

**LOCAL GOVERNMENT AMENDMENT BILL 2003**  
**EXPLANATORY MEMORANDUM**

**OVERVIEW OF BILL**

This Bill is the first comprehensive amendment Bill of the *Local Government Act 1995*. It includes various matters resulting from the Department of Local Government and Regional Development's first major review of the legislation since the Act came into operation on 1 July 1996.

The Bill contains amendments to approximately 75 provisions of the Act.

One of the main objectives of the review of the Act has been to remove any inefficient or impractical provisions which have been of concern to local governments since the Act came into operation. The Department's review has also identified a number of areas where the Act needs to be tightened up and Government policies need to be implemented.

Significant changes to the Act included in this Bill are as follows.

- New provisions requiring each council to have an audit committee are included to ensure that council members maintain an involvement in the audit process.
- The references to local government associations are being updated to reflect the new name of the Western Australian Local Government Association and its new constitution as amended under this Bill.
- A new clause is added to the content and intent part of the Act to make it clear that local governments need to consider sustainability outcomes. This will ensure consistency with the State Sustainability Strategy and the proposed Sustainability Act.
- Except for only one case, a special majority of council will no longer be required for various council decisions. Instead, an absolute majority will replace circumstances where the Act requires a special majority decision.
- Provision is made for a new requirement for a referendum where a council wishes to change from a system of electing the mayor or president by the electors to one where the mayor or president is elected by the councillors.
- Local governments will be able to impound and dispose of abandoned vehicle wrecks within a two week period rather than two months as is the present case.
- Local governments will be empowered to close thoroughfares for indefinite periods without re-advertising the closure every four years.
- Local government elections will not be permitted to be held on the same day as State and Federal elections.
- Local governments with no wards will be able to operate with up to 20% of their vacancies unfilled until the next ordinary or extraordinary elections are held.
- A new clause is being added to enable regulations to be made to prescribe the minimum amount of rent that must be paid by an occupier to obtain eligibility to be included on the owners and occupiers roll for an election. Appropriate minimum amounts for different regions, for example metropolitan and country areas, will be specified.
- The period for nominating for council elections has been reduced from 14 days to seven days. This will allow an extra week for the Electoral Commission to prepare postal voting papers.

- The returning officer for an election will be able to reject the nomination of a candidate who is an elector only because he or she is a nominee of a body corporate. This reflects the current eligibility provisions of the Act.
- A specific offence provision is included to penalise councillors who fail to vote at council meetings. Also, a new provision is added requiring the presiding member to use a casting vote in the event of a tie. The use of such a vote is currently discretionary.
- A new clause is included to require the positions of Chief Executive Officers and senior employees to be advertised in accordance with details to be prescribed in regulations. Also, councils will need to have regard to the remuneration levels for Chief Executive Officer positions set by the Salaries and Allowances Tribunal.
- New provisions will allow regulations to be made to specify particular documents which councils shall keep confidential.
- Councils will be able to adopt the next financial year's budget in the month of June. In addition, the approval of the Treasurer will not need to be obtained prior to a council borrowing money or undertaking certain investments.
- New provisions will require any boundary polls to be conducted by the Electoral Commissioner where an amalgamation of local governments is proposed.
- New powers are included for the Local Government Advisory Board to request council reviews of their electoral representation.
- New requirements are being added to clarify the procedures that should be used for elections of mayors, presidents, deputy mayors and deputy presidents by the councillors at the first meeting following ordinary elections. These include the method for calling nominations, the procedure for conducting the election, the declaration of the election and the role of the court of disputed returns.
- The circumstances where councils may enter land to rectify nuisances are being widened to include the enforcement of laws relating to the keeping of bees, dilapidated fencing, artificial light and dangerous private thoroughfares.

There are many other minor amendments included in the Bill which improve the operation of the Act.

The Bill is split into four parts as follows:

- Part 1 – Preliminary;
- Part 2 - Amendments about Audits;
- Part 3 - Amendments about WALGA; and
- Part 4 - Other Amendments.

Part 4 is the largest Part, containing a wide range of amendments to numerous sections of the Act.

Outlined following is an examination of the contents of the Bill on a clause by clause basis.

