

Local Government Legislation Amendment Bill 2019

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Western Australia

LEGISLATIVE ASSEMBLY

**Local Government Legislation Amendment
Bill 2019**

A Bill for

An Act to amend the *Local Government Act 1995*, the *Local Government (Miscellaneous Provisions) Act 1960* and certain other Acts.

The Parliament of Western Australia enacts as follows:

1
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12

Part 1 — Preliminary

1. Short title

This is the *Local Government Legislation Amendment Act 2019*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) sections 5, 13 to 17, 20, 21, 23 to 25, 28 to 47, 51 to 54, 60, 64, 67 to 71, 77 and Part 4 — on a day fixed by proclamation, and different days may be fixed for different provisions;
- (c) the rest of the Act — on the day after assent day.

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

2 **3. Act amended**

3 This Part amends the *Local Government Act 1995*.

4 **4. Section 1.4 amended**

5 In section 1.4 delete the definition of *75% majority*.

6 **5. Sections 1.7 and 1.8 replaced**

7 Delete sections 1.7 and 1.8 and insert:

8

9 **1.7. Local public notice**

10 Where under this Act local public notice of a matter is
11 required to be given, notice of the matter must be given
12 in accordance with the requirements prescribed for the
13 purposes of this section.

14 **1.8. Statewide public notice**

15 Where under this Act Statewide public notice of a
16 matter is required to be given, notice of the matter must
17 be given in accordance with the requirements
18 prescribed for the purposes of this section.

19

20 **6. Section 1.10 deleted**

21 Delete section 1.10.

22 **7. Section 2.11 amended**

23 In the footnote to section 2.11(2) delete “* *Special*” and insert:

24

25 * *Absolute*

26

s. 8

1 **8. Section 3.12 amended**

2 (1) In section 3.12(3)(a) delete “Statewide” and insert:

3

4 local

5

6 (2) Delete section 3.12(3a).

7 (3) Delete section 3.12(6)(c) and insert:

8

9 (c) advising that the local law is published on the
10 local government’s official website and that
11 copies of the local law may be inspected at or
12 obtained from the local government’s office.

13

14 **9. Section 3.16 amended**

15 (1) In section 3.16(2) delete “Statewide” and insert:

16

17 local

18

19 (2) Delete section 3.16(2a).

20 **10. Section 3.17 amended**

21 After section 3.17(4) insert:

22

23 (5) The reference in the *Interpretation Act 1984*
24 section 42(8)(b) to local laws includes local laws made
25 under this section by the Governor.

26

1 **11. Section 3.59 amended**

2 (1) In section 3.59(4):

3 (a) in paragraph (b) delete “notice.” and insert:

4

5 notice; and

6

7 (b) after paragraph (b) insert:

8

9 (c) publish a copy of the business plan on the local
10 government’s official website.

11

12 (2) Delete section 3.59(5a).

13 **12. Section 4.32 amended**

14 In section 4.32(3) delete “section 4.31(1)(c)” and insert:

15

16 section 4.31(1C)

17

18 **13. Section 4.39 amended**

19 Delete section 4.39(2) and insert:

20

21 (2) Statewide public notice of the time and date of the
22 close of enrolments must be given on or after the
23 70th day, but not later than on the 56th day, before
24 election day by —

25 (a) the Electoral Commissioner if the Electoral
26 Commissioner is responsible for the conduct of
27 the election; or

28 (b) the CEO in any other case.

29

s. 14

1 **14. Section 4.47 amended**

2 Delete section 4.47(1) and insert:

3

4 (1) Statewide public notice calling for nominations of
5 candidates for the election must be given on or after the
6 56th day, but not later than on the 45th day, before
7 election day by —

8 (a) the Electoral Commissioner if the Electoral
9 Commissioner is responsible for the conduct of
10 the election; or

11 (b) the returning officer in any other case.
12

13 **15. Section 4.48 amended**

14 (1) In section 4.48(1):

15 (a) in paragraph (c) delete “day.” and insert:

16

17 day; and

18

19 (b) after paragraph (c) insert:

20

21 (d) the person has completed the course of
22 induction prescribed for the purposes of this
23 subsection.
24

25 (2) Delete section 4.48(2) and insert:

26

27 (2) If the election is to fill the office of elector mayor or
28 president, a person can only be a candidate if —

29 (a) the person was an elector of the district who, as
30 at the close of enrolments and at the time of

- 1 nomination, was qualified under section 2.19 to
2 be elected as a member of the council; and
3 (b) at the time of nomination, the person has
4 completed the course of induction prescribed
5 for the purposes of this subsection.
6

7 **16. Section 4.52 amended**

- 8 (1) In section 4.52(1) delete “exhibited to the public (with the
9 details and profiles of any other candidates) on a notice board at
10 the local government’s offices.” and insert:

11
12 published (with the details and profiles of any other candidates)
13 on the local government’s official website.
14

- 15 (2) In section 4.52(2) delete “remain on exhibition —” and insert:

16
17 be kept on the local government’s official website —
18

19 Note: The heading to amended section 4.52 is to read:

20 **Candidates’ details and profiles to be published on website**

21 **17. Section 4.64 amended**

- 22 (1) In section 4.64(1):
23 (a) delete “the returning officer is to give”;
24 (b) after “about the election” insert:

25
26 must be given
27

s. 18

1 (2) After section 4.64(1) insert:

2

3 (1A) The Statewide public notice must be given by —

4 (a) the Electoral Commissioner if the Electoral
5 Commissioner is responsible for the conduct of
6 the election; or

7 (b) the returning officer in any other case.
8

9 **18. Section 5.10 amended**

10 In section 5.10(3) delete “local government.” and insert:

11

12 council.
13

14 **19. Section 5.17 amended**

15 In section 5.17(1)(a)(i) delete “or a 75% majority of the local
16 government; and” and insert:

17

18 of the council; and
19

20 **20. Section 5.29 amended**

21 In section 5.29(2) delete “of publication of the notice under
22 section 1.7(1)(a) and is to continue by way of exhibition under
23 section 1.7(1)(b) and (c)” and insert:

24

25 the notice is first given and is to continue in the prescribed way
26

27 **21. Section 5.37 deleted**

28 Delete section 5.37.

1 **22. Section 5.38 replaced**

2 Delete section 5.38 and insert:

3

4 **5.38. Annual review of employees' performance**

5 (1) A local government must review the performance of
6 the CEO if the CEO is employed for a term of more
7 than 1 year.

8 (2) The CEO must ensure that the performance of each
9 other employee who is employed for more than 1 year
10 is reviewed.

11 (3) A review under subsection (1) or (2) must be
12 conducted at least once in relation to each year of the
13 person's employment.
14

15 **23. Section 5.39 amended**

16 (1) In section 5.39(1) delete "subsection (1a), the employment of a
17 person who is a CEO or a senior employee" and insert:

18

19 subsection (1A), the employment of a person in the position of
20 CEO

21

22 (2) Delete section 5.39(1a) and insert:

23

24 (1A) Despite subsection (1), an employee may act in the
25 position of CEO for a term not exceeding 1 year
26 without a written contract for the position.
27

28 Note: The heading to amended section 5.39 is to read:

29 **Contracts for CEO**

1 standards, but any additional provisions are of no effect
2 to the extent that they are inconsistent with the model
3 standards.

4 (5) The model standards are taken to be a local
5 government's adopted standards until the local
6 government adopts standards under this section.

7 (6) The CEO must publish an up-to-date version of the
8 adopted standards on the local government's official
9 website.

