection:

If the Governor cancels the general election or general elections of the local government scheduled for 2035, the Governor may require the local government to hold an election or elections in 2036 to fill all offices of members of the council again.

(5) An order under subsection (2) may be included in the order that appoints the commissioner under section 2.37A(1).

4.17. Dismissal of council

(1) If a council is dismissed, all offices of members of the council are to be open for election again at the general election or general elections of the local government for which election day is the 1st general election day after the dismissal occurs.

Example for this subsection:

If the dismissal occurs in 2033, all offices of members of the council are to be open for election again at the general election or general elections of the local government scheduled for 2035.

(2) Despite subsection (1), if the dismissal occurs during a pre-general election period, the Governor may, by order, cancel the general election or general elections referred to in subsection (1) (even if steps have already been taken under the electoral requirements in relation to it or them).

Example for this subsection:

If the dismissal occurs in January 2035, the Governor may cancel the general election or general elections of the local government scheduled for 2035.

(3) If an order is made under subsection (2), all offices of members of the council are to be open for election again at the 1st general election or general elections of the local government after the cancelled general election or general elections.

Example for this subsection:

If the Governor cancels the general election or general elections of the local government scheduled for 2035, all offices of members of the council are to be open for election again at the general election or general elections of the local government scheduled for 2039.

(4) Despite subsection (3), an order under subsection (2) —

(a) may require the local government to hold an earlier election or earlier elections to fill all offices of members of the council again; and

(b) if the order does so — must fix the day on which any poll needed for a required election must be held.

Example for this subsection:

If the Governor cancels the general election or general elections of the local government scheduled for 2035, the Governor may require the local government to hold an election or elections in 2036 to fill all offices of members of the council again.

(5) An order under subsection (2) may be included in the order that dismisses the council.

4.18. Vacancies and election on restructure of districts, wards or membership

(1) Directions given by order under section 9.62 to give effect to 1 or more orders referred to in subsection (2) may do the following —

(a) direct which offices of members (if any) of a council are to become vacant, and when those offices become vacant;

(b) require a local government to hold an election or elections to fill 1 or more offices of members of the council and fix the day on which any poll needed for a required election must be held.

Note for this subsection:

For the purposes of paragraph (b), see also section 4.11(3).

(2) The orders are as follows —

(a) an order under section 2.1 changing the boundaries of a district;

(b) an order under section 2.2;

(c) an order under section 2.18.

4.18A. Fresh election after election declared invalid

(1) If a Court of Disputed Returns declares an election to have been invalid as referred to in section 4.81(3), the local government must hold a fresh election.

(2) Any poll needed for the fresh election must be held on the day fixed by the court under section 4.81(3)(e).

Note:

The description at the beginning of Part 4 is to be altered by deleting paragraph (a) and inserting:

(a) Divisions 2 to 4 deal with the different kinds of elections and the filling of vacancies;

31. Sections 4.19 to 4.21 replaced

Delete sections 4.19 to 4.21 and insert:

4.19. Electoral Commissioner responsible for conduct of elections and appointment of returning officers and deputy returning officers

The Electoral Commissioner —

(a) is responsible for the conduct of all elections that a local government must hold; and

(b) must appoint for each election —

(i) a person to be the returning officer for the local government; and

(ii) 1 or more deputy returning officers.

32. Section 4.22 amended

(1) In section 4.22(1) delete "of " and insert:

for

(2) In section 4.22(2) delete "In the case of a returning officer appointed under section 4.20(4), the" and insert:

The

(3) After section 4.22(3) insert:

(4) The Electoral Commissioner may perform a function of the returning officer if —

(a) the returning officer is absent or cannot perform the function; or

(b) it is necessary or convenient for conducting the election.

33. Section 4.23 amended

In section 4.23:

(a) in paragraph (b) delete "other";

(b) in paragraph (e) delete "in the case of a returning officer appointed under section 4.20(4),".

34. Section 4.24 replaced

Delete section 4.24 and insert:

4.24. Electoral Commissioner's functions

The Electoral Commissioner's functions under this Act are —

(a) to do anything that is necessary or expedient for the proper and efficient conduct of elections; and

(b) otherwise to do anything that the Electoral Commissioner is authorised or required to do under this Act.

35. Section 4.27 amended

In section 4.27(1):

(a) delete paragraph (a) and insert:

(a) about the appointment of returning officers and deputy returning officers, and their removal or suspension, by the Electoral Commissioner; and

(b) in paragraph (d) after "by" insert:

the Electoral Commissioner,

36. Section 4.28 amended

Delete section 4.28(1)(c) and insert:

(c) meet the expenses of the Electoral Commissioner in connection with an election in accordance with regulations.

37. Section 4.33 amended

(1) In section 4.33(2A) delete "6 months after the holding of the second ordinary elections of the local government" and insert:

after the period of 6 months that begins on the 1st general election day

(2) In section 4.33(2B):

(a) in paragraph (a) delete "the election day for ordinary elections of the local government; and" and insert:

a general election day; and

(b) in paragraph (b) after "the" insert:

general

(c) delete "6 months after the holding of the third ordinary elections of the local government" and insert:

after the period of 6 months that begins on the 2nd general election day

(3) Delete section 4.33(2) and insert:

(2) For the purpose of determining when an enrolment eligibility claim expires, subsections (2A) and (2B) apply as if any general election or general elections of the local government cancelled under section 4.15(2), 4.16(2) or 4.17(2) had not been cancelled.

Note: The heading to amended section 4.33 is to read:

Expiry of claim for eligibility to enrol under s. 4.30

38. Part 4 Division 8A inserted

After Part 4 Division 8 insert:

Division 8A — Methods of conducting election

4.35A. Choice of methods of conducting election

(1) An election of a local government can be conducted as a postal election or as a voting in person election.

(2) For the purposes of this Part —

(a) a ***postal election*** is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; and

(b) a ***voting in person election*** is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

(3) The local government may decide* that elections of the local government are to be conducted as postal elections.

** Absolute majority required.*

(4) The local government may revoke* a decision made under subsection (3).

** Absolute majority required.*

(5) A decision under subsection (3) applies to each election of the local government that is held after the decision is made, unless and until the decision is revoked under subsection (4).

(6) Despite subsection (5) —

(a) a decision under subsection (3) does not apply to an election if election day is on or before the 120th day after the day on which the decision is made; and

(b) a revocation of a decision under subsection (4) does not apply to an election if election day is on or before the 120th day after the day on which the revocation is made.

(7) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.

(8) If no decision under subsection (3) applies to an election, the election must be conducted as a voting in person election.

(9) If a local government makes a decision under subsection (3), or revokes a decision under subsection (4), the local government must notify the Departmental CEO and the Electoral Commissioner of the decision or revocation.

4.35B. Orders mandating method of conducting election: postal elections

(1) The Governor may, on the recommendation of the Minister, by order provide that, until the order is revoked, each election of a specified local government must be conducted as a postal election.

(2) In subsection (1) —

specified means specified in the order.

(3) An order under subsection (1) —

(a) applies despite section 4.35A; and

(b) does not require an election to be conducted as a postal election if election day is on or before the 120th day after the day on which the order is published in the *Gazette*; and

(c) may include other exceptions to the requirement that each election must be conducted as a postal election.

(4) The Minister can make a recommendation under subsection (1) in relation to a local government only if satisfied that —

(a) for the purpose of promoting participation in voting at elections of the local government, postal elections, as opposed to voting in person elections, are the more suitable type of election; and

(b) because of particular circumstances relating to the local government or its district, it is appropriate to make postal elections mandatory for the local government.

(5) Subsection (4) does not apply to a recommendation to revoke an order made under subsection (1).

Note for this subsection:

The power to make an order under subsection (1) includes power to revoke the order — see section 9.65(2).

(6) Before making a recommendation under subsection (1), the Minister must consult the Electoral Commissioner.

(7) The *Interpretation Act 1984* section 42 applies to an order made under subsection (1) as if the order were regulations made under this Act.

4.35C. Orders mandating method of conducting election: voting in person elections

(1) The Governor may, on the recommendation of the Minister, by order provide that, until the order is revoked, each election of a specified local government must be conducted as a voting in person election.

(2) In subsection (1) —

specified means specified in the order.

(3) An order under subsection (1) —

(a) applies despite section 4.35A; and

(b) does not require an election to be conducted as a voting in person election if election day is on or before the 120th day after the day on which the order is published in the *Gazette*; and

(c) may include other exceptions to the requirement that each election must be conducted as a voting in person election.

(4) The Minister can make a recommendation under subsection (1) in relation to a local government only if satisfied that —

(a) for the purpose of promoting participation in voting at elections of the local government, voting in person elections, as opposed to postal

elections, are the more suitable type of election; and

(b) because of particular circumstances relating to the local government or its district, it is appropriate to make voting in person elections mandatory for the local government.

(5) Subsection (4) does not apply to a recommendation to revoke an order made under subsection (1).

Note for this subsection:

The power to make an order under subsection (1) includes power to revoke the order — see section 9.65(2).

(6) Before making a recommendation under subsection (1), the Minister must consult the Electoral Commissioner.

(7) The *Interpretation Act 1984* section 42 applies to an order made under subsection (1) as if the order were regulations made under this Act.

Note:

The description at the beginning of Part 4 is to be altered by inserting after paragraph (c):

(ca) Division 8A deals with the methods of conducting elections;

39. Section 4.37 amended

Delete section 4.37(3)(b) and insert:

(b) the Electoral Commissioner decides that the roll that was used for the earlier election is suitable for use at the extraordinary election.

40. Section 4.39 amended

Delete section 4.39(2) and insert:

(2) The Electoral Commissioner must give Statewide public notice of the time and date of the close of enrolments on or after the 86th day, but no later than the 72nd day, before election day.

41. Section 4.40 amended

Delete section 4.40(1).

42. Section 4.43 amended

In section 4.43(3a) delete "If the returning officer is not the CEO, the" and insert:

The

43. Section 4.44A amended

In section 4.44A(2) delete "If the returning officer is not the CEO, the" and insert:

The

44. Section 4.46A amended

Delete section 4.46A(9).