## CLAUSE NOTES

### PART 1 – PRELIMINARY

#### Clause 1 – Short Title

Clause 1 cites the short title of the Act.

#### Clause 2 – Commencement

Clause 2 provides for the commencement of the Act to be by Governor's proclamation. Many of the amendments require regulations to be prepared before the sections can be brought into operation.

#### Clause 3 – *Local Government Act 1995* amended

Unless otherwise indicated, the *Local Government Act 1995* is the Act being amended.

### PART 2 – AMENDMENTS ABOUT AUDITS

This Part includes new provisions requiring each local government to establish an audit committee.

#### Clause 4 – Section 7.1 amended

Clause 4 amends section 7.1 to include a definition of 'audit committee'.

#### Clause 5 – Division 1A inserted into Part 7

Clause 5 adds a new Division 1A to Part 7 dealing with audit committees and a new section 7.1A.

Section 7.1A(1) requires each local government to establish an audit committee of three or more persons.

Section 7.1A(2) fixes the tenure and membership of the audit committee. Members are to be appointed by an absolute majority decision of the council and can include elected members and other persons (not employees) if the council so resolves. Membership of the committee must include at least three council members and council members are to comprise a majority of the committee. It is intended that councils appoint other persons to these committees to provide for independent membership.

Section 7.1A(3) prevents a Chief Executive Officer (CEO) from being a member of an audit committee and from nominating a person or representative to be a member of the audit committee.

Section 7.1A(4) prevents an employee from being a member of an audit committee.

A new section 7.1B provides for a local government to delegate certain powers and duties to its audit committee apart from the power to delegate.

A new section 7.1C sets the standard of majority required for decisions of the audit committee. Decisions are to be made by a simple majority.

**Clause 6 – Section 7.3 amended**

Clause 6 amends section 7.3(1) to require that any appointment by the council of an auditor will need to be made on a recommendation of the new audit committee.

**Clause 7 – Section 7.9 amended**

Subclause (1) amends section 7.9(2) to provide that any matters needing to be addressed, following an auditor's examination of the annual financial report and accounts, are to be detailed in the auditor's report.

Subclause (2) inserts a new section 7.9(4) which provides power for the Minister to forward a copy of the report referred to in section 7.9(3) to the CEO of the local government for the CEO to deal with under the new section 7.12A. Section 7.9(3) allows for the Minister to direct the auditor of a local government to examine and report on aspects of the accounts and the annual financial report of a local government.

**Clause 8 – Section 7.12A inserted**

Clause 8 inserts a new section 7.12A which establishes the new duties of local governments in relation to audits.

Section 7.12A(1) provides that a local government must assist its auditor and ensure that audits are conducted successfully and in a timely way.

Section 7.12A(2) provides that a local government must meet with the auditor at least once in every year.

Section 7.12A(3) provides that a local government is to examine its auditor's report, determine if any matters raised in the report require action and then ensure the appropriate action is taken.

Section 7.12A(4) provides that a local government is to prepare a report on any necessary actions taken in respect of any audit and forward a copy of that report to the Minister.

**Clause 9 – Section 7.13 amended**

Clause 9 amends section 7.13 to add further important regulation making powers about audits. These may cover the functions of the CEO and audit committee, the selection and recommendation of the auditor, the content of reports, any monitoring action to be taken and the forwarding to the Department of copies of agreements between the local government and auditor.

**PART 3 – AMENDMENTS ABOUT WALGA**

This Part deals with the constitution of the new WALGA which replaces WAMA. This is the peak association representing the interests of local governments which choose to be members.

**Clause 10 – Section 9.58 amended**

Clause 10 amends section 9.58 naming the new WALGA as constituted under the *Local Government Act 1995*.

**Clause 11 – Section 1.4 amended**

Clause 11 amends section 1.4 to delete the definition of WAMA and replace it with a definition of WALGA.

**Clause 12 – 'WAMA' replaced by 'WALGA'**

Clause 12 amends various parts of the *Local Government Act 1995* to replace WAMA with WALGA.

### **Clause 13 – Other Acts consequentially amended – Schedule 1**

Clause 13 provides for Schedule 1 which makes consequential amendments to other Acts.