10 (7) Regulations may provide for —

11 (a) the monitoring of compliance with adopted
12 standards; and

13 (b) the way in which contraventions of adopted
14 standards are to be dealt with.

15 **5.39C. Policy for temporary employment or appointment**
16 **of CEO**

17 (1) A local government must prepare and adopt* a policy
18 that sets out the process to be followed by the local
19 government in relation to the following —

20 (a) the employment of a person in the position of
21 CEO for a term not exceeding 1 year;

22 (b) the appointment of an employee to act in the
23 position of CEO for a term not exceeding
24 1 year.

25 * *Absolute majority required.*

26 (2) A local government may amend* the policy.

27 * *Absolute majority required.*

28 (3) When preparing the policy or an amendment to the
29 policy, the local government must comply with any
30 prescribed requirements relating to the form or content
31 of a policy under this section.

s. 25

- 1 (4) The CEO must publish an up-to-date version of the
2 policy on the local government’s official website.
3

4 **25. Section 5.41 amended**

5 In section 5.41(g) delete “employees (subject to section 5.37(2)
6 in relation to senior employees); and” and insert:

7

8 employees; and
9

10 **26. Section 5.43 amended**

11 In section 5.43(a) delete “or a 75% majority of the local
12 government;” and insert:

13

14 of the council;
15

16 **27. Section 5.50 amended**

17 (1) In section 5.50(1):

18 (a) in paragraph (b) delete “amount,” and insert:

19

20 amount.
21

22 (b) delete “and cause local public notice to be given in
23 relation to the policy.”.

24 (2) After section 5.50(4) insert:
25

26 (5) The CEO must publish the policy prepared under
27 subsection (1) and adopted by the local government on
28 the local government’s official website.
29

1 **28. Section 5.51A inserted**

2 At the end of Part 5 Division 4 insert:

3

4 **5.51A. Code of conduct for employees**

5 (1) The CEO must prepare and implement a code of
6 conduct to be observed by employees of the local
7 government.

8 (2) The CEO may amend the code of conduct.

9 (3) The CEO must publish an up-to-date version of the
10 code of conduct on the local government's official
11 website.

12 (4) Regulations may prescribe the content of, and other
13 matters in relation to, codes of conduct under this
14 section.

15 (5) A code of conduct under this section is of no effect to
16 the extent that it is inconsistent with regulations made
17 for the purposes of subsection (4).
18

19 **29. Part 5 Division 6 heading amended**

20 In the heading to Part 5 Division 6 after “**interests**” insert:

21

22 **and gifts**

23

1 **30. Part 5 Division 6 Subdivision 1A inserted**

2 At the beginning of Part 5 Division 6 insert:

3

4 **Subdivision 1A — Preliminary**

5 **5.57. Terms used**

6 In this Division, unless the contrary intention
7 appears —

8 *gift* means —

9 (a) a conferral of a financial benefit (including a
10 disposition of property) made by 1 person in
11 favour of another person unless adequate
12 consideration in money or money's worth
13 passes from the person in whose favour the
14 conferral is made to the person who makes the
15 conferral; or

16 (b) a travel contribution;

17 *travel* includes accommodation incidental to a journey;

18 *travel contribution* means a financial or other
19 contribution made by 1 person to travel undertaken by
20 another person.

21 **5.58. Provisions about gifts**

22 (1) For the purposes of this Division —

23 (a) the amount of a gift comprising the conferral of
24 a financial benefit is taken to be an amount
25 equal to the value of the financial benefit at the
26 time the gift was made; and

27 (b) the amount of a gift comprising a travel
28 contribution (other than a financial
29 contribution) is taken to be an amount equal to
30 the value of the contribution at the time the gift
31 was made.

- 1 (2) For the purposes of this Division, a gift made to a
2 relevant person (as defined in section 5.59) by 2 or
3 more related bodies corporate (as defined in the
4 *Corporations Act 2001* (Commonwealth) section 9) is
5 taken to have been made by a single corporation.
6

7 **31. Section 5.59 amended**

- 8 (1) In section 5.59 insert in alphabetical order:
9

10 *interest relating to a gift* means an interest that a
11 relevant person has because of the operation of
12 section 5.60 when read with section 5.62(1)(ea), (eb) or
13 (ec);
14

- 15 (2) In section 5.59 in the definition of *relevant person* delete “5.70
16 or 5.71” and insert:

17
18 5.70, 5.71 or 5.71A
19

20 **32. Section 5.62 amended**

- 21 (1) In section 5.62(1):

22 (a) in paragraph (ea)(i) and (ii) delete “a notifiable” and
23 insert:

24
25 an electoral
26

27 (b) delete paragraph (eb) and insert:

28
29 (eb) the relevant person is a council member and the
30 person has given a gift to which this paragraph
31 applies to the relevant person since the relevant
32 person was last elected; or

s. 32

- 1 (ec) the relevant person is a CEO and the person has
2 given a gift to which this paragraph applies to
3 the relevant person since the relevant person
4 was last employed (or appointed to act) in the
5 position of CEO; or
6
- 7 (2) After section 5.62(1) insert:
8
- 9 (1A) Subsection (1)(eb) and (ec) apply to a gift if —
10 (a) either —
11 (i) the amount of the gift exceeds the
12 amount prescribed for the purposes of
13 this subsection; or
14 (ii) the gift is 1 of 2 or more gifts made by
15 1 person to the relevant person at any
16 time during a year and the sum of the
17 amounts of those 2 or more gifts
18 exceeds the amount prescribed for the
19 purposes of this subsection;
20 and
21 (b) the gift is not an excluded gift under
22 subsection (1B).
- 23 (1B) A gift is an excluded gift —
24 (a) if —
25 (i) the gift is a ticket to, or otherwise
26 relates to the relevant person's
27 attendance at, an event as defined in
28 section 5.90A(1); and
29 (ii) the local government approves, in
30 accordance with the local government's
31 policy under section 5.90A, the relevant
32 person's attendance at the event;
33 or

1 (b) if the gift is in a class of gifts prescribed for the
2 purposes of this subsection.
3

4 (3) In section 5.62(2) in the definition of *notifiable gift* delete
5 “*notifiable*” and insert:
6

7 *electoral*
8

9 **33. Section 5.68 amended**

10 (1) After section 5.68(1) insert:
11

12 (1A) Subsection (1) does not apply if —

13 (a) the interest disclosed is an interest relating to a
14 gift; and

15 (b) either —

16 (i) the amount of the gift exceeds the
17 amount prescribed for the purposes of
18 this subsection; or

19 (ii) the gift is 1 of 2 or more gifts made by
20 1 person to the disclosing member at
21 any time during a year and the sum of
22 the amounts of those 2 or more gifts
23 exceeds the amount prescribed for the
24 purposes of this subsection.
25

26 (2) In section 5.68(2) delete “together with the extent of any
27 participation allowed by the council or committee.” and insert:
28

29 together with —

30 (a) the extent of any participation allowed by the
31 council or committee; and

s. 34

- 1 (b) if the decision concerns an interest relating to a
2 gift, the information prescribed for the purposes
3 of this paragraph.
4

5 **34. Section 5.69 amended**

6 After section 5.69(4) insert:
7

- 8 (5) A decision under this section must be recorded in the
9 minutes of the meeting relating to the matter.
10

11 **35. Section 5.70 amended**

12 (1) At the end of section 5.70(2) insert:
13

14 Penalty for this subsection: a fine of \$10 000 or
15 imprisonment for 2 years.
16

17 (2) After section 5.70(2) insert:
18

19 (2A) Subsection (2) applies to a CEO even if the advice or
20 report is provided in accordance with a decision made
21 under section 5.71B(2) or (6).
22

23 (3) In section 5.70(3) delete the Penalty and insert:
24

25 Penalty for this subsection: a fine of \$10 000 or
26 imprisonment for 2 years.
27

1 **36. Sections 5.71A and 5.71B inserted**

2 After section 5.71 insert:

3

4 **5.71A. CEOs to disclose interests relating to gifts in**
5 **connection with advice or reports**

6 (1) A CEO who has an interest relating to a gift in a matter
7 in respect of which the CEO proposes to provide
8 advice or a report, directly or indirectly, to the council
9 or a committee must disclose the nature of the interest
10 in a written notice given to the council.