45. Section 4.47 amended

Delete section 4.47(1) and insert:

(1) The Electoral Commissioner must give Statewide public notice calling for nominations of candidates for the election on or after the 64th day, but no later than the 53rd day, before election day.

Note: The heading to amended section 4.47 is to read:

Call for nominations

46. Section 4.52 amended

In section 4.52(3)(a) delete "4.57(2)(a)" and insert:

4.57A(2)

47. Sections 4.57 and 4.58 replaced

Delete sections 4.57 and 4.58 and insert:

4.57. No candidates

(1) If there are no nominations to be declared, the local government must hold another election to fill the office or offices that were to be filled at the election.

Note for this subsection:

An election under this subsection is an extraordinary election — see Division 3 Subdivision 2.

(2) Despite subsection (1), if the election is not a general election and the close of nominations fell during a

pre-general election period, another election is not to be held under subsection (1) unless —

(a) the local government applies to the Electoral Commissioner for approval to hold another election; and

(b) the Electoral Commissioner so approves.

(3) If another election is not to be held under subsection (1) because of subsection (2), each office that was to be filled at the election is to remain vacant until the time when, had a person been elected to fill the office at the election, that person's term of office would have ended.

4.57A. Less candidates than vacancies

(1) This section applies if —

(a) the election is for 2 or more offices of councillor; and

(b) the number of declared nominations is less than the number of offices to be filled.

(2) The candidate or candidates is or are elected.

(3) The local government must hold another election to fill the remaining office or offices if —

(a) the district is not divided into wards and the remaining office or offices constitute more than 25% of all offices of councillor in the district; or

(b) the district is divided into wards and the remaining office or offices constitute more than 25% of all offices of councillor in the ward in question.

Note for this subsection:

An election under this subsection is an extraordinary election — see Division 3 Subdivision 2.

(4) Subsection (3) does not apply if the election is not a general election and the declaration of nominations occurs during a pre-general election period.

(5) If the requirement of subsection (3)(a) or (b), as the case requires, is not met, or if subsection (3) does not apply because of subsection (4), each remaining office is to remain vacant until the time when, had a person been elected to fill the office at the election, that person's term of office would have ended.

(6) Despite subsection (5) —

(a) the local government may apply to the Electoral Commissioner for approval to hold another election to fill the remaining office or offices; and

(b) if the Electoral Commissioner so approves — the local government must hold another election to fill the remaining office or offices.

Note for this subsection:

An election under paragraph (b) is an extraordinary election — see Division 3 Subdivision 2.

(7) Despite subsection (5), a vacancy under subsection (5) is taken to be —

(a) if the district is not divided into wards — a vacancy under section 4.7(3) for the purposes of section 4.7(5); or

(b) if the district is divided into wards — a vacancy under section 4.8(3)(b) for the purposes of section 4.8(5).

4.58. Death of candidate after declaration of nominations begins

(1) If section 4.56 applies and a candidate dies after the declaration of nominations begins but before the filling

of the office or offices to be filled at the election, the election is void and the local government must hold another election to fill the office or offices.

Note for this subsection:

An election under this subsection is an extraordinary election — see Division 3 Subdivision 2.

(2) Despite subsection (1), if the election is not a general election and the candidate dies during a pre-general election period, another election is not to be held under subsection (1) unless —

(a) the local government applies to the Electoral Commissioner for approval to hold another election; and

(b) the Electoral Commissioner so approves.

(3) If another election is not to be held under subsection (1) because of subsection (2), each office that was to be filled at the election is to remain vacant until the time when, had a person been elected to fill the office at the election, that person's term of office would have ended.

(4) If a candidate who has been elected to the office of elector mayor or president dies before the candidate's term of office begins, the local government must hold another election to fill the office of elector mayor or president.

Note for this subsection:

An election under this subsection is an extraordinary election — see Division 3 Subdivision 2.

(5) If a candidate who has been elected to the office of councillor dies before the candidate's term of office begins, Division 3 (including Schedule 4.1A) applies as if the office became vacant under section 2.32 on the 1st day of that term of office.

48. Section 4.61 deleted

Delete section 4.61.

49. Section 4.63 amended

In section 4.63(2) delete "himself or herself " and insert:

themself or a deputy returning officer

50. Section 4.64 amended

(1) In section 4.64(1) after "given" insert:

by the Electoral Commissioner

(2) Delete section 4.64(1A).

51. Section 4.73 amended

(1) Delete section 4.73(3) and insert:

(3) When subsection (2) applies, if the number of other candidates is equal to the number of offices to be filled at the election, the other candidate or candidates is or are elected unopposed.

(2) In section 4.73(5) delete "(3)(b) or".

52. Section 4.73A deleted

Delete section 4.73A.

53. Section 4.75 amended

In section 4.75(2) delete "(1) the returning officer, if appointed under section 4.20(4)," and insert:

(1), the returning officer

54. Section 4.77 amended

(1) In section 4.77 delete "4.57" and insert:

4.57A(2)

(2) In section 4.77 in the note delete "and Schedule 4.1B clause 1(5)".

55. Section 4.78 deleted

Delete section 4.78.

56. Section 4.79 amended

(1) In section 4.79(1) delete "A returning officer is to" and insert:

The Electoral Commissioner must

(2) Delete section 4.79(3) and (4) and insert:

(3) The Electoral Commissioner —

(a) may provide the Minister with a report on the conduct of the election; and

(b) must, if directed by the Minister to do so, provide the Minister with a report on the conduct of the election dealing with the matters

set out in the direction or prescribed for the purposes of this paragraph.

57. Section 4.80 amended

In section 4.80(2) in the definition of ***invalidity complaint***:

(a) delete paragraph (c);

(b) in paragraph (d) delete "or Schedule 4.1B clause 1(5)".

58. Section 4.81 amended

(1) Delete section 4.81(3)(ba) to (d) and insert:

(c) any declaration made under Schedule 4.1A clause 19 by the returning officer is of no effect; and

(d) any office of member filled under Schedule 4.1A by a candidate in the election is vacant; and

(e) the court must fix a day for holding any poll needed for a fresh election.

Note for this subsection:

See section 4.18A in relation to the holding of a fresh election.

(2) In section 4.81(5):

(a) delete "or Schedule 4.1B clause 1(5)" (1st occurrence);

(b) in paragraph (b)(i) delete "19 or Schedule 4.1B clause 1(5) (as the case requires); and" and insert:

19; and

(c) in paragraph (c)(i) delete "or 4.1B";

(d) in paragraph (c)(ii) delete "4.1A or 4.1B;" and insert:

4.1A;

(e) in paragraph (c)(iii) delete "or 4.1B".

59. Section 4.96 amended

(1) Before section 4.96(1) insert:

(1A) In this section —

elections officer means either of the following acting with the authorisation of the Electoral Commissioner —

(a) the returning officer for the election in question;

(b) an officer of the Western Australian Electoral Commission (see the *Electoral Act 1907* section 4A).

(2) In section 4.96(1) delete "the returning officer" and insert:

an elections officer

(3) In section 4.96(2) to (4) delete "returning officer" and insert:

an elections officer

(4) Delete section 4.96(5) and (6) and insert:

(5) After an investigation is carried out under this section, the Electoral Commissioner must provide the Minister with a report on the investigation.

60. Section 4.97 replaced

Delete section 4.97 and insert:

4.97. Prosecutions

(1) A prosecution for an offence against this Part may be commenced only by —

(a) the Electoral Commissioner or a person authorised by the Electoral Commissioner to do so; or

(b) the Inspector or a person authorised by the Inspector to do so.

(2) Subsection (1) does not affect —

(a) the ability of an authorised officer (as defined in the *Criminal Procedure Act 2004* section 80(1)) to commence or conduct a prosecution for an offence against this Part; or

(b) the functions of the Director of Public Prosecutions under the *Director of Public Prosecutions Act 1991*.

(3) If the Electoral Commissioner, or a person authorised by the Electoral Commissioner, commences a prosecution for an offence against this Part that is connected with an election of a local government —

(a) any expenses incurred by, and any costs awarded against, the Electoral Commissioner,

or the person authorised by the Electoral Commissioner, in connection with the proceedings are expenses of the Electoral Commissioner in connection with the election for the purposes of section 4.28(1)(c); and

(b) the Electoral Commissioner, or the person authorised by the Electoral Commissioner, must pay to the local government any fees or costs paid to the Electoral Commissioner, or the person authorised by the Electoral Commissioner, in respect of the proceedings.

(4) Subsection (3)(a) does not limit section 4.28(1)(c).

61. Section 5.11 amended

In section 5.11(1)(d) and (2)(d) delete "ordinary elections" and insert:

general election

Note: The heading to amended section 5.11 is to read:

Tenure of committee member

62. Section 5.128 amended

In section 5.128(5)(a) delete "ordinary" and insert:

general

63. Section 8.15C amended

At the end of section 8.15C(3) insert:

Note for this subsection:
See also section 8.28(2A).

64. Section 8.28 amended

After section 8.28(2) insert:

(2A) An order suspending a council (including an order made under section 8.15C(2)) ceases to have effect if —

(a) a declaration made under section 2.36A or 2.37 in relation to the local government takes effect; or

(b) a commissioner is appointed under section 2.37A(1) for the local government.

Note: The heading to amended section 8.28 is to read:
Period of suspension

65. Section 8.29 amended

Delete section 8.29(3) and (4) and insert:

(3) The suspension of a council does not prevent —

(a) a declaration being made under section 2.36A or 2.37 in relation to the local government; or

(b) a commissioner being appointed under section 2.37A(1) for the local government.

66. Section 8.30B amended

In section 8.30B(3)(a) delete "3 and" and insert:

2 to

67. Section 8.30C amended

In section 8.30C(1)(a):

(a) in subparagraph (i) delete "the Table to";

(b) in subparagraph (ii) delete "2.37(1)" and insert:

2.37(1), (1A)

68. Section 8.33 amended

At the end of section 8.33 insert:

Note for this section:

See section 4.17 in relation to the filling of the offices of members of the council again.

69. Section 8.34 deleted

Delete section 8.34.

70. Section 8A.25 amended

In section 8A.25(6)(d)(i) delete "3 and" and insert:

2 to

71. Section 9.24 amended

After section 9.24(1) insert:

(1A) Subsection (1) does not apply to an offence to which section 4.97(1) applies.