### **Clause 14 – Transitional and validation provisions – Schedule 2**

Clause 14 provides for Schedule 2 which contains various transitional and validation provisions required for transferring the WAMA operations to the new WALGA.

## **PART 4 – OTHER AMENDMENTS**

Part 4 includes a wide range of amendments to numerous parts of the Act.

### **Clause 15 – Section 1.3 amended**

Clause 15 amends section 1.3 to include a statement reflecting the Government's Sustainability Strategy. This is drafted in the section dealing with the content and intent of the Act.

### **Clause 16 – Section 1.10 repealed and consequential amendments**

Clause 16 amends various sections of the Act to remove references to the concept of a 'special majority'. It is replaced with an absolute majority which will apply consistently to all meetings of councils. The special majority requirement is only retained for section 2.11 (2) dealing with the method of electing the mayor or president.

### **Clause 17 – Amendments about method of electing mayor or president**

Clause 17 includes new provisions which provide for local governments to be required to conduct a referendum if they want to change the system of electing the mayor/president from one where the mayor/president is elected by the electors to one where he or she is elected by the councillors.

Subclauses (1), (2) and (3) include amendments to sections 2.11 and 2.12 to provide for a majority of electors to vote for such a change. But where council is to change from the election by the council method to the election by the electors method, then no poll is required.

Subclause (4) adds a new section 2.12A which sets out the procedure for changing to the election by council method. It requires the giving of local public notice, considering submissions, the Advisory Board preparing the ballot paper question and a summary of the case for and against, the Electoral Commissioner conducting the poll and a limit of once every four years that such a poll may be held.

### **Clause 18 – Section 2.15 amended**

Clause 18 amends section 2.15 to correct an error. The amendment removes the reference to only councillors as all council members participate in the election of the deputy mayor/president.

### **Clause 19 – Section 2.25 amended**

Clause 19 amends section 2.25. It provides for a new requirement for the reasons for councils refusing to grant leave of absence at council meetings to be recorded in the minutes. It also provides that in situations where council members may be disqualified for not attending three consecutive meetings, this will not apply within a period of two months. This will prevent council members from being disqualified within such a short period. This is because councils are now meeting more frequently, with some meeting as often as once every two weeks.

**Clause 20 – Section 2.27 amended, consequential amendment and transitional provision**

Clause 20, subclauses (1) and (2) amend section 2.27 to shorten the period from 28 to 14 days that a council member is to advise the CEO of his or her entitlement to be a council member when the CEO has issued a notice that the person is disqualified. This will ensure that this important matter is resolved sooner.

Subclause (3) amends the section to include a new provision to the effect that if, within 28 days of the notice, the member has not applied to a court for a determination of the matter, then the person is disqualified. This will overcome current problems of these matters not being resolved.

Subclause (4) amends the section to also enable the CEO to take the matter to a court for a determination at any time.

**Clause 21 – Section 2.37 amended**

Clause 21 amends section 2.37 so that the day fixed for an election following the appointment of a commissioner can be up to two years after the appointment rather than the current one year.

**Clause 22 – Section 2.37A amended**

Clause 22 amends section 2.37A so that the day fixed for an election following the appointment of a commissioner can be up to two years after the appointment rather than the current one year.

**Clause 23 – Section 3.12 amended**

Clause 23 amends section 3.12.

Subclause (1) amends the section to remove the requirement for the presiding member at a council meeting to read aloud a summary of the proposed local law. Instead, the amendment requires that regulations will specify what notice is given to the meeting. This will be a tabling of these details.

Subclause (2) amends the section to allow the final advertised notice of a gazetted local law to be a local notice rather than Statewide as currently applies.

Subclause (3) amends the section to clarify that the 'making' of a local law may also include the action of the repeal of a local law.

**Clause 24 – Section 3.16 amended**

Clause 24 amends section 3.16 to allow reviews of local laws to be conducted within a six week period of consultation rather than twelve weeks as currently applies.

**Clause 25 – Section 3.40A inserted and consequential amendments**

Clause 25 adds a new section 3.40A to enable local governments to impound and dispose of abandoned vehicle wrecks in a more efficient way than the current Act allows. This section will enable disposal within a two week period rather than the current two months.