11 Penalty for this subsection: a fine of \$10 000 or
12 imprisonment for 2 years.

13 (2) A CEO who makes a disclosure under subsection (1)
14 must not provide the advice or report unless the CEO is
15 allowed to do so under section 5.71B(2) or (6).

16 Penalty for this subsection: a fine of \$10 000 or
17 imprisonment for 2 years.

18 (3) A CEO who has an interest relating to a gift in a matter
19 in respect of which another employee is providing
20 advice or a report directly to the council or a committee
21 must disclose the nature of the interest when the advice
22 or report is provided.

23 Penalty for this subsection: a fine of \$10 000 or
24 imprisonment for 2 years.

25 **5.71B. Council or Minister may allow CEOs to provide**
26 **advice or reports**

27 (1) In this section —

28 *relevant gift* means the gift to which the interest
29 disclosed under section 5.71A(1) relates.

s. 36

- 1 (2) The council may allow the CEO to provide the advice
2 or report to which a disclosure under section 5.71A(1)
3 relates if —
- 4 (a) the amount of the relevant gift does not exceed
5 the amount prescribed for the purposes of this
6 section; and
- 7 (b) the council decides that the nature of the
8 interest disclosed is unlikely to influence the
9 CEO in the provision of the advice or report.
- 10 (3) A decision of the council under subsection (2) must be
11 recorded in the minutes of the council meeting at which
12 the decision is made.
- 13 (4) The council may apply to the Minister to allow the
14 CEO to provide the advice or report to which a
15 disclosure under section 5.71A(1) relates if the amount
16 of the relevant gift exceeds the amount prescribed for
17 the purposes of this section.
- 18 (5) An application under subsection (4) must include —
- 19 (a) details of the nature of the interest disclosed;
20 and
- 21 (b) any other information required by the Minister
22 for the purposes of the application.
- 23 (6) On an application under subsection (4), the Minister
24 may allow, on any condition determined by the
25 Minister, the CEO to provide the advice or report if the
26 Minister is of the opinion that it is in the interests of the
27 electors or ratepayers to do so.
- 28 (7) A decision of the Minister under subsection (6) must be
29 recorded in the minutes of the council meeting at which
30 the decision is considered.
- 31 (8) For the purposes of subsections (2)(a) and (4), if the
32 relevant gift is 1 of 2 or more gifts made by 1 person to

1 the CEO at any time during a year, the amount of the
2 relevant gift is the sum of the amounts of those 2 or
3 more gifts.
4

5 **37. Section 5.72 amended**

6 In section 5.72 delete “5.70 or 5.71” and insert:

7

8 5.70(2), 5.71 or 5.71A(1) or (3)

9

10 **38. Section 5.73 amended**

11 In section 5.73 delete “5.65 or 5.70” and insert:

12

13 5.65, 5.70 or 5.71A(3)

14

15 **39. Section 5.74 amended**

16 In section 5.74(3):

17 (a) delete “gifts or contributions to travel given,”;

18 (b) delete “is to be treated as having been given,” and insert:

19

20 are taken to have been

21

22 **40. Sections 5.82 and 5.83 deleted**

23 Delete sections 5.82 and 5.83.

1 **41. Part 5 Division 6 Subdivision 2A inserted**

2 After Part 5 Division 6 Subdivision 2 insert:

3

4 **Subdivision 2A — Disclosure of gifts**

5 **5.87A. Council members to disclose gifts**

6 (1) A council member must disclose, in accordance with
7 subsection (2) and section 5.87C, a gift received by the
8 council member.

9 Penalty for this subsection: a fine of \$10 000 or
10 imprisonment for 2 years.

11 (2) The disclosure must be made in writing to the CEO.

12 (3) A person does not commit an offence against
13 subsection (1) if —

14 (a) the amount of the gift does not exceed the
15 amount prescribed for the purposes of this
16 paragraph; or

17 (b) the gift is not received by the person in their
18 capacity as a council member.

19 (4) For the purposes of subsection (3)(a), if the gift is 1 of
20 2 or more gifts made by 1 person to the council
21 member at any time during a year, the amount of the
22 gift is the sum of the amounts of those 2 or more gifts.

23 (5) For the purposes of subsection (3)(b), the gift is not
24 received by the person in their capacity as a council
25 member if it is a gift that the person would have
26 received even if the person were not a council member.

27 **5.87B. CEOs to disclose gifts**

28 (1) A CEO must disclose, in accordance with
29 subsection (2) and section 5.87C, a gift received by the
30 CEO.

- 1 Penalty for this subsection: a fine of \$10 000 or
2 imprisonment for 2 years.
- 3 (2) The disclosure must be made in writing to the mayor or
4 president.
- 5 (3) A person does not commit an offence against
6 subsection (1) if —
- 7 (a) the amount of the gift does not exceed the
8 amount prescribed for the purposes of this
9 paragraph; or
- 10 (b) the gift is not received by the person in their
11 capacity as the CEO.
- 12 (4) For the purposes of subsection (3)(a), if the gift is 1 of
13 2 or more gifts made by 1 person to the CEO at any
14 time during a year, the amount of the gift is the sum of
15 the amounts of those 2 or more gifts.
- 16 (5) For the purposes of subsection (3)(b), the gift is not
17 received by the person in their capacity as the CEO if it
18 is a gift that the person would have received even if the
19 person were not the CEO.

20 **5.87C. Provisions about disclosure**

- 21 (1) This section applies to a disclosure under section 5.87A
22 or 5.87B.
- 23 (2) The disclosure must be made within 10 days after
24 receipt of the gift.
- 25 (3) The disclosure must include the following —
- 26 (a) a description of the gift;
- 27 (b) the name and address of the person who made
28 the gift;
- 29 (c) the date on which the gift was received;
- 30 (d) the estimated value of the gift at the time it was
31 made;

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- 1 (e) the nature of the relationship between the
2 person who made the gift and the person who
3 received the gift;
- 4 (f) in the case of a travel contribution —
5 (i) a description of the travel; and
6 (ii) the date of the travel.
7

8 **42. Section 5.88 amended**

- 9 (1) In section 5.88(2)(b) delete “5.70 and 5.71,” and insert:
10

11 5.70, 5.71 and 5.71A,
12

- 13 (2) After section 5.88(2) insert:
14

15 (2A) The CEO must publish an up-to-date version of the
16 register on the local government’s official website.
17

18 **43. Section 5.89A amended**

- 19 (1) In section 5.89A(1) delete “gifts and contributions to travel.”
20 and insert:
21