72. Section 9.63A amended

In section 9.63A(1) in the definition of ***excluded provision*** paragraph (e) delete "4.1A, 4.1B, 4.1 or 4.2 or a provision of any" and insert:

4.1A or 4.1 or a provision of either

73. Schedule 2.3 amended

Delete the reference after the heading to Schedule 2.3 and insert:

[s. 2.11, 2.15 and 4.5]

74. Schedule 2.3 clause 1 amended

(1) In Schedule 2.3 clause 1 delete the definition of ***extraordinary vacancy*** and insert:

extraordinary vacancy means —

(a) a vacancy in the office that occurs under section 2.34(1); or

(b) a vacancy in the office of elector mayor or president that means that the office of mayor or president is to be held by a councillor under section 4.5(3);

(2) In Schedule 2.3 clause 1 in the definition of ***office*** delete "president." and insert:

president (except in paragraph (b) of the definition of ***extraordinary vacancy*** in this clause).

75. Schedule 2.3 clause 2 amended

(1) Delete Schedule 2.3 clause 2(1)(a) and (b) and insert:

(a) at the first meeting of the council after a general election day or an election under section 4.15(4)(a), 4.16(4)(a) or 4.17(4)(a); and

(b) at the first meeting of the council after an extraordinary vacancy occurs.

(2) In Schedule 2.3 clause 2(2) delete "occurs in the office," and insert:

occurs,

76. Schedule 2.3 clause 7 amended

(1) Delete Schedule 2.3 clause 7(1)(a) and insert:

(a) at the first meeting of the council after a general election day or an election under section 4.15(4)(a), 4.16(4)(a) or 4.17(4)(a); and

(2) Delete Schedule 2.3 clause 7(2)(a) and insert:

(a) as the next matter dealt with after the mayor or president is elected at the first meeting of the council after a general election day or an election

under section 4.15(4)(a), 4.16(4)(a) or 4.17(4)(a); and

77. Schedule 4.1A amended

Delete the reference after the heading to Schedule 4.1A and insert:

[s. 4.7 and 4.8]

78. Schedule 4.1A clause 1 amended

(1) In Schedule 4.1A clause 1 delete the definition of ***former member***.

(2) In Schedule 4.1A clause 1 insert in alphabetical order:

former councillor means the councillor referred to in clause 2(1)(a);

(3) In Schedule 4.1A clause 1 in the definition of ***vacancy day*** delete "2(1)(c);" and insert:

2(1)(a);

79. Schedule 4.1A clause 1A inserted

At the end of Schedule 4.1A Division 1 insert:

1A. More than half of offices of members of council vacant

Despite any other clause of this Schedule, if more than half of the offices of members of a council are vacant, none of those vacancies can be filled under this Schedule.

80. Schedule 4.1A clause 2 amended

(1) Delete Schedule 4.1A clause 2(1) and insert:

(1) Subclauses (2) to (5) apply if —

(a) the office of a councillor becomes vacant under section 2.32 on a day (the ***vacancy day***); and

(b) the former councillor —

(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; or

(iii) was elected under clause 13 of this Schedule (including as applied under clause 17);

and

(c) section 4.6 does not apply to the vacancy.

(2) Delete Schedule 4.1A clause 2(6).

(3) In Schedule 4.1A clause 2 delete the note.

Note: The heading to amended Schedule 4.1A clause 2 is to read:

Certain extraordinary vacancies to be filled under Schedule

81. Schedule 4.1A clause 3 amended

In Schedule 4.1A clause 3 delete "member" and insert:

councillor

82. Schedule 4.1A clause 4 amended

(1) Delete Schedule 4.1A clause 4(3) and insert:

(3) If the unsuccessful candidate notifies the CEO under subclause (2), the unsuccessful candidate is elected to the vacant office on the day after the day on which the CEO is notified.

(2) In Schedule 4.1A clause 4(4)(a):

(a) delete subparagraph (i);

(b) delete subparagraph (ii) and insert:

(ii) on the vacancy day, the unsuccessful candidate is a member of the council;

83. Schedule 4.1A Division 3 Subdivision 2 heading amended

In the heading to Schedule 4.1A Division 3 Subdivision 2 delete "**member**" and insert:

councillor

84. Schedule 4.1A clause 5 amended

(1) In Schedule 4.1A clause 5(1) delete "member" and insert:

councillor

(2) In Schedule 4.1A clause 5(2) delete the definition of ***second placed candidate*** and insert:

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

(3) In Schedule 4.1A clause 5(2) in the definition of ***candidate***:

(a) in paragraph (a) delete "member" and insert:

> councillor

(b) delete paragraph (b) and insert:

> (b) does not include the former councillor;

85. Schedule 4.1A clause 6 amended

(1) Delete Schedule 4.1A clause 6(3) and insert:

> (3) If the second placed candidate notifies the CEO under subclause (2), the second placed candidate is elected to the vacant office on the day after the day on which the CEO is notified.

(2) Delete Schedule 4.1A clause 6(4)(a)(i) and insert:

> (i) on the vacancy day, the second placed candidate is a member of the council;

86. Schedule 4.1A clause 7 amended

(1) Delete Schedule 4.1A clause 7(4) and insert:

(4) If the third placed candidate notifies the CEO under subclause (3), the third placed candidate is elected to the vacant office on the day after the day on which the CEO is notified.

(2) In Schedule 4.1A clause 7(5)(a):

(a) delete subparagraph (i);

(b) delete subparagraph (ii) and insert:

(ii) on the vacancy day, the third placed candidate is a member of the council;

87. Schedule 4.1A Division 3 Subdivision 3 heading amended

In the heading to Schedule 4.1A Division 3 Subdivision 3 delete "**member**" and insert:

councillor

88. Schedule 4.1A clause 8 amended

(1) In Schedule 4.1A clause 8(1) delete "member" and insert:

councillor

(2) In Schedule 4.1A clause 8(2) in the definition of ***continuing candidate*** delete paragraph (b) and insert:

(b) does not include the former councillor;

(3) In Schedule 4.1A clause 8(2) in the definitions of ***election*** and ***last count*** delete "member" and insert:

councillor

(4) In Schedule 4.1A clause 8(2) in the definition of ***second placed candidate*** delete "subclauses (3) to (5)," and insert:

subclause (3),

(5) In Schedule 4.1A clause 8(2) in the definition of ***third placed candidate*** delete "to (5)," and insert:

and (5),

(6) Delete Schedule 4.1A clause 8(4).

89. Schedule 4.1A clause 9 amended

(1) Delete Schedule 4.1A clause 9(3) and insert:

(3) If the second placed candidate notifies the CEO under subclause (2), the second placed candidate is elected to the vacant office on the day after the day on which the CEO is notified.

(2) Delete Schedule 4.1A clause 9(4)(a)(i) and insert:

(i) on the vacancy day, the second placed candidate is a member of the council;

90. Schedule 4.1A clause 10 amended

(1) Delete Schedule 4.1A clause 10(4) and insert:

(4) If the third placed candidate notifies the CEO under subclause (3), the third placed candidate is elected to the vacant office on the day after the day on which the CEO is notified.

(2) In Schedule 4.1A clause 10(5)(a):

(a) delete subparagraph (i);

(b) delete subparagraph (ii) and insert:

(ii) on the vacancy day, the third placed candidate is a member of the council;

91. Schedule 4.1A clause 11 amended

(1) In Schedule 4.1A clause 11(1) delete "member" and insert:

councillor

(2) In Schedule 4.1A clause 11(2) delete the definition of ***candidate***.

(3) In Schedule 4.1A clause 11(2) insert in alphabetical order:

candidate means a candidate in the election;

third unelected candidate, subject to subclauses (3) to (7), means the unelected candidate who, when the last office to be filled at the election was filled, had the third highest number of votes of all the unelected candidates;

(4) In Schedule 4.1A clause 11(2) in the definition of ***election*** delete "member" and insert:

councillor

(5) In Schedule 4.1A clause 11(2) in the definition of ***first unelected candidate*** delete "(6)," and insert:

(5),

(6) Delete Schedule 4.1A clause 11(3) and insert:

(3) If 2 or more unelected candidates had the same number of votes when the last office to be filled at the election was filled and if the case requires it to be done, subclause (4) must be applied for the purpose of determining 1 or more of the following as the case requires —

(a) the unelected candidate who is the first unelected candidate;

(b) the unelected candidate who is the second unelected candidate;

(c) the unelected candidate who is the third unelected candidate.

(7) In Schedule 4.1A clause 11(4) delete "both —" and insert:

the third unelected candidate or 2 or all of those unelected candidates —

(8) In Schedule 4.1A clause 11(5):

(a) in paragraph (b) delete "candidate." and insert:

candidate; and

(b) after paragraph (b) insert:

(c) the candidate who was the third last candidate to be excluded under Schedule 4.1 clause 11 is to be the third unelected candidate.

(9) Delete Schedule 4.1A clause 11(6) and insert:

(6) If there is only 1 unelected candidate —

(a) the candidate who was the last candidate to be excluded under Schedule 4.1 clause 11 is to be the second unelected candidate; and

(b) the candidate who was the second last candidate to be excluded under Schedule 4.1 clause 11 is to be the third unelected candidate.

(7) If there are only 2 unelected candidates, the candidate who was the last candidate to be excluded under Schedule 4.1 clause 11 is to be the third unelected candidate.

92. Schedule 4.1A clause 12 amended

(1) Delete Schedule 4.1A clause 12(3) and insert:

(3) If the first unelected candidate notifies the CEO under subclause (2), the first unelected candidate is elected to the vacant office on the day after the day on which the CEO is notified.

(2) Delete Schedule 4.1A clause 12(4)(a)(i).

93. Schedule 4.1A clause 13 amended

Delete Schedule 4.1A clause 13(4) and insert:

(4) If the second unelected candidate notifies the CEO under subclause (3), the second unelected candidate is elected to the vacant office on the day after the day on which the CEO is notified.

94. Schedule 4.1A clause 13A inserted

At the end of Schedule 4.1A Division 4 insert:

13A. Filling of vacancy by third unelected candidate

(1) This clause applies only if the vacancy —

(a) cannot be filled under clause 12; and

(b) cannot be filled under clause 13.