**Clause 26 – Section 3.50 amended**

Clause 26 amends section 3.50 to remove the current four year limit on temporary road closures and allow such closures to be indefinite. The section is redrafted substantially.

**Clause 27 – Section 3.58 amended**

Clause 27 amends section 3.58 to replace the requirement to give statewide public notice with local public notice when disposing of property by private treaty.

**Clause 28 – Section 3.64 amended**

Clause 28 amends section 3.64 to require that the constitutions of regional local governments provide for terms of office for chairpersons and deputies of no more than two years.

**Clause 29 – Section 3.66 amended**

Clause 29 amends section 3.66 to ensure that a person cannot be both a member and an employee of a regional local government at the same time.

**Clause 30 – Sections 4.1A and 4.1B inserted and savings provision**

Clause 30 adds a new section 4.1A which does not allow local government elections to be held on the same day as State and Federal elections or referendums which cover the same areas of the State. A new section 4.1B allows the Governor to set another day that does not conflict with those elections.

**Clause 31 – Section 4.17 amended**

Clause 31 amends section 4.17 to include a new power for a local government with no wards to operate with up to 20% of their vacancies unfilled. This will only apply until the local government is next having ordinary or extraordinary elections. The unfilled 20% of positions must be filled then.

**Clause 32 – Section 4.20 amended and consequential amendment**

Clause 32 amends section 4.20.

Subclauses (1), (2) and (3) amend the section to allow a local government to appoint a person to conduct all future elections. The current section only applies for each election.

Subclauses (4) and (5) allow the current 80 day approval limit by the Electoral Commissioner to be removed where the local government is already having an election for that ward. This will allow any late vacancies to also be filled at that election.

**Clause 33 – Section 4.32 amended**

Clause 33 amends section 4.32 to include a regulation making power to prescribe a minimum amount of annual rent to be paid to be qualified as an occupier of rateable property for entitlement for enrolment. It is proposed to set different amounts for regional and metropolitan areas.

**Clause 34 – Section 4.33 amended**

Clause 34 amends section 4.33 to clarify that where a council is suspended, the occupiers on the owners and occupiers roll are eligible for enrolment for the same period as if ordinary elections had been held.

**Clause 35 – Section 4.35 amended**

Clause 35 amends section 4.35 to correct a drafting error.

**Clause 36 – Section 4.37 amended**

Clause 36 amends section 4.37 to allow rolls prepared for an election to also be used again for an election occurring within 100 days of the previous election. The current section is limited to within 50 days.

**Clause 37 – Section 4.43 amended**

Clause 37 amends section 4.43 to enable regulations to cover procedures for the making of corrections to the rolls.

**Clause 38 – Section 4.48 amended**

Clause 38 amends section 4.48 to clarify eligibility to be a candidate.

Subclause (1) clarifies that a person's qualification is the qualification as at the close of enrolments.

Subclauses (2) and (3) amend the section to clarify that it also covers electoral terms that may end on or before election day.

**Clause 39 – Section 4.49 amended**

Clause 39 amends section 4.49 to change the last day for making nominations to the 37<sup>th</sup> day before election day. It is currently the 30<sup>th</sup> day and moving it to the 37<sup>th</sup> day will give the Electoral Commission more time to organise the preparation and mailing of postal ballot papers.

This reduces the nomination period from 14 days to seven days.

**Clause 40 – Section 4.51 amended**

Clause 40 amends section 4.51 to enable the returning officer for an election to reject the nomination of a candidate where the person is an elector only because he or she is a nominee of a body corporate. This reflects the current limitation set out in section 2.19(2).

**Clause 41 – Section 4.87 amended**

Clause 41 amends section 4.87 to make it clear that the names and addresses of both the authorising person and printer are required on electoral advertising material.

**Clause 42 – Amendments about principal activities**

Clause 42 amends the Act to remove the current detailed requirements for principal activity planning. In their place, a new section 5.56 is included which provides an obligation to plan. Any specifications for those plans are to be set in regulations.

**Clause 43 – Section 5.21 amended**

Clause 43 amends section 5.21 to make it a requirement for the chairperson to cast a second vote in the case of a tie. Also, a new subsection (5) is added to make it an offence not to vote under the section.