22 gifts.
23

- 24 (2) In section 5.89A(2) delete “5.82 and 5.83.” and insert:
25

26 5.87A and 5.87B.
27

- 1 (3) After section 5.89A(2) insert:
2
- 3 (2A) The CEO must record a disclosure made under
4 section 5.87A or 5.87B in the register within 10 days
5 after the disclosure is made.
- 6 (2B) If a gift disclosed under section 5.87A or 5.87B is an
7 excluded gift under section 5.62(1B)(a), the CEO must
8 record in the register —
- 9 (a) the date of the approval referred to in
10 section 5.62(1B)(a)(ii); and
- 11 (b) the reasons for that approval; and
- 12 (c) any prescribed information.
13
- 14 (4) Delete section 5.89A(4).
- 15 (5) In section 5.89A(5) after “publish” insert:
16
- 17 an up-to-date version of
18
- 19 (6) After section 5.89A(5) insert:
20
- 21 (5A) The version of the register published under
22 subsection (5) must not, in the case of a disclosure
23 about a gift made by an individual, include the address
24 disclosed under section 5.87C(3)(b) and must instead
25 include the town or suburb mentioned in the address.
26
- 27 (7) In section 5.89A(6) delete “5.82 or 5.83” and insert:
28
- 29 5.87A or 5.87B
30

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- 1 (8) In section 5.89A(7) delete the passage that begins with
2 “Disclosures made” and ends with “required under section 5.82
3 or 5.83” and insert:
4

5 If records relating to a person are removed from the register
6 under subsection (6), a copy of the records is, for a period of at
7 least 5 years after the person ceases to be a person required
8 under section 5.87A or 5.87B
9

10 Note: The heading to amended section 5.89A is to read:

11 **Register of gifts**

12 **44. Section 5.89B deleted**

13 Delete section 5.89B.

14 **45. Section 5.89 amended**

15 In section 5.89 delete “5.82 or 5.83” and insert:

16

17 5.71A, 5.87A or 5.87B
18

19 **46. Section 5.90 amended**

20 (1) In section 5.90(1)(a) and (b) after “interests” insert:

21

22 or register of gifts
23

24 (2) In section 5.90(2) delete the definition of *publish* and insert:

25

26 *publish* has the meaning that the term has in the law of
27 tort (as modified by the *Defamation Act 2005*) relating
28 to defamation.
29

1 **47. Part 5 Division 6A inserted**

2 After Part 5 Division 6 insert:

3

4 **Division 6A — Attendance at events**

5 **5.90A. Policy for attendance at events**

6 (1) In this section —

7 *event* includes the following —

8 (a) a concert;

9 (b) a conference;

10 (c) a function;

11 (d) a sporting event;

12 (e) an occasion of a kind prescribed for the
13 purposes of this definition.

14 (2) A local government must prepare and adopt* a policy
15 that deals with matters relating to the attendance of
16 council members and the CEO at events, including —

17 (a) the provision of tickets to events; and

18 (b) payments in respect of attendance; and

19 (c) approval of attendance by the local government
20 and criteria for approval; and

21 (d) any prescribed matter.

22 * *Absolute majority required.*

23 (3) A local government may amend* the policy.

24 * *Absolute majority required.*

25 (4) When preparing the policy or an amendment to the
26 policy, the local government must comply with any
27 prescribed requirements relating to the form or content
28 of a policy under this section.

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- 1 (5) The CEO must publish an up-to-date version of the
2 policy on the local government's official website.
3

4 **48. Section 5.94 amended**

5 In section 5.94:

- 6 (a) delete paragraph (aa);
7 (b) after paragraph (b) insert:
8
9 (ba) any register of gifts;
10
11 (c) delete paragraph (e) and insert:
12
13 (e) any list of fees and charges imposed under
14 section 6.16;
15
16 (d) in paragraphs (g) and (j)(ii) delete "Statewide" and
17 insert:
18
19 local
20
21 (e) in paragraph (m) delete "rates" and insert:
22
23 rate
24
25 (f) delete paragraph (t).

26 **49. Section 5.95 amended**

- 27 (1) In section 5.95(3):
28 (a) delete "refers —" and insert:
29
30 refers was closed to members of the public.
31

1 (b) delete paragraphs (a) and (b).

2 (2) Delete section 5.95(5).

3 **50. Section 5.96A inserted**

4 After section 5.96 insert:

5

6 **5.96A. Information published on official website**

7 (1) The CEO must publish the following information on
8 the local government's official website, unless it would
9 be contrary to subsection (2) to do so —

- 10 (a) a map of the district showing the district
11 boundaries and, if the district is divided into
12 wards, the ward boundaries;
- 13 (b) an up-to-date consolidated version of any local
14 law made by the local government in
15 accordance with section 3.12 that is in force;
- 16 (c) the annual budget;
- 17 (d) an up-to-date list of fees and charges imposed
18 under section 6.16;
- 19 (e) current plans for the future of the district made
20 under section 5.56;
- 21 (f) confirmed minutes of council or committee
22 meetings;
- 23 (g) minutes of electors' meetings;
- 24 (h) notice papers and agenda relating to council or
25 committee meetings and reports and other
26 documents that have been —
- 27 (i) tabled at a council or committee
28 meeting; or
- 29 (ii) produced by the local government or a
30 committee for presentation at a council

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- 1 or committee meeting and that have
2 been presented at the meeting;
- 3 (i) information of a kind prescribed for the
4 purposes of this subsection or required by
5 another provision of this Act to be published on
6 the website.
- 7 (2) The CEO must not publish information referred to in
8 subsection (1)(f) or (h) if the meeting or that part of the
9 meeting to which the information refers was closed to
10 members of the public.
- 11 (3) Subsection (2) does not apply to information —
12 (a) that is a record of decisions made at a council
13 or committee meeting; or
14 (b) of a kind prescribed as being information that
15 can be published despite subsection (2).
- 16 (4) The CEO must ensure that the following information is
17 not published on the local government’s official
18 website —
19 (a) rate records;
20 (b) the register of owners and occupiers under
21 section 4.32(6) and electoral rolls;
22 (c) information of a kind prescribed for the
23 purposes of this subsection.
- 24 (5) Regulations may specify the period for which
25 information referred to in subsection (1) must be kept
26 on the local government’s official website, and may
27 specify different periods for different kinds of
28 information.
29

30 **51. Part 5 Division 9 heading amended**

31 In the heading to Part 5 Division 9 delete “**of certain**
32 **officials**”.

1 **52. Section 5.102A amended**

2 (1) In section 5.102A delete the definition of *rules of conduct*.

3 (2) In section 5.102A insert in alphabetical order:

4

5 *candidate* means a candidate for election as a council
6 member;

7 *model code* means the model code of conduct
8 prescribed for the purposes of section 5.103(1);

9 *rule of conduct* means a provision of the model code
10 that is specified in the model code to be a rule of
11 conduct;

12

13 **53. Sections 5.103 and 5.104 replaced**

14 Delete sections 5.103 and 5.104 and insert:

15

16 **5.103. Model code of conduct for council members,
17 committee members and candidates**

18 (1) Regulations must prescribe a model code of conduct
19 for council members, committee members and
20 candidates.

21 (2) The model code of conduct must include —

22 (a) general principles to guide behaviour; and

23 (b) requirements relating to behaviour; and

24 (c) provisions specified to be rules of conduct.

25 (3) The model code of conduct may include provisions
26 about how the following are to be dealt with —

27 (a) alleged breaches of the requirements referred to
28 in subsection (2)(b);

29 (b) alleged breaches of the rules of conduct by
30 committee members.

