

## LOCAL GOVERNMENT.

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No. 36 of 1975.

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### AN ACT to amend the Local Government Act, 1960-1974.

[Assented to 16th May, 1975.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Local Government Act Amendment Act, 1975*.

Short title  
and citation.

(2) In this Act the Local Government Act, 1960-1974 is referred to as the principal Act.

Reprinted  
as approved  
for reprint  
9th August,  
1973, and  
further  
amended by  
Acts Nos. 12,  
74, 83 and 105  
of 1973, and  
Acts Nos. 27  
and 65 of  
1974.

(3) The principal Act as amended by this Act may be cited as the Local Government Act, 1960-1975.

Section 12  
amended

2. Section 12 of the principal Act is amended—

(a) by deleting paragraph (d) of subsection (2);

(b) by repealing and re-enacting subsection (3) as follows—

(3) The Governor, by Order made after effective presentation to him of a petition bearing the common seal of one or more of the municipalities which will be directly affected by the Order, may—

(a) sever from a district a portion of the district and annex the portion to another district which the portion adjoins;

(b) unite two or more municipalities whose districts are adjoining, and their districts so as to form one municipality and one district. ;

(c) by deleting paragraph (e) of subsection (4); and

(d) by adding after the word “section”, in line two of paragraph (ka) of subsection (6), the words “but subject to section thirty A”.

Section 27  
amended.

3. Section 27 of the principal Act is amended—

(a) by adding after the section number “27.” the subsection designation “(1)”; and

(b) by adding a subsection as follows—

(2) Subsection (1) of this section and section twenty-eight to thirty, both inclusive, do not apply to or in relation

to any petition mentioned in subsection (1) of section twelve that seeks the exercise of the power to—

- (a) sever from a district a portion of the district and annex the portion to a district which the portion adjoins; or
- (b) abolish a district and dissolve the municipality of the district.

4. Subsection (1) of section 30 of the principal Act is amended by deleting subparagraph (ii) of paragraph (b).

Section 30 amended.

5. The principal Act is amended by adding after section 30 a section as follows—

Section 30A added.

30A. (1) This section applies to and in relation to—

Restrictions on exercise of powers sought in certain petitions.

- (a) any petition mentioned in subsection (1) of section twelve that seeks the exercise of the power to—
  - (i) sever from a district a portion of the district and annex the portion to a district which the portion adjoins; or
  - (ii) abolish a district and dissolve the municipality of the district; and
- (b) any petition mentioned in subsection (3) of section twelve, if any municipality which will be directly affected by the exercise of the power sought in the petition is not a party to the petition.

(2) Where a petition is one mentioned in subsection (1) of section twelve, before the Minister presents the petition to the Governor—

- (a) the Minister shall direct the council of the municipality in whose district the petitioners are ratepayers or electors, as the case may be to examine the petition and statutory declarations, if any, relating to it and satisfy itself that there are sufficient signatures of eligible persons to comply with the requirements of that subsection and that they are those of persons whose signatures they purport to be; and
- (b) as soon as is reasonably practicable after a council receives a direction issued under paragraph (a) of this subsection the council shall—
  - (i) cause the petition and the statutory declarations relating to it to be examined; and
  - (ii) if satisfied by the examination that there are sufficient signatures of eligible persons to comply with the requirements of subsection (1) of section twelve and that they are those of the persons whose signatures they purport to be, immediately on completion of the examination, give notice to that effect to the Minister; or
  - (iii) if not so satisfied by the examination, immediately on completion of the examination, give notice to that effect to the Minister, stating in the notice the particulars in respect of which it is not satisfied.

(3) Before the Minister presents to the Governor any petition to which this section applies—

- (a) the Minister shall direct the council of each municipality which will be directly affected by the exercise of the power sought in the petition to publish a notice setting out the substance in the prayer of the petition firstly in a newspaper circulating in the district of the municipality and then in the *Gazette*, within the period of one month after the receipt by the council of that direction, but where the petition is one mentioned in subsection (1) of section twelve the Minister shall so direct only if the notice he has received under paragraph (b) of subsection (2) of this section is the notice mentioned in subparagraph (ii) of that paragraph; and
- (b) the council shall comply with such a direction.

(4) Where, within the period of one month after the publication of the notice in the *Gazette* pursuant to subsection (3) of this section, at least fifty per centum of the number of ratepayers of a municipality which will be directly affected by the exercise of the power sought in the petition, or fifty of them, whichever is the lesser number, in writing signed by them and delivered to the clerk, demand that the proposal in the petition be submitted to a poll of the ratepayers of the municipality, the proposal shall be put to such a poll.

(5) Immediately after the period of one month referred to in subsection (4) of this section, the clerk of each municipality which will be affected as mentioned in that subsection

shall notify the Minister whether the minimum number of ratepayers as mentioned in that subsection of the municipality have made a demand as mentioned in that subsection.

(6) Where a poll or polls is or are required pursuant to subsection (4) of this section—

(a) the Minister shall appoint a day for the taking of the poll or polls;

(b) the council of each municipality which is required to have a poll shall cause to be published, not less than fourteen and not more than twenty-one days before the day appointed for the taking of the poll or polls in a newspaper circulating in the district of the municipality a notice—

(i) setting out the substance of the prayer of the petition; and

(ii) stating the date appointed by the Minister for the taking of the poll or polls,

and shall prepare for, conduct, and ascertain the result of the poll in its municipality;

(c) where the proposal is contained in a petition mentioned in subsection (3) of section twelve, the Minister may direct that the municipality which is a party, or the municipalities which are parties, to the petition shall pay the costs of conducting the poll or polls and thereupon it or they shall do so, but otherwise each municipality which is required to have a poll shall pay the costs of its own poll;

- (d) within twenty-one days after the result of a poll has been ascertained, the returning officer shall notify the Minister of—
- (i) the number of ratepayers who were entitled to vote at the poll;
  - (ii) the number of ratepayers who voted at the poll; and
  - (iii) the number of valid votes recorded for and against the proposal; and
- (e) if at the poll in any municipality the number of ratepayers who vote thereat is not less than one-third of the number entitled to vote thereat and a majority of the valid votes recorded at the poll are against the proposal, the Minister shall not present the petition containing it to the Governor. .
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