**Clause 44 – Section 5.36 amended**

Subclause (1) amends section 5.36(2)(b) to require that an absolute majority decision is needed by council for determining the contract for the CEO.

Subclause (2) repeals section 5.36(4) and replaces it with a new subsection (4) requiring the position of CEO to be advertised in the manner prescribed. The advertisement is to contain the information as prescribed.

Subsection (5) clarifies that this requirement to advertise does not apply in the case of renewing a person's contract.

**Clause 45 – Section 5.37 amended**

Clause 45 amends section 5.37 to require senior employee positions to be advertised in the manner and including such information as set in regulations. This does not apply when a contract is being renewed.

**Clause 46 – Section 5.39 amended and consequential amendment**

Clause 46 amends section 5.39 to allow an employee to act in the position of CEO or senior employee for a maximum period of one year without the requirement for a separate written contract. The amendment also allows an outside person to be employed in the position of senior employee for up to three months without the need for a separate written contract.

Also, a new subsection (7) is included to require councils to consider the recommended remuneration levels for Chief Executive Officers set by the Salaries and Allowances Tribunal when making appointments.

**Clause 47 – Section 5.43 amended**

Clause 47 amends section 5.43 to update the current limits on delegations to CEOs to also include council decisions under sections 5.98A and 5.99A relating to allowances. The sections were added in 1998.

**Clause 48 – Section 5.47 amended**

Clause 48 amends section 5.47 to make it clear that future regulations dealing with superannuation can apply to more than one scheme.

**Clause 49 – Section 5.54 amended**

Clause 49 amends section 5.54 to make the acceptance of the annual report a matter which requires an absolute majority decision and cannot be delegated.

**Clause 50 – Section 5.60A amended**

Clause 50 amends section 5.60A to clarify that a financial interest includes all relationships affecting the local government, council members, employees and committee members. This was the original intent of the section.

**Clause 51 – Section 5.62 amended**

Clause 51 amends section 5.62. A new paragraph (ca) is added to enable regulations to specify other matters which are closely associated financial interests. This will cover minor matters more appropriately left to regulations.

Amendments are also made to remove the reference to the concept of nominal share values being a financial interest and replace it with a more practical method of valuing shares to be set in regulations. A value for all shares as at a particular date in the year is under consideration.

**Clause 52 – Section 5.63 amended**

Clause 52 amends section 5.63 to update the current financial interest exemptions to also include exemptions for sections 5.98A and 5.99A previously added to the Act in 1998. They deal with allowances for deputy mayors/presidents and expenses specified in regulations. The amendments affecting paragraphs (e) and (g) are a drafting improvement to clarify that exemptions relating to regional local governments are covered in (g).

**Clause 53 – Section 5.69 amended**

Clause 53 amends section 5.69 to allow the Minister to approve of financial interest declaration exemptions for more than just one meeting affecting a council. This is a more practical way of giving such approvals.

**Clause 54 – Section 5.95 amended**

Clause 54 amends section 5.95 to add requirements for certain matters to be kept confidential by councils. Subsection (5) is altered to remove the discretion of Chief Executive Officers to determine what personal confidential items may be removed from contracts of employment when inspected by the public. The amendment will provide that only matters prescribed in regulations may be removed.

Subsection (6) is added to allow regulations to be made which will specify particular matters which councils must keep as confidential. Subsection (7) provides for regulations which specify matters which may be kept as confidential.

Subsection (8) provides that if address details on the electoral roll are silent, then those same details cannot be inspected on other information or registers kept by the council.

**Clause 55 – Section 5.103 amended**

Subsection (3) is amended to enable regulations to be made which will prescribe a particular code of conduct for employees (Chief Executive Officers). This is to be a further way of providing councils with the authority to control CEO behaviour.

**Clause 56 – Section 6.2 amended**

Clause 56 amends section 6.2 to enable councils to adopt their annual budgets as early as June. They are currently limited to adopting the budget from 1 July.

**Clause 57 – Section 6.9 amended**

Clause 57 amends section 6.9 to give councils more flexibility in managing trust funds that have been kept for more than 10 years. The current mandatory requirement to place the monies in the municipal fund is removed.