(2) Within 25 working days after the vacancy day, the CEO must notify the third unelected candidate —

(a) that the office has become vacant; and

(b) that the third unelected candidate may fill the vacancy.

(3) If the third unelected candidate is notified under subclause (2), the third unelected candidate may, within 5 working days after the day on which they are notified, notify the CEO —

(a) that they want to fill the vacancy; and

(b) that they consider that they are qualified to be elected to the council under section 2.19.

(4) If the third unelected candidate notifies the CEO under subclause (3), the third unelected candidate is elected to the vacant office on the day after the day on which the CEO is notified.

(5) Despite subclauses (2) to (4), the vacancy cannot be filled under this clause —

(a) if any of the following applies —

(i) there is no third unelected candidate;

(ii) on the vacancy day, the third unelected candidate is a member of the council;

(iii) the third unelected candidate has died before the vacancy day;

(iv) the third unelected candidate does not, or cannot because of subclause (6), notify the CEO under subclause (3);

(v) the third unelected candidate dies before the day on which they are elected under subclause (4);

or

(b) in any prescribed circumstances.

(6) The third unelected candidate cannot notify the CEO under subclause (3) if the third unelected candidate notifies, or has notified, the CEO under that subclause in relation to another vacancy.

95. Schedule 4.1A Division 5 heading replaced

Delete the heading to Schedule 4.1A Division 5 and insert:

Division 5 — Former councillor elected under cl. 6, 9, 12 or 13

96. Schedule 4.1A clause 14 replaced

Delete Schedule 4.1A clause 14 and insert:

14. Terms used

In this Division —

original former councillor means —

(a) if the former councillor was elected under clause 6, 9 or 12 — the person to whose vacant office the former councillor was elected; or

(b) if the former councillor was elected under clause 13 but not as applied under clause 17 — the person to whose vacant office the former councillor was elected; or

(c) if the former councillor was elected under clause 13 as applied under clause 17 — the person who was the original former councillor when clause 13 was applied under clause 17;

original vacancy means the vacancy in the office of the original former councillor.

97. Schedule 4.1A clause 15 amended

(1) In Schedule 4.1A clause 15(1) delete "member" and insert:

councillor

(2) In Schedule 4.1A clause 15(2):

(a) in paragraph (b) delete "member (rather than the original former member);" and insert:

councillor (rather than the original former councillor);

(b) in paragraph (c) delete "5;" and insert:

5.

(c) delete paragraph (d).

Note: The heading to amended Schedule 4.1A clause 15 is to read:

Former councillor elected under cl. 6

98. Schedule 4.1A clause 16 amended

(1) In Schedule 4.1A clause 16(1) delete "member" and insert:

councillor

(2) In Schedule 4.1A clause 16(2):

(a) in paragraph (b) delete "member (rather than the original former member);" and insert:

councillor (rather than the original former councillor);

(b) in paragraph (c) delete "5;" and insert:

5.

(c) delete paragraph (d).

Note: The heading to amended Schedule 4.1A clause 16 is to read:

Former councillor elected under cl. 9

99. Schedule 4.1A clause 17 amended

(1) In Schedule 4.1A clause 17(1) delete "member" and insert:

councillor

(2) In Schedule 4.1A clause 17(2):

(a) in paragraph (b) delete "member (rather than the original former member);" and insert:

councillor (rather than the original former councillor);

(b) in paragraph (c) delete "5;" and insert:

5.

(c) delete paragraph (d).

Note: The heading to amended Schedule 4.1A clause 17 is to read:

Former councillor elected under cl. 12: filling vacancy by second unelected candidate

100. Schedule 4.1A clauses 17A and 17B inserted

At the end of Schedule 4.1A Division 5 insert:

17A. Former councillor elected under cl. 12: filling vacancy by third unelected candidate

(1) This clause applies if —

(a) the former councillor was elected under clause 12; and

(b) the vacancy cannot be filled under clause 13 as applied under clause 17.

(2) Clause 13A applies in relation to the filling of the vacancy as follows —

(a) as if the original vacancy could not be filled under clause 12 and could not be filled under clause 13;

(b) as if references to the vacancy day were to the vacancy day in relation to the former councillor (rather than the original former councillor);

(c) as if the number of working days referred to in subclause (2) were 15.

17B. Former councillor elected under cl. 13

(1) This clause applies if the former councillor was elected under clause 13 (including as applied under clause 17).

(2) Clause 13A applies in relation to the filling of the vacancy as follows —

(a) as if the original vacancy could not be filled under clause 12 and could not be filled under clause 13;

(b) as if references to the vacancy day were to the vacancy day in relation to the former councillor (rather than the original former councillor);

(c) as if the number of working days referred to in subclause (2) were 5.

101. Schedule 4.1A clause 19 amended

(1) Delete Schedule 4.1A clause 19(1)(b) and insert:

(b) the third placed candidate.

(2) Delete Schedule 4.1A clause 19(2)(b) and insert:

(b) the third placed candidate.

(3) In Schedule 4.1A clause 19(3):

(a) delete paragraph (a) and insert:

(a) the first unelected candidate;

(b) in paragraph (b) delete "candidate." and insert:

candidate;

(c) after paragraph (b) insert:

(c) the third unelected candidate or that there is no third unelected candidate.

102. Schedule 4.1B deleted

Delete Schedule 4.1B.

103. Schedule 4.2 deleted

Delete Schedule 4.2.

Division 2 — *City of Perth Act 2016* amended

104. Act amended

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

105. Section 20 amended

Delete section 20(3) and insert:

(3) Subsection (1) is subject to the *Local Government Act 1995* section 4.5.

Part 3 — Election timetable, nominations and invalidity complaints

106. Act amended

This Part amends the *Local Government Act 1995*.

107. Section 1.4 amended

In section 1.4 insert in alphabetical order:

declaration of nominations means the declaration of nominations for an election under section 4.54;

108. Section 1.4A amended

In section 1.4A(1) in the definition of ***caretaker period***:

(a) delete paragraph (a) and insert:

(a) begins when the declaration of nominations for a relevant election of the local government begins; and

(b) delete paragraph (b)(ii).

109. Section 2.28 amended

In section 2.28 in the Table:

(a) in item 5 delete "nomination" and insert:

the declaration of nominations

(b) in item 6 delete "nomination day," and insert:

day of the declaration of nominations,

(c) in items 7, 8 and 9 delete "nomination" and insert:

the declaration of nominations

110. Section 4.32 amended

(1) In section 4.32(4) after "Except" insert:

if the CEO is required to act earlier

(2) Delete section 4.32(5A) and insert:

(5A) If a claim is made before the close of enrolments as defined in section 4.39(1), the CEO must decide whether to accept or reject the claim no later than the 57th day before election day.

111. Section 4.33 amended

(1) In section 4.33(2B)(a) delete "56" and insert:

65

(2) In section 4.33(3) delete "57" and insert:

66

112. Section 4.39 amended

(1) In section 4.39(1) delete "57th" and insert:

66th

(2) After section 4.39(1) insert:

(1A) Subsection (1) is subject to sections 4.41(2) and 4.44A.

(3) In section 4.39(2):

(a) delete "77th" and insert:

86th

(b) delete "63rd" and insert:

72nd

113. Section 4.40 amended

(1) In section 4.40(1) delete "63rd" and insert:

77th

(2) In section 4.40(2) delete "On or before the 43rd" and insert:

Subject to section 4.37(3), on or before the 54th

114. Section 4.41 amended

(1) In section 4.41(1) delete "On or before the 43rd" and insert:

Subject to section 4.37(3), on or before the 54th

(2) Delete section 4.41(2) and insert:

(2) The owners and occupiers roll —

(a) must include the name of each person (other than a person who will be under 18 years of age on election day) —

(i) who was an elector of the district or ward under section 4.30 at the close of enrolments; or

(ii) who became an elector of the district or ward under section 4.30 after the close of enrolments after having made an enrolment eligibility claim under section 4.32(1) before the close of enrolments that was accepted on or before the 57th day before election day;

and

(b) must be certified to that effect by the CEO.

115. Section 4.47 amended

In section 4.47(1):

(a) delete "63rd" and insert:

64th

(b) delete "52nd" and insert:

53rd

116. Section 4.49 amended

In section 4.49(a):

(a) delete "51st" and insert:

52nd

(b) delete "4 p.m. on the 44th" and insert:

12 noon on the 45th

117. Section 4.51 amended

(1) Delete section 4.51(1) and (2) and insert:

(1) The returning officer must reject a nomination if the returning officer is satisfied that —

(a) the candidate is not eligible under section 4.48(1) or (2), as the case requires; or

(b) the nomination is not effective under section 4.49.

(2) Otherwise, the returning officer must accept the nomination.

(2) In section 4.51(3) delete "(1)(a)," and insert:

(1)(b),

Note: The heading to amended section 4.51 is to read:

Acceptance and rejection of nominations

118. Section 4.52 amended

In section 4.52(1) in the definition of ***relevant information*** paragraph (b) after "4.51(3)" insert:

or 4.53A(3)

119. Section 4.53 amended

(1) In section 4.53(1) delete "close of nominations." and insert:

declaration of nominations begins.

(2) In section 4.53(2):

(a) in paragraph (a) delete "close of nominations; and" and insert:

declaration of nominations begins; and

(b) in paragraph (b) delete "close of nominations." and insert:

declaration of nominations begins.

(3) In section 4.53(3)(b) and (4) delete "close of nominations." and insert:

declaration of nominations begins.

Note: The heading to amended section 4.53 is to read:

Cancellation of nomination because of candidate's withdrawal, death or unopposed election as mayor or president

120. Section 4.53A inserted

At the end of Part 4 Division 9 Subdivision 3 insert:

4.53A. Cancellation of nomination by returning officer

(1) The returning officer must cancel the nomination of a candidate if, after accepting the nomination but before the declaration of nominations begins, the returning officer becomes satisfied that —

(a) the candidate is not eligible under section 4.48(1) or (2), as the case requires; or

(b) the nomination is not effective under section 4.49.

(2) A nomination cannot be cancelled under subsection (1) after the declaration of nominations begins.