- 1 (4) The model code of conduct cannot include a rule of
2 conduct if contravention of the rule would, in addition
3 to being a minor breach under section 5.105(1)(a), also
4 be a serious breach under section 5.105(3).
- 5 (5) Regulations may amend the model code of conduct.

6 **5.104. Adoption of model code of conduct**

- 7 (1) Within 3 months after the day on which regulations
8 prescribing the model code come into operation, a local
9 government must prepare and adopt* a code of conduct
10 to be observed by council members, committee
11 members and candidates that incorporates the model
12 code.

13 * *Absolute majority required.*

- 14 (2) Within 3 months after the day on which regulations
15 amending the model code come into operation, the
16 local government must amend* the adopted code of
17 conduct to incorporate the amendments made to the
18 model code.

19 * *Absolute majority required.*

- 20 (3) A local government may include in the adopted code of
21 conduct requirements in addition to the requirements
22 referred to in section 5.103(2)(b), but any additional
23 requirements —
- 24 (a) can only be expressed to apply to council
25 members or committee members; and
- 26 (b) are of no effect to the extent that they are
27 inconsistent with the model code.

- 28 (4) A local government cannot include in the adopted code
29 of conduct provisions in addition to the principles
30 referred to in section 5.103(2)(a) or the rules of
31 conduct.

- 1 (5) The model code is taken to be a local government's
2 adopted code of conduct until the local government
3 adopts a code of conduct.
- 4 (6) An alleged breach of a local government's adopted
5 code of conduct by a candidate cannot be dealt with
6 under this Division or the adopted code of conduct
7 unless the candidate has been elected as a council
8 member.
- 9 (7) The CEO must publish an up-to-date version of a local
10 government's adopted code of conduct on the local
11 government's official website.
12

13 **54. Section 5.105 amended**

14 Delete section 5.105(1) and insert:

- 15
- 16 (1) A council member commits a minor breach if the
17 council member —
- 18 (a) contravenes a rule of conduct; or
19 (b) contravenes a local law under this Act,
20 contravention of which the regulations specify
21 to be a minor breach.
- 22 (1A) Subsection (1) extends to the contravention of a rule of
23 conduct that occurred when the council member was a
24 candidate.
- 25 (1B) Regulations cannot specify that contravention of a local
26 law under this Act is a minor breach if contravention of
27 the local law would, in addition to being a minor
28 breach under subsection (1), also be a serious breach
29 under subsection (3).
30

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1 **55. Section 5.107 amended**

2 In section 5.107(4) delete “2 years” and insert:

3

4 6 months

5

6 **56. Section 5.108 amended**

7 In section 5.108(3) delete “2 years” and insert:

8

9 6 months

10

11 **57. Section 5.109 amended**

12 In section 5.109(2) delete “2 years” and insert:

13

14 6 months

15

16 **58. Section 5.110 amended**

17 (1) After section 5.110(3A) insert:

18

19 (3B) A standards panel may —

20 (a) request the parties to participate in mediation to
21 resolve behavioural matters related to the
22 complaint; and

23 (b) if the parties agree to the request, defer the
24 making of a finding under subsection (2)
25 pending the outcome of the mediation.
26

- 1 (2) After section 5.110(5) insert:
2
- 3 (5A) When determining how the breach should be dealt with
4 under subsection (6), the standards panel may take into
5 account —
6 (a) the outcome of mediation requested under
7 subsection (3B); or
8 (b) a refusal by the council member to participate
9 in mediation requested under subsection (3B).
10
- 11 (3) In section 5.110(6):
12 (a) delete paragraph (a) and insert:
13
14 (a) ordering that no sanction be imposed; or
15
16 (b) in paragraph (b)(iii) delete “order;” and insert:
17
18 order; or
19
20 (c) after paragraph (b)(iii) insert:
21
22 (iv) the person against whom the complaint
23 was made pay to the local government
24 specified in the order an amount equal
25 to the amount of remuneration and
26 allowances payable by the local
27 government in relation to the complaint
28 under Schedule 5.1 clause 9;
29

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- 1 (4) After section 5.110(7) insert:
2
- 3 (8) Regulations may provide for or regulate matters
4 relating to mediation under this section including —
5 (a) the appointment of mediators; and
6 (b) the procedures to be followed when mediation
7 is undertaken; and
8 (c) the time allowed for mediation; and
9 (d) payment and recovery of the costs of
10 mediation.
11

12 **59. Section 5.118 amended**

- 13 (1) In section 5.118(2) delete “5.117” and insert:
14
15 5.117(1)
16
- 17 (2) After section 5.118(2) insert:
18
- 19 (3) Without limiting subsections (1) and (2), the CEO of
20 the local government concerned must publish on the
21 local government’s official website any censure
22 ordered under section 5.110(6), 5.113 or 5.117(1) in
23 respect of a person who is a council member.
24

1 **60. Section 5.120 replaced**

2 Delete section 5.120 and insert:

3

4 **5.120. Complaints officer**

5 (1) The CEO may designate an employee of the local
6 government to be its complaints officer.

7 (2) If an employee is not designated under subsection (1),
8 the CEO is the local government’s complaints officer.

9

10 **61. Section 5.121 amended**

11 (1) In section 5.121(1) delete “action under section 5.110(6)(b) or
12 (c).” and insert:

13

14 a finding under section 5.110(2)(a) that a minor breach has
15 occurred.

16

17 (2) In section 5.121(2)(d) delete “section 5.110(6)(b) or (c).” and
18 insert:

19

20 section 5.110(6).

21

22 (3) After section 5.121(2) insert:

23

24 (3) The CEO must publish an up-to-date version of the
25 register of complaints on the local government’s
26 official website.

27

s. 62

- 1 **62. Section 5.123 amended**
- 2 (1) Delete section 5.123(1) and insert:
- 3
- 4 (1A) Subsection (1) applies to a person —
- 5 (a) who makes a complaint; or
- 6 (b) against whom a complaint is made; or
- 7 (c) who performs a function under this Act in
- 8 respect of a complaint; or
- 9 (d) who, as a result of anything done under this
- 10 Division, becomes aware of any detail of a
- 11 complaint knowing it to be relevant to the
- 12 complaint.
- 13 (1) A person to whom this subsection applies commits an
- 14 offence if the person discloses information that the
- 15 complaint has been made or information about any
- 16 detail of the complaint.
- 17
- 18 (2) In section 5.123(2):
- 19 (a) after paragraph (b) insert:
- 20
- 21 (ba) the disclosure is made by the Departmental
- 22 CEO in circumstances where —
- 23 (i) the complaint to which the information
- 24 relates is a complaint sent to the
- 25 Departmental CEO under
- 26 section 5.114(1) or 5.115(1); and
- 27 (ii) the Departmental CEO has made a
- 28 decision about whether to make an
- 29 allegation under section 5.116(2) in
- 30 relation to the complaint; and

- 1 (iii) the Departmental CEO considers that
2 the disclosure is in the public interest;
3
4 or
5 (b) in paragraph (c) delete “section 5.110(6)(b) or (c); or”
6 and insert:
7
8 section 5.110(6); or
9
10 (c) delete paragraph (d) and insert:
11
12 (d) the complaint to which the information relates
13 is a complaint of a recurrent breach or serious
14 breach and the State Administrative Tribunal
15 has made an order described in section 5.117(1)
16 in relation to the breach.
17
18 (3) Delete section 5.123(3).