**Clause 58 – Section 6.14 amended**

Clause 58 amends section 6.14 to remove the current power for the Minister and Treasurer to approve investments that do not comply with the *Trustees Act 1962*. The nature of the *Trustees Act 1962* now means that such an approval device is no longer warranted.

**Clause 59 – Section 6.21 amended**

Clause 59 amends section 6.21 by removing the current subsection (1) requiring the Treasurer's approval for local government borrowings. Local governments will no longer need this approval.

A new subsection (1) has been included to deal with regional local governments and providing limits on which security can be given for borrowings.

**Clause 60 – Section 6.23 amended**

Clause 60 amends section 6.23 to include the powers of receivers relating to regional local governments.

**Clause 61 – Section 6.35 amended**

Clause 61 amends section 6.35 to clarify that the current 50% rule for setting minimum rates can apply separately to GRV, UV and differential rating areas. This clarifies current practice.

**Clause 62 – Section 6.51 amended**

Clause 62 amends section 6.51 to correct an anomaly whereby interest currently cannot cover costs of proceedings even though they are a charge on the property. This amendment allows interest to cover such costs.

**Clause 63 – Section 6.62 amended**

Clause 63 amends section 6.62 to enable rates monies paid by owners to be applied for the payment of any outstanding court costs in accordance with section 6.43.

**Clause 64 – Section 6.74 amended and consequential amendment**

Clause 64 amends section 6.74 to clarify that land revested in the Crown because of non-payment of rates can be properly registered with the Registrar of Titles.

**Clause 65 – Section 9.11 amended**

Clause 65 amends section 9.11 to add the date of birth to the information that an employee may demand from a person when enforcing the Act. This is information that will assist incorrectly identifying a person.

**Clause 66 – Section 9.59 amended**

Subsection (2) is amended to provide further regulation making powers to govern the selection and employment process of local government employees, particularly in relation to CEOs.

**Clause 67 – Schedule 2.1 amended and savings provision**

Schedule 2.1 deals with provisions about the boundaries of local governments and the role of the Advisory Board.

Subclause (2) amends Clause 2 requiring that reasons for boundary change be added to any material in proposals sent to the Advisory Board for consideration.

Subclause (3) amends clause 3(2) enabling the Board to recommend the rejection of a proposal where the electors no longer support their proposal.

Subclauses (4) and (5) amend clause 9 requiring that any boundary polls be conducted by the Electoral Commissioner (EC) where the EC agrees.

Subclause (6) is a transitional provision enabling proposals commenced before the operation of this amendment to be completed under the previous provisions.

**Clause 68 – Schedule 2.2 amended**

Schedule 2.2 deals with the functions of the Advisory Board in relation to names, wards and representation of electoral matters.

Subclause (2) provides for an amendment to clause 4(2) which requires any rejection of submissions from electors dealing with these matters to be determined by an absolute majority of council members and referred to the Advisory Board.

Subclause (3) amends clause 4(3) by adding a clause (b) which enables a council to reject a submission where it is no longer supported by the electors who made the submission.

Subclause (4) contains a consequential amendment.

Subclause (5) is renumbering.

Subclause (6) adds a clause 6(2) which gives a council the discretion to carry out a review of its representation where it does not have wards. It also adds a new clause 6(3) which gives the Advisory Board the authority to request a local government to carry out a review at any time in such circumstances as the Board determines.

Subclause (7) and (8) are consequential to earlier amendments.

**Clause 69 – Schedule 2.3 amended**

Schedule 2.3 deals with the method for electing mayors, presidents, deputy mayors and deputy presidents where they are elected by the council.

These clauses add new requirements establishing procedures for how the election formalities are to be conducted. They deal with the calling of nominations, the procedure for conducting the election, the declaration of the election and the Court of Disputed Returns.

Subclause (11) adds a new Division 3 which ensures that any elections conducted by councils to elect the mayor/president or deputy are subject to the same protection for other elections where the results can be reviewed by a Court of Disputed Returns.

**Clause 70 – Schedule 2.4 amended**

Schedule 2.4 which deals with the appointment of commissioners is amended.

Subclause (2) enables a person who is currently a councillor to also be qualified to be a commissioner should the Governor make the appointment under section 2.39 of the Act.