(3) Despite subsection (1)(b), if the profile of the candidate does not meet the requirements of regulations, the returning officer may amend the profile to meet those requirements instead of cancelling the nomination.

(4) If the returning officer cancels a nomination or amends a profile, the returning officer must give written notice of the decision, and the reasons for it, to the candidate without delay.

(5) If the returning officer cancels a nomination, 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 declaration of nominations begins.

121. Section 4.54 amended

In section 4.54(1) delete "As soon as possible after nominations have closed" and insert:

On the 44th day before election day,

122. Section 4.55 amended

In section 4.55 delete "If, at the close of nominations, the number of candidates" and insert:

If the number of declared nominations

123. Section 4.56 amended

In section 4.56 delete "If, at the close of nominations, the number of candidates" and insert:

If the number of declared nominations

124. Section 4.57 amended

(1) Delete section 4.57(1) and insert:

(1) If there are no nominations to be declared, an extraordinary election is to be held to fill the office or offices that were to be filled at the election as if the office or offices had become vacant on the day after the close of nominations.

(2) In section 4.57(2) delete "If, at the close of nominations, the number of candidates" and insert:

If the number of declared nominations

(3) After section 4.57(2) insert:

(2A) Subsection (3) applies if, for an extraordinary election required under subsection (1) or (2) —

(a) there are no nominations to be declared; or

(b) the number of declared nominations is less than the number of offices to be filled at the extraordinary election.

(4) In section 4.57(3) delete "If, at the close of nominations for an extraordinary election required under subsection (1) or (2) there are no candidates or the number of candidates is less than the number of offices to be filled at the election, the" and insert:

The

125. Section 4.58 amended

In section 4.58(1) delete "close of nominations" and insert:

declaration of nominations begins

126. Section 4.80 amended

(1) Delete section 4.80(1) and insert:

(1) Any of the following who is dissatisfied with the result of an election or with the way in which an election was conducted may make an invalidity complaint —

(a) a candidate in the election;

(b) a person whose nomination for candidate in the election was rejected or cancelled under section 4.51 or 4.53A;

(c) at least 2 electors in the district or ward, as the case requires, acting jointly;

(d) the CEO of the local government;

(e) the Electoral Commissioner;

(f) the Inspector.

(2) In section 4.80(2) in the definition of ***invalidity complaint*** paragraph (b) delete "person" and insert:

person, or that a person,

127. Section 4.81 amended

(1) Delete section 4.81(1) and insert:

(1) An invalidity complaint —

(a) must be made to a Court of Disputed Returns, constituted by a magistrate; and

(b) must describe the complaint and the basis for it, including the facts relied on; and

(c) cannot be made later than —

(i) if there were no nominations of candidates to be declared for the election under section 4.54 — the 28th day after the day on which the close of nominations fell; or

(ii) otherwise — the 28th day after the day on which the result of the election was declared under section 4.77.

(2) Delete section 4.81(4) and insert:

(4) If the court declares that an unsuccessful candidate ought to have been elected —

(a) the unsuccessful candidate is to be regarded as having been elected; and

(b) notice of the unsuccessful candidate's election is to be published in accordance with regulations; and

(c) if the court's declaration states that the unsuccessful candidate ought to have been elected in place of a candidate who was elected at the election — the candidate who was

elected at the election is not to act as a member of the council.

(4A) In subsection (4) —

unsuccessful candidate means —

(a) a candidate in the election who was not elected; or

(b) a person whose nomination for candidate in the election was rejected or cancelled under section 4.51 or 4.53A.

Part 4 — Creating, changing the boundaries of, and abolishing districts

128. Act amended

This Part amends the *Local Government Act 1995*.

129. Schedule 2.1 clause 5 amended

Delete Schedule 2.1 clause 5(2) and insert:

(2) In carrying out the formal inquiry, the Advisory Board's paramount consideration is —

(a) the long-term financial viability of local governments; and

(b) the effective delivery of local government services.

(3) Without limiting the paramount consideration, the Advisory Board must also consider submissions made to it under clause 4(2)(c) or (4)(b) and have regard to —

(a) the following, to the extent relevant —

(i) community of interests;

(ii) physical and topographic features;

(iii) demographic trends;

(iv) economic factors;

(v) planning and development;

(vi) the history of the area;

(vii) transport and communication;

and

(b) any other matter that the Advisory Board considers relevant.

130. Schedule 2.1 clauses 7 to 9 deleted

Delete Schedule 2.1 clauses 7 to 9.

131. Schedule 2.1 clause 10 amended

(1) In Schedule 2.1 clause 10(1) delete "Subject to subclause (2), the" and insert:

The

(2) Delete Schedule 2.1 clause 10(2).

Part 5 — Impounding goods and related matters

Division 1 — *Local Government Act 1995* amended

132. Act amended

This Division amends the *Local Government Act 1995*.

133. Part 3 Division 3 Subdivision 4 heading replaced

Delete the heading to Part 3 Division 3 Subdivision 4 and insert:

Subdivision 4 — Impounding goods

134. Section 3.38 amended

In section 3.38 insert in alphabetical order:

authorised person means a person appointed under section 9.10(2) to be an authorised person for the purposes of this Subdivision;

stock —

(a) means anything prescribed for the purposes of the definition of ***stock*** in the *Biosecurity and Agriculture Management Act 2007* section 6 by regulations made under that Act; but

(b) does not include a dog or a cat (as defined in the *Cat Act 2011* section 3(1));

135. Section 3.39 amended

(1) In section 3.39(1) delete "employee authorised by a local government for the purpose" and insert:

authorised person

(2) In section 3.39(2) delete "A" and insert:

An authorised

136. Section 3.40 amended

(1) In section 3.40(1) delete "employee" (each occurrence) and insert:

authorised person

(2) In section 3.40(2) and (3) delete "the local government" and insert:

an authorised person

137. Section 3.40A amended

(1) In section 3.40A(1):

(a) delete "employee authorised by a local government for the purpose" and insert:

authorised person

(b) delete "the local government," and insert:

an authorised person,

(2) In section 3.40A(2) delete "the local government is to give notice to that person" and insert:

an authorised person must give notice to the owner

(3) In section 3.40A(4) delete "the local government" and insert:

an authorised person

138. Section 3.40B inserted

After section 3.40A insert:

3.40B. Stray stock

(1) An authorised person may remove and impound any stock if —

(a) the stock is in a public thoroughfare or other public place; and

(b) an authorised person is of the opinion that the stock is stray, at large, tethered or grazing.

(2) An authorised person may, at the request of the owner or occupier of any land, remove and impound any stock on the land if an authorised person is of the opinion that the stock is trespassing on the land.

(3) If any stock is removed under subsection (1) or (2), the local government must take reasonable steps to identify, within 7 days after the day on which the stock is removed, the owner of the stock.

(4) If, within that 7 days, the owner of the stock is identified, an authorised person must give notice to the owner advising that the stock may be collected from a place specified, during such hours as are specified, in the notice.

(5) The notice must include a short statement of the effect of subsection (6)(b) and the effect of the relevant provisions of sections 3.46 and 3.47.

(6) An authorised person may declare any stock removed under subsection (1) or (2) to be abandoned stock if —

(a) the owner of the stock is not identified within 7 days after the day on which the stock is removed; or

(b) the owner of the stock, having been given notice under subsection (4), does not collect the stock within 7 days after the day on which they are given the notice.

139. Section 3.41 amended

In section 3.41(1) delete “employee” and insert:

authorised person

Note: The heading to amended section 3.41 is to read:

Notice to collect impounded perishable goods

140. Section 3.46 amended

(1) In section 3.46(1):

(a) delete "goods impounded under section 3.39 or 3.40A" and insert:

anything impounded under section 3.39, 3.40A or 3.40B

(b) delete "them" and insert:

it

(2) In section 3.46(2):

(a) delete "goods removed under section 3.40 or 3.40A" and insert:

anything removed under section 3.40, 3.40A or 3.40B

(b) delete "them" and insert:

it

141. Section 3.47 amended

(1) After section 3.47(2) insert:

(2AA) The local government may sell or otherwise dispose of any stock that has not been collected within 7 days of a declaration being made under section 3.40B(6) that the stock is abandoned stock.

(2) In section 3.47(3) delete "goods under this section as if they" and insert:

anything under this section as if it

(3) After section 3.47(5) insert:

(5A) Money received by a local government from the sale of any stock under subsection (2AA) must be credited to its trust fund except to the extent required to meet the costs referred to in section 3.46 and the expenses incurred by the local government in selling the stock.

(4) In section 3.47(6) delete "any goods" and insert:

anything

Note: The heading to amended section 3.47 is to read:

Disposal of confiscated or uncollected goods

142. Section 3.47A amended

(1) In section 3.47A(1) delete "practicable the local government" and insert:

practicable, an authorised person

(2) In section 3.47A(2) delete "A local government" and insert:

An authorised person

Note: The heading to amended section 3.47A is to read:

Destruction of sick or injured animal

143. Section 3.47B inserted

After section 3.47A insert:

3.47B. Destruction of stock not sold or otherwise disposed of

An authorised person may humanely destroy any stock and dispose of the carcass if —

(a) the local government is authorised under section 3.47(2AA) to sell or otherwise dispose of the stock; and

(b) after taking reasonable steps to do so, the local government has not sold or otherwise disposed of the stock.

144. Section 9.11 amended

(1) Before section 9.11(1) insert:

(1A) In this section —

authorised person means a person appointed under section 9.10(2) to be an authorised person for the purposes of this section.

(2) In section 9.11(1) and (2) delete "employee of a local government who is authorised by the local government for the purposes of this section" and insert:

authorised person

(3) In section 9.11(4) delete "person who" and insert:

authorised person who

145. Schedule 9.1 amended

At the end of Schedule 9.1 insert:

13. Stray stock

(1) In this clause —

stock —

(a) means anything prescribed for the purposes of the definition of ***stock*** in the *Biosecurity and Agriculture Management Act 2007* section 6 by regulations made under that Act; but

(b) does not include a dog or a cat (as defined in the *Cat Act 2011* section 3(1)).