19 **63. Section 5.125 amended**

20 In section 5.125(2) delete the definition of *decision* and insert:

21

22 *decision* means a decision to make an order under
23 section 5.110(6).
24

1 **64. Part 5 Division 10 inserted**

2 At the end of Part 5 insert:

3

4 **Division 10 — Training and development**

5 **5.126. Training for council members**

6 (1) Each council member must complete training in
7 accordance with regulations.

8 (2) Regulations may —

9 (a) prescribe a course of training; and

10 (b) prescribe the period within which training must
11 be completed; and

12 (c) prescribe circumstances in which a council
13 member is exempt from the requirement in
14 subsection (1); and

15 (d) provide that contravention of subsection (1) is
16 an offence and prescribe a fine not exceeding
17 \$5 000 for the offence.

18 **5.127. Report on training**

19 (1) A local government must prepare a report for each
20 financial year on the training completed by council
21 members in the financial year.

22 (2) The CEO must publish the report on the local
23 government's official website within 1 month after the
24 end of the financial year to which the report relates.

25 **5.128. Policy for continuing professional development**

26 (1) A local government must prepare and adopt* a policy
27 in relation to the continuing professional development
28 of council members.

29 * *Absolute majority required.*

- 1 (2) A local government may amend* the policy.
- 2 * *Absolute majority required.*
- 3 (3) When preparing the policy or an amendment to the
4 policy, the local government must comply with any
5 prescribed requirements relating to the form or content
6 of a policy under this section.
- 7 (4) The CEO must publish an up-to-date version of the
8 policy on the local government's official website.
- 9 (5) A local government —
- 10 (a) must review the policy after each ordinary
11 election; and
- 12 (b) may review the policy at any other time.
13

14 **65. Section 6.36 amended**

- 15 (1) Delete section 6.36(3)(c) and insert:
- 16
- 17 (c) is to advise electors and ratepayers that the
18 document referred to in subsection (3A) —
- 19 (i) may be inspected at a time and place
20 specified in the notice; and
- 21 (ii) is published on the local government's
22 official website.
23
- 24 (2) After section 6.36(3) insert:
- 25
- 26 (3A) The local government is required to prepare a
27 document describing the objects of, and reasons for,
28 each proposed rate and minimum payment and to
29 publish the document on the local government's
30 official website.
31

1 **66. Section 6.41 amended**

2 After section 6.41(3) insert:

3

- 4 (4) The rate notice may be given by email if the local
5 government has obtained the consent of the owner or
6 occupier, as the case requires, to giving the rate notice
7 in that way.

8

9 **67. Section 9.10 replaced**

10 Delete section 9.10 and insert:

11

12 **9.10. Appointment of authorised persons**

13 (1) In this section —

14 *law* means any of the following —

- 15 (a) this Act;
- 16 (b) the *Caravan Parks and Camping Grounds*
17 *Act 1995*;
- 18 (c) the *Cat Act 2011*;
- 19 (d) the *Cemeteries Act 1986*;
- 20 (e) the *Control of Vehicles (Off-road Areas)*
21 *Act 1978*;
- 22 (f) the *Dog Act 1976*;
- 23 (g) subsidiary legislation made under an Act
24 referred to in any of paragraphs (a) to (f);
- 25 (h) a written law prescribed for the purposes of this
26 section;

27 *specified* means specified in the instrument of
28 appointment.

29 (2) The CEO may, in writing, appoint persons or classes of
30 persons to be authorised persons for the purposes of

- 1 1 or more specified laws or specified provisions of 1 or
2 more specified laws.
- 3 (3) An appointment under subsection (2) is subject to any
4 specified conditions or limitations.
- 5 (4) The CEO must give to each person appointed under
6 subsection (2) an identity card that —
- 7 (a) on the front of the card, sets out —
- 8 (i) the name and official insignia of the
9 local government; and
- 10 (ii) the name of the person; and
- 11 (iii) a recent photograph of the person;
- 12 and
- 13 (b) on the back of the card, specifies each law to
14 which the person’s appointment relates.
- 15 (5) A person appointed under subsection (2) (the
16 *authorised person*) must —
- 17 (a) carry their identity card at all times when
18 performing functions under a specified law; and
- 19 (b) produce their identity card for inspection when
20 required to do so by a person in respect of
21 whom the authorised person has performed or
22 is about to perform a function under a specified
23 law.
- 24 (6) A person who, without reasonable excuse, fails to
25 return their identity card to the CEO within 14 days
26 after their appointment ceases to have effect commits
27 an offence.
- 28

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1 **68. Section 9.13 amended**

2 In section 9.13(1) in the definition of *authorised person* delete
3 “by the local government” and insert:

4
5 under section 9.10(2)

6
7 **69. Section 9.15 amended**

8 In section 9.15 in the definition of *authorised person* delete
9 “section 9.10(1) by the local government” and insert:

10
11 section 9.10(2)

12
13 **70. Section 9.25 amended**

14 Delete section 9.25(1) and insert:

- 15
16 (1) Proceedings for an offence against a provision of this
17 Act listed in the Table may be commenced at any time.

18 **Table**

s. 4.85(1) and (2)	s. 4.86
s. 4.91(1)	s. 5.65(1)
s. 5.67	s. 5.69(4)
s. 5.69A(4)	s. 5.70(2) and (3)
s. 5.71	s. 5.71A(1), (2) and (3)
s. 5.75	s. 5.76
s. 5.78(1)	s. 5.87A(1)

s. 4.85(1) and (2)	s. 4.86
s. 5.87B(1)	s. 5.89
s. 5.93	

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71. Section 9.49A amended

(1) Delete section 9.49A(3)(b) and insert:

(b) the CEO,

(2) In section 9.49A(4) delete “chief executive officer,” and insert:

CEO,

72. Section 9.57A inserted

At the end of Part 9 Division 4 insert:

9.57A. Local government protected from liability for defamation: council proceedings on website

(1) In this section —

council proceedings means proceedings at a meeting of the council or a committee of the council;

matter has the meaning given in the *Defamation Act 2005* section 4.

(2) A local government is not liable to an action for defamation in relation to matter published on its official website as part of a broadcast, audio recording, or video recording, of council proceedings.

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1 **73. Schedule 2.4 amended**

2 In Schedule 2.4 clause 6(3) delete “or a special majority”.

3 **74. Schedule 2.5 amended**

4 (1) In Schedule 2.5 clause 2(c) delete “Managers Australia WA
5 Division” and insert:

6

7 Professionals Australia (WA)

8

9 (2) In Schedule 2.5 clause 4(2) delete “Managers Australia WA
10 Division” and insert:

11

12 Professionals Australia (WA)

13

14 (3) In Schedule 2.5 clause 11(2)(c) delete “Managers Australia WA
15 Division” and insert:

16

17 Professionals Australia (WA)

18

19 **75. Schedule 5.1 amended**

20 In Schedule 5.1 clause 11(2) delete “section 5.110(6)(b) or (c).”
21 and insert:

22

23 section 5.110(6).

24

1 **76. Schedule 6.3 amended**

2 In Schedule 6.3 delete clause 1(1)(c) and insert:

3

4 (c) to be published on the local government’s official
5 website and kept on the website for not less than
6 35 days.

7

8 **77. Schedule 9.3 amended**

9 (1) In Schedule 9.3 clause 1:

10 (a) in the definition of *former provisions* delete “day;” and
11 insert:

12

13 day.

14

15 (b) delete the definition of *senior employee*.