**Clause 71 – Schedule 2.5 amended**

Schedule 2.5 dealing with the administration of the Local Government Advisory Board is amended.

Subclause (2) updates the references to the new name of the Local Government Managers Australia WA Division (LGMA).

Subclause (3) amends the existing limitation on a council member or employee being on the Advisory Board to also include an elector of the district being inquired into.

**Clause 72 – Schedule 3.1 amended**

This clause adds four additional items to Schedule 3.1 which specifies the situations where local governments can issue notices requiring certain nuisances to be rectified on private land. The circumstances where councils may enter land to rectify nuisances are being widened to include the enforcement of laws relating to the keeping of bees, dilapidated fencing, artificial light and dangerous private thoroughfares. The matters are covered in council local laws and these additions to the Schedule will give local governments more enforcement powers in these areas.

**Clause 73 – Schedule 9.3 amended and validation**

Schedule 9.3 deals with transitional arrangements regarding changes from the *Local Government Act 1960* to the *Local Government Act 1995*.

Subclause (2) includes new subsections 33(4a) and (4b), making it clear that old by-laws operating outside the local government district continue to operate even though they have been deemed to be local laws under the 1995 Act.

Subclause (3) validates the operation of those laws since the 1995 Act came into operation.

**Clause 74 – References to ‘Land Act 1933’ changed**

This clause removes out-of-date references to the *Land Act 1933* and replaces them with references to the *Land Administration Act 1997* and the *Transfer of Land Act 1893*.

## **Schedule 1 – Consequential amendments to other Acts**

### **Division 1 amends references in other Acts to the new name of WALGA.**

#### *Caravan Parks and Camping Grounds Act 1995*

This amendment updates the name of WALGA which is represented on the Caravan Parks and Camping Grounds Advisory Committee.

#### *Control of Vehicles (Off-road Areas) Act 1978*

This amendment updates the name of WALGA which is represented on the Off-road Vehicles Advisory Committee.

#### *Country Housing Act 1998*

These amendments update the name of WALGA which is represented on the Country Housing Authority.

#### *Fluoridation of Public Water Supplies Act 1966*

This amendment updates the name of WALGA which is represented on the Fluoridation of Public Water Supplies Advisory Committee.

#### *Library Board of Western Australia Act 1951*

This amendment updates the name of WALGA which has three representatives on the Library Board of Western Australia. The amendment also clarifies that the persons are to be residents of Western Australia.

#### *Litter Act 1979*

This amendment updates the name of WALGA for two representatives on the Keep Australia Beautiful Council.

#### *Local Government Grants Act 1978*

These amendments update the name of WALGA which has three representatives on the WA Local Government Grants Commission.

This amendment also ensures that if a panel of names is not submitted, then the Minister may make the appointment in a similar way as covered in other legislation.

#### *National Trust of Australia (WA) Act 1964*

This amendment updates the name of WALGA which is represented on the Council of the National Trust of Australia (WA).

#### *Regional Development Commissions Act 1993*

This amendment updates the name of WALGA which has two representatives on the Regional Development Council.

#### *Road Safety Council Act 2002*

This amendment updates the name of WALGA which is represented on the Road Safety Council.

#### *Swan River Trust Act 1988*

This amendment updates the name of WALGA which is represented on the Swan River Trust.

Also, this amendment updates the reference to the new WALGA for the purposes of consultation on the Swan River management programme.

*Town Planning and Development Act 1928*

This amendment replaces the current references to the Local Government Association with the new WALGA. It requires consultation with WALGA.

*Western Australian Planning Commission Act 1985*

These amendments update the references to the new WALGA which is represented on the Planning Commission.

**Division 2 amends the *Salaries and Allowances Act 1975***

This amendment requires the Salaries and Allowances Tribunal to carry out an annual inquiry and report on recommended levels of remuneration for all local government CEOs. Councils are to have regard to, but are not limited by, those recommendations when appointing CEOs under section 5.39. The report of the Tribunal shall be published in the Government Gazette.

**Schedule 2 – Transitional and validation provisions related to Part 3**

This Schedule contains transitional and validation provisions to cover the change of constitution name from WAMA to WALGA. As it effectively becomes a new entity, as constituted under the Act, these provisions are needed to transfer liabilities and assets to WALGA.