(2) Regulations may create offences in relation to, or make other provision for preventing or dealing with, any of the following —

(a) the trespass of stock on land;

(b) the escape of stock from land;

(c) the straying of stock, or stock being at large, in a public thoroughfare or other public place;

(d) the tethering or grazing of stock in a public thoroughfare or other public place.

(3) Without limiting subclause (2) —

(a) the offences that may be created under subclause (2) include offences for acts or omissions that allow, or are done or made for the purpose of allowing,

anything referred to in subclause (2)(a) to (d) to occur; and

(b) the other provision that may be made under subclause (2) includes the following —

(i) provision that corresponds to, or is similar to, provision that was contained in the *Local Government (Miscellaneous Provisions) Act 1960* Part XX immediately before the repeal of that Act by the *Local Government Amendment and Repeal Act 2026* section 146;

(ii) provision dealing with the rights and obligations of owners and occupiers of land in relation to trespassing stock.

Division 2 — *Local Government (Miscellaneous Provisions) Act 1960* repealed

146. Repeal

The *Local Government (Miscellaneous Provisions) Act 1960* is repealed.

Division 3 — Related and consequential amendments to other Acts

Subdivision 1 — *Conservation and Land Management Act 1984* amended

147. Act amended

This Subdivision amends the *Conservation and Land Management Act 1984*.

148. Section 108B replaced

Delete section 108B and insert:

108B. Trespassing stock

(1) In this section —

stock has the meaning given in the *Local Government Act 1995* section 3.38.

(2) The *Local Government Act 1995* section 3.40B, and any regulations made under Schedule 9.1 clause 13 of that Act, apply in relation to stock trespassing on land to which this Part applies.

(3) For the purposes of subsection (2) —

(a) the CEO is taken to be the owner of the land; and

(b) authorised officers are taken to be the CEO's agents.

Subdivision 2 — *Government Railways Act 1904* amended

149. Act amended

This Subdivision amends the *Government Railways Act 1904*.

150. Section 53 replaced

Delete section 53 and insert:

53. Trespassing stock

(1) In this section —

stock has the meaning given in the *Local Government Act 1995* section 3.38.

(2) The *Local Government Act 1995* section 3.40B, and any regulations made under Schedule 9.1 clause 13 of that Act, apply in relation to stock trespassing on a railway.

(3) For the purposes of subsection (2), anything that may or must be done by the owner or occupier of land may be done by any person authorised generally or particularly for that purpose by the Authority.

Subdivision 3 — *Planning and Development Act 2005* amended

151. Act amended

This Subdivision amends the *Planning and Development Act 2005*.

152. Section 99 amended

In section 99(2)(f) delete "and the *Local Government (Miscellaneous Provisions) Act 1960*".

153. Section 103 amended

In section 103(2)(g) delete "and the *Local Government (Miscellaneous Provisions) Act 1960*".

154. Section 129 amended

In section 129(1)(a) and (2)(a) delete "*1995* and the *Local Government (Miscellaneous Provisions) Act 1960*; and" and insert:

1995; and

155. Section 262 amended

(1) Before section 262(1) insert:

(1A) In this section —

planning and development local law means a local law made under the *Local Government Act 1995* to the extent that the local law is for carrying into effect all or any of the purposes mentioned in Schedule 8.

(2) Delete section 262(3) and insert:

(3) The Governor may at any time repeal a planning and development local law.

(3) In section 262(4):

(a) delete "by-law made under section 248 of the *Local Government Act 1960*," and insert:

planning and development local law,

(b) delete "by-law or" (each occurrence).

(4) In section 262(6):

(a) delete "by-law made under section 248 of the *Local Government Act 1960*" and insert:

planning and development local law

(b) delete "by-law or" (each occurrence).

156. Part 19 Division 4 inserted

At the end of Part 19 insert:

Division 4 — Provision for *Local Government Amendment and Repeal Act 2026*

314. Injuriously affected property

(1) In this section —

amendment day means the day on which the *Local Government Amendment and Repeal Act 2026* section 155(4) comes into operation.

(2) Section 262(6), as in force immediately before amendment day, continues to apply, on and after amendment day, in the case of a resolution made before amendment day as if the *Local Government Amendment and Repeal Act 2026* section 155(4) had not come into operation.

(3) On and after amendment day, section 262(6), as amended by the *Local Government Amendment and Repeal Act 2026* section 155(4), does not apply in the case of a resolution made before amendment day.

Part 6 — Other matters

157. Act amended

This Part amends the *Local Government Act 1995*.

158. Section 4.28 amended

(1) In section 4.28 delete "A" and insert:

(1) A

(2) At the end of section 4.28 insert:

(2) The Electoral Commissioner —

(a) may recover, in a court of competent jurisdiction, the amount of any expenses that a local government is to meet under subsection (1)(c) as a debt due from the local government to the State; and

(b) may certify in writing —

(i) that specified expenses were expenses of the Electoral Commissioner in connection with a specified election; and

(ii) the amount of the specified expenses.

(3) If the Electoral Commissioner gives a certificate under subsection (2)(b), the certificate is, in any proceedings under subsection (2)(a) or in any other proceedings, sufficient evidence of the following unless the contrary is shown —

(a) that the specified expenses were expenses of the Electoral Commissioner in connection with the specified election;

(b) the amount of the specified expenses.

159. Part 4 Division 10A inserted

After Part 4 Division 10 insert:

Division 10A — Technology assisted voting

4.84A. Terms used

In this Division —

approved procedures means the procedures approved under section 4.84B;

Electoral Commission means the Western Australian Electoral Commission (see the *Electoral Act 1907* section 4A);

eligible elector —

(a) means an elector who cannot vote without assistance because the elector has a sight impairment or other physical impairment or has insufficient literacy skills; but

(b) does not include an elector of a class that is excluded from this definition under regulations;

technology assisted voting means a method of voting by which an eligible elector votes by means of an electronic device, such as by a telephone or by a computer linked to the internet.

4.84B. Electoral Commissioner may approve procedures for technology assisted voting

(1) The Electoral Commissioner may approve procedures to facilitate voting by eligible electors in an election by means of technology assisted voting.

(2) The approved procedures must be in writing and published on a website maintained by, or on behalf of, the Electoral Commission.

(3) The approved procedures must provide for the following —

(a) the registration of an eligible elector before the eligible elector votes by means of technology assisted voting;

(b) the making of a record of each eligible elector who has voted by means of technology assisted voting;

(c) the authentication of the eligible elector's vote;

(d) the secrecy of the eligible elector's vote;

(e) the means of ensuring that any vote cast in accordance with the approved procedures is securely transmitted to the Electoral Commissioner and securely stored by the Electoral Commissioner;

(f) the scrutiny and counting of votes cast in accordance with the approved procedures.

(4) The validity of a vote cast in accordance with the approved procedures cannot be disputed on the ground that the elector could have voted without assistance.

4.84C. Voting under approved procedures

(1) Voting by eligible electors in accordance with the approved procedures is permitted at all elections in

addition to the other methods of voting permitted under this Part.

(2) The Electoral Commissioner must ensure that the option of voting in accordance with the approved procedures is available to eligible electors at all elections.

(3) If an eligible elector casts a vote in accordance with the approved procedures —

(a) the requirements of this Act relating to the elector's right to receive a ballot paper are taken to have been satisfied; and

(b) the requirements of this Act relating to the elector's duties on receiving a ballot paper are taken to have been satisfied; and

(c) the requirements of this Act relating to the marking of a ballot paper are taken to have been satisfied.

(4) Subsections (1) to (3) apply despite any other provision of this Act but are subject to —

(a) subsection (5); and

(b) regulations made for the purposes of section 4.84D(1) as referred to in section 4.84D(2)(c).

(5) The Electoral Commissioner may determine that voting in accordance with the approved procedures is not permitted at elections, or at elections of a class, specified in the determination.

(6) A determination under subsection (5) must be in writing and published on a website maintained by, or on behalf of, the Electoral Commission.

4.84D. Regulations

(1) Regulations may make provision —

(a) in relation to voting by eligible electors by means of technology assisted voting; and

(b) otherwise to give effect to section 4.84C(1) to (3).

(2) Without limiting subsection (1), regulations made for the purposes of that subsection may do any of the following —

(a) provide for any of the matters described in section 4.84B(3);

(b) provide for a provision of this Act that relates to voting at elections not to apply, or to apply with modifications, in the case of voting in accordance with the approved procedures;

(c) provide that voting in accordance with the approved procedures is not permitted at prescribed elections or at elections of a prescribed class.

(3) If the approved procedures are inconsistent with any regulations made for the purposes of subsection (1), the regulations prevail to the extent of the inconsistency.

4.84E. Independent review of methods of technology assisted voting

(1) The Electoral Commissioner must, from time to time as the Electoral Commissioner considers appropriate, engage an independent person —

(a) to review the security, accuracy and secrecy of any method of technology assisted voting used under the approved procedures; and

(b) to prepare a report of the review.

(2) The report may include recommendations to the Electoral Commissioner to reduce or eliminate any risks that could affect the security, accuracy or secrecy of the method of technology assisted voting.

(3) The report must be published on a website maintained by, or on behalf of, the Electoral Commission.

Note:

The description at the beginning of Part 4 is to be altered by inserting after paragraph (e):

(ea) Division 10A deals with technology assisted voting;

160. Section 4.87 amended

(1) Delete section 4.87(1) and insert:

(1) A person commits an offence if —

(a) the person prints, publishes or distributes electoral material or causes electoral material to be printed, published or distributed; and

(b) the name and address of the person who authorised the electoral material does not appear at the end of the electoral material.

Penalty for this subsection: a fine of $5 000.

(2) After section 4.87(2) insert:

(2A) Without limiting subsection (1), the *Electoral Act 1907* section 187B applies in relation to an election under this Part as it applies in relation to an election under that Act.

(2B) A person who is guilty of an illegal practice under the *Electoral Act 1907* section 187B, as applied by subsection (2A), commits an offence.

Penalty for this subsection: a fine of $5 000.

161. Section 4.92A inserted

After section 4.92 insert:

4.92A. Offences relating to technology assisted voting

(1) If a term used in this section is given a meaning in section 4.84A, it has the same meaning in this section.