16 (2) At the end of Schedule 9.3 insert:

17

18 **Division 5 — Provisions for the *Local Government***
19 ***Legislation Amendment Act 2019***

20 **55. Authorised persons**

21 (1) This clause applies to a person who, immediately before the
22 day on which the *Local Government Legislation Amendment*
23 *Act 2019* section 67 comes into operation, was a person
24 appointed under section 9.10(1) for the purposes of
25 performing particular functions.

26 (2) The person is taken to be an authorised person appointed
27 under section 9.10(2) for the purposes of this Act on the
28 terms and conditions that were applicable to the person’s
29 appointment under section 9.10(1) immediately before the
30 day referred to in subclause (1).

31

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- 1 (3) At the end of Schedule 9.3 Division 5 insert:
2
- 3 **56. Register of gifts**
- 4 (1) In this clause —
- 5 *commencement day* means the day on which the *Local*
6 *Government Legislation Amendment Act 2019* section 43
7 comes into operation;
- 8 *former provisions* means sections 5.82 and 5.83 as in force
9 immediately before the day on which the *Local Government*
10 *Legislation Amendment Act 2019* section 40 comes into
11 operation;
- 12 *former section 5.89A(7)* means section 5.89A(7) as in force
13 immediately before commencement day.
- 14 (2) In addition to the record required by section 5.89A(2), the
15 register of gifts kept under section 5.89A(1) must contain a
16 record of disclosures made under the former provisions that
17 were recorded in the register immediately before
18 commencement day.
- 19 (3) Former section 5.89A(7) continues to apply in relation to
20 disclosures made under the former provisions that,
21 immediately before commencement day, were being kept by
22 the CEO and made available for public inspection under that
23 subsection.
24

1 **Part 3 — Local Government (Miscellaneous Provisions)**
2 **Act 1960 amended**

3 **78. Act amended**

4 This Part amends the *Local Government (Miscellaneous*
5 *Provisions) Act 1960*.

6 **79. Section 450 amended**

7 In section 450 after “cause” insert:

8

9 local

10

11 **80. Section 451 amended**

12 In section 451(2) after “cause” insert:

13

14 local

15

16 **81. Section 463 amended**

17 (1) In section 463(2)(b):

18 (a) after “14 days’ ” insert:

19

20 local public

21

22 (b) delete “land,” and insert:

23

24 land and

25

Local Government Legislation Amendment Bill 2019

Part 3 Local Government (Miscellaneous Provisions) Act 1960
amended

s. 82

1 (c) delete “published in the *Gazette*, or in a newspaper
2 circulating in the locality;” and insert:

3

4 given,

5

6 (2) After section 463(2) insert:

7

8 (3) If, for the purposes of subsection (2)(b), the owner or
9 occupier of the land requests the local government of
10 the district in which the land is situated to publish a
11 notice on the local government’s official website, the
12 local government must comply with the request.

13

14 **82. Section 464 amended**

15 In section 464 delete “the local government has caused notice of
16 the increase or variation to be published in the *Gazette*.” and
17 insert:

18

19 local public notice of the increase or variation is first given by
20 the local government.

21

22 **83. Section 469 amended**

23 In section 469(5) delete the passage that begins with “a notice
24 of” and continues to the end of the subsection and insert:

25

26 local public notice of the impounding to be given in the form in
27 Schedule 5.

28

1 **84. Section 470 amended**

2 In section 470(1)(b) delete “publishing the notice of
3 impounding in the *Gazette*, or the newspaper; and” and insert:

4
5 giving local public notice of the impounding; and
6

7 **85. Section 474 amended**

8 In section 474(1):

9 (a) in paragraph (b) delete “the notice” (1st occurrence) and
10 insert:

11
12 notice of the impounding
13

14 (b) delete paragraph (c) and insert:

15
16 (c) where local public notice of the impounding
17 has been given, within 7 days after the notice
18 was first given,
19

20 (c) delete the passage that begins with “auction,” and
21 continues to the end of the subsection and insert:

22
23 auction if local public notice of the time and place of the
24 sale and the cattle to be sold has been given at least
25 3 days before the day of the sale.
26

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Part 4 — Other Acts amended

**Division 1 — *Caravan Parks and Camping Grounds Act 1995*
amended**

86. Act amended

This Division amends the *Caravan Parks and Camping Grounds Act 1995*.

87. Section 5 amended

In section 5(1) delete the definition of *authorised person* and insert:

authorised person means a person appointed to be an authorised person under —

- (a) section 17(1)(a); or
- (b) the *Local Government Act 1995* section 9.10(2) for the purposes of this Act;

88. Section 17 amended

(1) In section 17(1):

- (a) delete “Department or a local government —” and insert:

Department —

- (b) in paragraph (a) delete “or the local government”.

- 1 (2) In section 17(2):
2 (a) delete “An authorised person is to” and insert:
3
4 A person appointed under subsection (1)(a) must
5
6 (b) delete “authorised” (2nd occurrence).
7 (3) Delete section 17(4).

8 **89. Section 17A inserted**

9 After section 17 insert:
10

11 **17A. Assistance from member of Police Force**

12 A member of the Police Force must, at the request of
13 an authorised person, assist the authorised person in
14 enforcing compliance with this Act and has, while
15 assisting the authorised person, all the powers of an
16 authorised person.
17

18 **90. Section 23 amended**

- 19 (1) In section 23(1) delete “under subsection (11) to be an
20 authorised person” and insert:
21

22 to be an authorised person under the *Local Government*
23 *Act 1995* section 9.10(2)
24

- 25 (2) Delete section 23(11) and (12) and insert:
26

27 (11) A person who is authorised to give infringement
28 notices under subsection (2) cannot be an authorised
29 person for the purposes of subsection (3), (5) or (7).
30

1 **91. Part 6 heading inserted**

2 Before section 34 insert:

3

4 **Part 6 — Transitional provisions**

5

6 **92. Section 35 inserted**

7 After section 34 insert:

8

9 **35. Transitional provision for *Local Government***
10 ***Legislation Amendment Act 2019***

11 (1) This section applies to a person who, immediately
12 before the day on which the *Local Government*
13 *Legislation Amendment Act 2019* section 88 comes into
14 operation, was a person appointed by a local
15 government under section 17(1).

16 (2) The person is taken to be an authorised person
17 appointed under the *Local Government Act 1995*
18 section 9.10(2) for the purposes of this Act on the
19 terms and conditions that were applicable to the
20 person's appointment under section 17(1) immediately
21 before the day referred to in subsection (1).

22

23 **Division 2 — *Cat Act 2011* amended**

24 **93. Act amended**

25 This Division amends the *Cat Act 2011*.

1 **94. Section 3 amended**

2 In section 3(1) in the definition of *authorised person* delete
3 paragraph (b) and insert:

4
5 (b) a person appointed under the *Local*
6 *Government Act 1995* section 9.10(2) to be an
7 authorised person for the purposes of this Act;
8

9 **95. Part 4 Division 3 Subdivision 1 deleted**

10 Delete Part 4 Division 3 Subdivision 1.

11 **96. Section 62 amended**

12 After section 62(2) insert:

13
14 (3) A person who is not an employee of a local
15 government cannot be appointed to be an authorised
16 person for the purposes of this section.
17

18 **97. Part 7 inserted**

19 After section 86 insert:
20

21 **Part 7 — Transitional provisions**

22 **87. Transitional provision for *Local Government***
23 ***Legislation Amendment Act 2019***

24 (1) This section applies to a person who, immediately
25 before the day on which the *Local Government*
26 *Legislation Amendment Act 2019* section 95 comes into
27 operation, was a person appointed under section 48(1).