(2) A candidate in an election, or a person authorised to act on behalf of a candidate in connection with an election, commits an offence if the candidate or person, in relation to the election —

(a) applies undue influence or pressure on an elector to register for voting by means of technology assisted voting under Division 10A; or

(b) interferes with an elector while the elector is registering for voting by means of technology assisted voting under Division 10A.

Penalty for this subsection: imprisonment for 24 months and a fine of $24 000.

(3) For the purposes of the application of subsection (2) to a person authorised to act on behalf of a candidate in connection with an election, it does not matter if the person was not authorised to do the act referred to in subsection (2)(a) or (b).

(4) A person commits an offence if the person unlawfully communicates with, assists or interferes with an elector while the elector is casting a vote by means of technology assisted voting under Division 10A.

Penalty for this subsection: imprisonment for 12 months and a fine of $12 000.

(5) A person commits an offence if the person —

(a) becomes aware of how an elector, voting by means of technology assisted voting under Division 10A, voted; and

(b) gives that information to any other person except in accordance with the approved procedures or regulations made for the purposes of section 4.84D(1).

Penalty for this subsection: imprisonment for 12 months and a fine of $12 000.

(6) Section 4.93(c) does not apply, in the case of the vote of an elector who votes by means of technology assisted voting under Division 10A, if the disclosure is in accordance with the approved procedures or regulations made for the purposes of section 4.84D(1).

(7) A person commits a crime if —

(a) the person discloses to any other person any source code or other computer software that is used, or intended to be used, by the Electoral Commissioner for or in connection with voting by means of technology assisted voting under Division 10A; and

(b) the disclosure is not made in accordance with 1 or more of the following —

(i) the approved procedures;

(ii) regulations made for the purposes of section 4.84D(1);

(iii) an arrangement entered into by the person with the Electoral Commissioner.

Penalty for this subsection: imprisonment for 5 years.

Summary conviction penalty for this subsection: imprisonment for 24 months and a fine of $24 000.

(8) A person commits a crime if, without reasonable excuse, the person destroys or interferes with any computer program, data file or electronic device used, or intended to be used, by the Electoral Commissioner for or in connection with voting by means of technology assisted voting under Division 10A.

Penalty for this subsection: imprisonment for 5 years.

Summary conviction penalty for this subsection: imprisonment for 24 months and a fine of $24 000.

162. Section 5.74 amended

In section 5.74(1) delete the definition of ***designated employee*** and insert:

designated employee means a CEO or a senior employee;

163. Section 5.94 amended

Delete section 5.94(m) and (s).

164. Section 5.95 amended

(1) After section 5.95(1) insert:

(1A) If a return contained in a register of financial interests discloses the address of any real property, a person's right to inspect the register of financial interests under section 5.94 extends only, in relation to the address, to the town or suburb of the address.

(2) In section 5.95(2) delete "(m),".

(3) Delete section 5.95(8).

165. Section 5.96 amended

In section 5.96 delete "this Division," and insert:

section 5.94,

166. Section 5.96AA inserted

After section 5.96 insert:

5.96AA. Access to rate records and registers of owners and occupiers

(1) A person may, in writing, request the CEO to provide the person with information contained in —

(a) a rate record; or

(b) a register of owners and occupiers under section 4.32(6).

(2) The person's request must —

(a) state the purpose for which the person intends to use the requested information; and

(b) include a statutory declaration made by the person in accordance with regulations.

(3) The CEO must not provide information under this section unless the CEO considers that the public interest in providing the information outweighs the public interest in protecting the privacy of personal information.

(4) Regulations may prescribe information that the CEO must not provide under this section.

(5) When providing information to a person under this section, the CEO must inform the person of the purpose for which the CEO agrees to provide the information.

(6) The purpose must be —

(a) the purpose stated in the person's request under subsection (2)(a); or

(b) a narrower purpose determined by the CEO having regard to the public interests referred to in subsection (3).

(7) A person commits an offence if —

(a) the CEO provides the person with information under this section; and

(b) the person uses the information otherwise than for the purpose for which the CEO agrees to provide the information.

Penalty for this subsection: a fine of $10 000.

(8) A person commits an offence if —

(a) the CEO provides the person with information under this section; and

(b) the person discloses the information to another person.

Penalty for this subsection: a fine of $10 000.

(9) A person is exempt from subsection (8) if the disclosure is authorised by the CEO under regulations made for the purposes of subsection (12).

(10) A person commits an offence if —

(a) the CEO provides the person with information under this section; and

(b) the person does not, as soon as practicable after using the information for the purpose for which the CEO agrees to provide the information, ensure that the information and every copy of the information made by the person —

(i) is returned to the CEO or destroyed; or

(ii) in the case of information or a copy in electronic form — is deleted from any computer, device, medium or other storage system on or in which the information or copy was held, retained or stored.

Penalty for this subsection: a fine of $10 000.

(11) A person is exempt from subsection (10) if the person is authorised by the CEO to retain the information under regulations made for the purposes of subsection (12).

(12) Regulations may do the following —

(a) provide for the CEO to be able to authorise a person to disclose or retain information

provided to the person by the CEO under this section;

(b) without limiting paragraph (a), impose duties on, or make other provision in relation to, the following —

(i) a person who is authorised by the CEO to disclose or retain information;

(ii) a person to whom information is disclosed as authorised by the CEO;

(iii) another person to whom information is disclosed following the initial disclosure of the information as authorised by the CEO.

167. Section 6.3 amended

After section 6.3(a) insert:

(aa) where required to do so in consequence of the local government revoking a rate or service charge under section 6.32(3A); or

168. Section 6.16 amended

(1) In section 6.16(1):

(a) delete "impose*" and insert:

impose

(b) delete "* *Absolute majority required.*".

(2) Delete section 6.16(3) and insert:

(3) Fees and charges must be imposed when adopting the annual budget.

(4) Fees and charges may also be —

(a) imposed during a financial year; and

(b) amended from time to time during a financial year.

169. Section 6.19 amended

In section 6.19:

(a) after “impose” insert:

or amend

(b) delete “introducing” and insert:

imposing or amending

(c) in paragraph (b) delete “imposed.” and insert:

imposed or amended.

Note: The heading to amended section 6.19 is to read:

Local government to give notice of fees and charges and of amendments to fees and charges

170. Section 6.32 amended

After section 6.32(3) insert:

(3A) A local government may —

(a) revoke* a rate or service charge that the local government has imposed on the ground that the imposition of the rate or service charge involved an error or was otherwise not in accordance with this Act; and

(b) impose* a new rate or service charge to replace the rate or service charge that is revoked.

** Absolute majority required.*

(3B) The revocation of a rate or service charge under subsection (3A)(a) has the same effect as if the rate or service charge had been quashed by the State Administrative Tribunal.

171. Section 6.36 amended

In section 6.36(3)(a) delete "2" and insert:

4

172. Section 7.1B deleted

Delete section 7.1B.

173. Section 9.25 amended

(1) In section 9.25(1) in the Table insert in alphanumerical order:

s. 4.92A(2), (4), (5), (7) and (8)

(2) In section 9.25(1) in the Table insert in alphanumerical order:

s. 4.93	

Part 7 — Transitional provisions

174. Act amended

This Part amends the *Local Government Act 1995*.

175. Section 2.37 amended

After section 2.37(6) insert:

(7) In the case of a declaration made under this section on or after transition day —

(a) subsections (5) and (6) and section 4.13 do not apply; and

(b) Schedule 9.3 clause 87 applies instead in relation to the filling of the offices of members of the council again.

(8) In subsection (7) —

transition day means the later of the following —

(a) 1 January 2028;

(b) the day after assent day (as defined in the *Local Government Amendment and Repeal Act 2026* section 2(1)(a)).

176. Section 2.37A amended

After section 2.37A(3) insert:

(4) In the case of an order made under subsection (1) on or after transition day —

(a) subsections (2) and (3) and section 4.13 do not apply; and

(b) Schedule 9.3 clause 87 applies instead in relation to the filling of the offices of members of the council again.

(5) In subsection (4) —

transition day means the later of the following —

(a) 1 January 2028;

(b) the day after assent day (as defined in the *Local Government Amendment and Repeal Act 2026* section 2(1)(a)).

177. Section 8.34 amended

After section 8.34(2) insert:

(3) In the case of an order dismissing a council that is made on or after transition day —

(a) subsections (1) and (2) and section 4.14 do not apply; and

(b) Schedule 9.3 clause 87 applies instead in relation to the filling of the offices of members of the council again.

(4) In subsection (3) —

transition day means the later of the following —

(a) 1 January 2028;

(b) the day after assent day (as defined in the *Local Government Amendment and Repeal Act 2026* section 2(1)(a)).

178. Section 9.71 amended

Delete section 9.71(6) and insert:

(6) Schedule 9.3 also has effect —

(a) for the purpose of the transition to —

(i) this Act as enacted after the coming into operation of an enactment amending it; from

(ii) this Act as enacted before the coming into operation of that enactment;

and

(b) otherwise in accordance with its terms.

179. Schedule 9.3 Division 8 inserted

At the end of Schedule 9.3 insert:

Division 8 — Provisions for *Local Government Amendment and Repeal Act 2026*

Subdivision 1 — Preliminary

82. Terms used

In this Division —

1960 Act —

(a) means the *Local Government (Miscellaneous Provisions) Act 1960*; and

(b) includes subsidiary legislation made under that Act, unless otherwise indicated;

2026 amendment Act means the *Local Government Amendment and Repeal Act 2026*.

Subdivision 2 — General elections

83. References to general election and general election day

For the purpose of applying this Subdivision before 1 January 2031, references to a ***general election*** or ***general election day*** have the same meaning as they will have on and after 1 January 2031.

84. Elector mayor or president

In section 1.4, the definition of ***elector mayor or president***, as inserted by section 4(2) of the 2026 amendment Act, includes a person who is elected to an office of elector mayor or president under Schedule 4.1A before 1 January 2031.

85. Term of office of existing office holder

(1) If a person holds an office of elector mayor or president or councillor at the beginning of 1 January 2031, the person's term of office ends on the general election day in 2031.

(2) Without limiting subclause (1), if a person is elected as an elector mayor or president or as a councillor at either of the following, the person's term of office ends on the general election day in 2031 —

(a) an ordinary election held in 2029;

(b) another type of election if the day fixed under this Act for the holding of any poll needed for the election is on or after 20 October 2029 but before 1 January 2031.

(3) Subclause (2) applies before 1 January 2031 despite any other provision of this Act as in force before 1 January 2031.

(4) If a person holds an office of councillor mayor or president at the beginning of 1 January 2031, the person's term of office ends —

(a) if the mayor or president is to be next elected at a general election — on the general election day in 2031; or

(b) if the mayor or president is to be next elected under Schedule 2.3 after the local government's general election or general elections in 2031 — at the start of the 1st meeting of the council after the local government's general election or general elections in 2031.

(5) Subclause (4)(b) applies even if the person is not elected to an office of councillor at the local government's general election or general elections in 2031.

(6) If a person holds an office of deputy mayor or president at the beginning of 1 January 2031, the person's term of office ends at the start of the 1st meeting of the council after the local government's general election or general elections in 2031.

(7) Subclause (6) applies even if the person is not elected to an office of councillor at the local government's general election or general elections in 2031.

86. Existing vacancies under s. 2.32

(1) This clause applies to a vacancy in the office of an elector mayor or president or a councillor under section 2.32 that exists at the beginning of 1 January 2031.

(2) Part 4 Division 3, as inserted by section 30 of the 2026 amendment Act, applies to the vacancy as if the vacancy occurs at the beginning of 1 January 2031, unless the vacancy is covered by clause 87.

(3) Subclause (2) applies despite any action taken in relation to filling the vacancy before 1 January 2031.

(4) However, regulations made for the purposes of clause 102(2) may provide for an election to be held to fill the vacancy if, before 1 January 2031, steps were taken under the electoral requirements for the holding of the election.

87. All offices of members of council vacant

(1) In this clause —

transition day means the later of the following —

(a) 1 January 2028;

(b) the day after assent day (as defined in section 2(1)(a) of the 2026 amendment Act);

transition period means the period beginning on transition day and ending on 31 December 2030.

(2) If a declaration is made under section 2.37 in relation to a local government during the transition period, section 4.15, as to be inserted by section 30 of the 2026 amendment Act, applies as if that section 4.15 were in force at all times during the transition period.

Example for this subclause:

If the transition period begins on 1 January 2028 and a declaration is made under section 2.37 in relation to a local government on 1 July 2028, all offices of members of the council are to be open for election again at the general election or general elections of the local government scheduled for 2031.

(3) If an order is made under section 2.37A(1) in relation to a local government during the transition period, section 4.16, as to be inserted by section 30 of the 2026 amendment Act, applies as if that section 4.16 were in force at all times during the transition period.

Example for this subclause:

If the transition period begins on 1 January 2028 and an order is made under section 2.37A(1) in relation to a local government on 1 July 2028, all offices of members of the council are to be open for election again at the general election or general elections of the local government scheduled for 2031.

(4) If an order dismissing a council is made during the transition period, section 4.17, as to be inserted by section 30 of the 2026 amendment Act, applies as if that section 4.17 were in force at all times during the transition period.

Example for this subclause:

If the transition period begins on 1 January 2028 and an order dismissing a council is made on 1 July 2028, all offices of members of the council are to be open for election again at the general election or general elections of the local government scheduled for 2031.

(5) This Act applies at all times during the transition period with any modifications that are necessary for giving effect to this clause.

88. Existing suspension of council

The Governor's power under section 2.37(1A), as inserted by section 24(1) of the 2026 amendment Act, may be exercised in the case of a suspended council whether the period of suspension begins before, on or after 1 January 2031.

89. Existing enrolment eligibility claims

(1) In this clause —

existing claim means an enrolment eligibility claim made under section 4.32 on the basis of occupation of rateable property that is in effect at the beginning of 1 January 2031.

(2) Section 4.33(2A), as amended by section 37(1) of the 2026 amendment Act, applies in relation to an existing claim as if the reference to the 1st general election day after the claim is accepted were a reference to the general election day in 2031.

90. Existing order under s. 4.1C or 4.1D

(1) This clause applies to an order under section 4.1C or 4.1D that is in force immediately before 1 January 2031.

(2) On and after 1 January 2031, the order —

(a) continues in force as if it had been made under section 4.35B or 4.35C, as inserted by section 38 of the 2026 amendment Act and as the case requires; and

(b) may be revoked or varied accordingly.

91. Existing investigation

(1) The amendments made by section 59 of the 2026 amendment Act do not affect an investigation that is started before 1 January 2031.

(2) Section 4.96, as in force immediately before 1 January 2031, continues to apply in relation to the investigation on and after 1 January 2031.

92. Existing prosecution

(1) The amendments made by sections 44, 60 and 71 of the 2026 amendment Act do not affect a prosecution commenced before 1 January 2031.

(2) If relevant, section 4.97(2), as in force immediately before 1 January 2031, continues to apply in relation to the prosecution on and after amendment day.

Subdivision 3 — Creating, changing the boundaries of, and abolishing districts

93. Conduct of inquiry

(1) In this clause —

amendment day means the day on which section 129 of the 2026 amendment Act comes into operation;

existing proposal means a proposal made under Schedule 2.1 clause 2 before amendment day.

(2) Schedule 2.1 clause 5, as in force immediately before amendment day, continues to apply, on and after amendment day, in relation to an existing proposal as if

section 129 of the 2026 amendment Act had not come into operation.

94. Polls

(1) In this clause —

amendment day means the day on which sections 130 and 131 of the 2026 amendment Act come into operation;

existing proposal means a proposal made under Schedule 2.1 clause 2 before amendment day.

(2) Schedule 2.1 clauses 7 to 10, as in force immediately before amendment day, continue to apply, on and after amendment day, in relation to an existing proposal as if sections 130 and 131 of the 2026 amendment Act had not come into operation.

Subdivision 4 — Impounding goods and related matters

95. Term used: repeal day

In this Subdivision —

repeal day means the day on which section 146 of the 2026 amendment Act comes into operation.

96. Existing new street alignment

(1) In this clause —

existing new street alignment means a new street alignment prescribed by a local law before repeal day under section 364(1) of the 1960 Act as then in force.

(2) On and after repeal day, section 364 of the 1960 Act, as in force immediately before repeal day, continues to apply in relation to an existing new street alignment as if section 146 of the 2026 amendment Act had not come into operation.

(3) Without limiting subclause (2), the local law by which the existing new street alignment is prescribed, as in force immediately before repeal day, continues to apply on and

after repeal day as if section 146 of the 2026 amendment Act had not come into operation.

97. Savings related to Part XX of 1960 Act

(1) On and after repeal day, the 1960 Act, as in force immediately before repeal day, continues to apply in relation to the following as if section 146 of the 2026 amendment Act had not come into operation —

(a) an animal impounded before repeal day;

(b) an animal found trespassing before repeal day.

(2) On and after repeal day, the *Conservation and Land Management Act 1984* section 108B, as in force immediately before repeal day, continues to apply in relation to the following as if sections 146 and 148 of the 2026 amendment Act had not come into operation —

(a) an animal impounded before repeal day;

(b) an animal found trespassing before repeal day.

(3) On and after repeal day, the *Government Railways Act 1904* section 53, as in force immediately before repeal day, continues to apply in relation to the following as if sections 146 and 150 of the 2026 amendment Act had not come into operation —

(a) an animal impounded before repeal day;

(b) an animal found trespassing before repeal day.

98. Offences

(1) Proceedings for an offence committed before repeal day against the 1960 Act, or committed on or after repeal day against the 1960 Act as it continues to apply under clause 97 or otherwise, may be continued or commenced on or after repeal day, and a person may be punished for the offence accordingly.

(2) Subclause (1) applies despite *The Criminal Code* section 11.

Subdivision 5 — Other matters

99. Expenses of Electoral Commissioner

(1) In this clause —

amendment day means the day on which section 158 of the 2026 amendment Act comes into operation.

(2) Section 4.28(2) and (3), as inserted by section 158(2) of the 2026 amendment Act, apply only in relation to expenses of the Electoral Commissioner that are incurred on or after amendment day.

100. Offences related to technology assisted voting

(1) This clause applies before 1 January 2031 if section 161 of the 2026 amendment Act comes into operation before 1 January 2031.

(2) Without limiting section 4.97, a prosecution for either of the following may be commenced by the Electoral Commissioner or a person authorised by the Electoral Commissioner —

(a) an offence against section 4.92A as inserted by section 161 of the 2026 amendment Act;

(b) an offence against section 4.95 of attempting to commit an offence against section 4.92A as inserted by section 161 of the 2026 amendment Act.

101. Audit, risk and improvement committee

(1) In this clause —

amendment day means the day on which section 172 of the 2026 amendment Act comes into operation.

(2) The deletion of section 7.1B by section 172 of the 2026 amendment Act does not affect an appointment under section 5.11A that is in effect in accordance with section 7.1B immediately before amendment day.

(3) Subclause (2) does not prevent the local government terminating the appointment on or after amendment day.

Subdivision 6 — Regulations

102. Transitional regulations

(1) In this clause —

specified means specified or described in the regulations;

transitional matter —

(a) means a matter or issue of a transitional nature that arises as a result of —

(i) any of the amendments to this Act, or to any other written law, made by the 2026 amendment Act; or

(ii) the repeal of the 1960 Act by section 146 of the 2026 amendment Act;

and

(b) includes a saving or application matter.

(2) Regulations may prescribe anything required, necessary or convenient to be prescribed in relation to a transitional matter.

(3) Without limiting subclause (2), regulations made for the purposes of that subclause may provide that specified provisions of this Act or any other written law —

(a) do not apply to, or in relation to, a specified matter or thing; or

(b) apply with specified modifications to, or in relation to, a specified matter or thing.

(4) If regulations made for the purposes of subclause (2) provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in accordance with the *Interpretation Act 1984* section 41(1)(a) but not earlier than the day on which section 179 of the 2026 amendment Act comes into operation, the regulations have effect according to their terms.

(5) If regulations made for the purposes of subclause (2) contain a provision of a kind described in subclause (4), the provision does not operate so as —

(a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the day of publication of those regulations; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.