- 1 (2) The person is taken to be an authorised person
2 appointed under the *Local Government Act 1995*
3 section 9.10(2) for the purposes of this Act on the
4 terms and conditions that were applicable to the
5 person's appointment under section 48(1) immediately
6 before the day referred to in subsection (1).
7

8 **Division 3 — *Cemeteries Act 1986* amended**

9 **98. Act amended**

10 This Division amends the *Cemeteries Act 1986*.

11 **99. Section 3 amended**

12 In section 3(1) delete the definition of *authorised person* and
13 insert:
14

15 *authorised person* means a person —

- 16 (a) authorised under section 64 to give
17 infringement notices; or
18 (b) appointed under the *Local Government*
19 *Act 1995* section 9.10(2) for the purposes of
20 section 63.
21

22 **100. Section 64 amended**

23 Delete section 64(2) and insert:
24

- 25 (2) A Board must give to each person authorised under
26 subsection (1) an identity card that —
27 (a) on the front of the card, sets out —
28 (i) the name and official insignia of the
29 Board; and
30 (ii) the name of the person; and

- 1 (iii) a recent photograph of the person;
2 and
3 (b) on the back of the card, specifies that the
4 person is authorised to give infringement
5 notices.
- 6 (3) A person authorised under subsection (1) must —
7 (a) carry their identity card at all times when
8 performing functions under this Act; and
9 (b) produce their identity card for inspection when
10 required to do so by a person to whom the
11 authorised person has given or is about to give
12 an infringement notice.
- 13 (4) References in this section to a Board do not include a
14 Board that is a local government.
15

16 **101. Schedule 2 amended**

- 17 (1) At the beginning of Schedule 2 insert:
18

19 **Division 1 — Provisions for repealed Act**
20

- 21 (2) In Schedule 2 clause 1 delete “Schedule —” and insert:
22

23 Division —
24

1 (3) After Schedule 2 clause 9 insert:
2

3 **Division 2 — Provision for Local Government Legislation**
4 **Amendment Act 2019**

5 **10. Authorised persons**

6 (1) This clause applies to a person who, immediately before the
7 day on which the *Local Government Legislation Amendment*
8 *Act 2019* section 100 comes into operation, was a person
9 authorised under section 64(1) by a Board that is a local
10 government.

11 (2) The person is taken to be an authorised person appointed
12 under the *Local Government Act 1995* section 9.10(2) for
13 the purposes of section 63 on the terms and conditions that
14 were applicable to the person's authorisation under
15 section 64(1) immediately before the day referred to in
16 subclause (1).
17

18 **Division 4 — Control of Vehicles (Off-road Areas) Act 1978**
19 **amended**

20 **102. Act amended**

21 This Division amends the *Control of Vehicles (Off-road Areas)*
22 *Act 1978*.

23 **103. Section 3 amended**

24 In section 3(1) in the definition of *authorised officer* delete
25 "*officer*" and insert:

26

27 *person*
28

29 **104. Section 5 amended**

30 Delete section 5(5).

1 **105. Section 38 amended**

2 (1) In section 38(1)(b) and (c) delete “pursuant to” and insert:

3

4 under

5

6 (2) Delete section 38(3) and insert:

7

8 (3) A person is appointed as an authorised person under
9 this subsection if the person is appointed under the
10 *Local Government Act 1995* section 9.10(2) to be an
11 authorised person for the purposes of this Act either in
12 respect of the whole of a district or any part of a district
13 specified in the appointment.
14

15 (3) In section 38(4) delete “officer pursuant to subsection (2) or
16 subsection (3) —” and insert:

17

18 person under subsection (2) or (3) —

19

20 (4) After section 38(4) insert:

21

22 (4A) Subsection (4)(d) does not apply in the case of a person
23 appointed as an authorised person under subsection (3).
24

25 (5) In section 38(7):

26 (a) delete “the officer” (each occurrence) and insert:

27

28 the authorised person

29

Local Government Legislation Amendment Bill 2019

Part 4 Other Acts amended

Division 4 Control of Vehicles (Off-road Areas) Act 1978 amended

s. 105

1 (b) delete “that officer” (each occurrence) and insert:

2

3 the authorised person

4

5 (6) In section 38(9) delete “officer pursuant to” and insert:

6

7 person under

8

9 (7) In section 38(11)(b) delete “officer,” and insert:

10

11 authorised person,

12

13 (8) In section 38(15) delete “officer” and insert:

14

15 authorised person

16

17 (9) In section 38(18) delete “officer appointed by a local
18 government under subsection (3) is to be taken to be detained by
19 the local government.” and insert:

20

21 person appointed under subsection (3) is taken to be detained by
22 the local government concerned.

23

24 Note: The heading to amended section 38 is to read:

25

Authorised persons

1 **106. Section 49 inserted**

2 After section 48 insert:

3

4 **49. Transitional provision for *Local Government***
5 ***Legislation Amendment Act 2019***

6 (1) This section applies to a person who, immediately
7 before the day on which the *Local Government*
8 *Legislation Amendment Act 2019* section 105 comes
9 into operation, was a person appointed under
10 section 38(3).

11 (2) The person is taken to be an authorised person
12 appointed under the *Local Government Act 1995*
13 section 9.10(2) for the purposes of this Act on the
14 terms and conditions that were applicable to the
15 person’s appointment under section 38(3) immediately
16 before the day referred to in subsection (1).
17

18 **107. Various references to “authorised officer” amended**

19 In the provisions listed in the Table delete “authorised officer”
20 and insert:

21

22 authorised person
23

23

24 **Table**

s. 8(1)(c)	s. 36(b)
s. 37(1)	s. 38(1), (2), (4)(a) and (d), (6), (7), (8), (11), (13) and (17)(b)
s. 40	

1

Division 5 — *Dog Act 1976* amended

2

108. Act amended

3

This Division amends the *Dog Act 1976*.

4

109. Section 3 amended

5

In section 3(1) in the definition of *authorised person* delete paragraph (a) and insert:

6

7

8

- (a) a person appointed under the *Local Government Act 1995* section 9.10(2) to be an authorised person for the purposes of this Act;

9

10

11

12

or

13

110. Section 11 amended

14

After section 11(4) insert:

15

16

- (5) Subsection (3) does not apply to a person appointed under the *Local Government Act 1995* section 9.10(2) to be an authorised person for the purposes of this Act.

17

18

19

20

111. Section 11A inserted

21

After section 11 insert:

22

23

11A. Authorised persons

24

The chief executive officer of a local government must, under the *Local Government Act 1995* section 9.10(2), appoint persons to be authorised persons for the purposes of this Act.

25

26

27

1 **112. Section 29 amended**

2 Delete section 29(1).

3 **113. Part XI Division 1 heading amended**

4 In the heading to Part XI Division 1 delete “**arising from**
5 **certain amendments made by**” and insert:

6

7 **for**

8

9 **114. Part XI Division 2 inserted**

10 At the end of Part XI insert:

11

12 **Division 2 — Transitional provision for the *Local***
13 ***Government Legislation Amendment Act 2019***

14 **61. Authorised persons**

15 (1) This section applies to a person who, immediately
16 before the day on which the *Local Government*
17 *Legislation Amendment Act 2019* section 112 comes
18 into operation, was a person appointed under
19 section 29(1).

20 (2) The person is taken to be an authorised person
21 appointed under the *Local Government Act 1995*
22 section 9.10(2) for the purposes of this Act on the
23 terms and conditions that were applicable to the
24 person’s appointment under section 29(1) immediately
25 before the day referred to in subsection (1).

26

27