

# Local Government Amendment (Auditing) Bill 2017

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Western Australia

LEGISLATIVE ASSEMBLY

**Local Government Amendment (Auditing)  
Bill 2017**

**A Bill for**

**An Act to amend the *Local Government Act 1995* to provide for the auditing of local governments by the Auditor General and for related purposes.**

The Parliament of Western Australia enacts as follows:

s. 1

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1   **1.     Short title**

2           This is the *Local Government Amendment (Auditing) Act 2017*.

3   **2.     Commencement**

4           This Act comes into operation as follows —

- 5           (a) sections 1 and 2 — on the day on which this Act  
6                receives the Royal Assent;
- 7           (b) the rest of the Act, other than sections 4(2) and 7(2) —  
8                on a day fixed by proclamation, and different days may  
9                be fixed for different provisions;
- 10          (c) sections 4(2) and 7(2) — on the day fixed by  
11                proclamation under section 22(2).

12 **3.     Act amended**

13           This Act amends the *Local Government Act 1995*.

14 **4.     Section 1.4 amended**

15          (1) In section 1.4 delete the definition of *auditor* and insert:

16

17                   *auditor* means —

- 18           (a) in relation to an audit, other than a performance  
19                audit —
- 20                (i) in relation to a local government that  
21                    has an audit contract that is in force — a  
22                    person for the time being appointed  
23                    under Part 7 Division 2 to be the auditor  
24                    of the local government; and
- 25                (ii) in relation to a local government that  
26                    does not have an audit contract that is in  
27                    force — the Auditor General;

28                   and

1 (b) in relation to a performance audit — the  
2 Auditor General;  
3

4 (2) In section 1.4 delete the definition of *auditor* and insert:

5 *auditor* means the Auditor General;  
6  
7

8 **5. Section 3.64 amended**

9 In section 3.64(e) delete “chairman” (each occurrence) and  
10 insert:  
11

12 chairperson  
13

14 **6. Section 3.70A inserted**

15 After section 3.70 insert:  
16

17 **3.70A. Audit requirements for regional subsidiaries**

18 (1) Section 7.1 and the provisions of Part 7 Divisions 3A  
19 to 4 apply in relation to a regional subsidiary as if the  
20 regional subsidiary were a local government.

21 (2) The application of a provision under subsection (1) is  
22 subject to any prescribed or necessary modifications to  
23 the provision provided for in the regulations.  
24

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1   **7.       Section 5.53 amended**

2       (1) Delete section 5.53(2)(h) and insert:

3

4                   (h) the auditor's report prepared under  
5                   section 7.9(1) or 7.12AD(1) for the financial  
6                   year; and  
7

8       (2) Delete section 5.53(2)(h) and insert:

9

10                   (h) the auditor's report prepared under  
11                   section 7.12AD(1) for the financial year; and  
12

13   **8.       Section 5.55A inserted**

14       After section 5.55 insert:

15

16       **5.55A.   Publication of annual reports**

17                   The CEO is to publish the annual report on the local  
18                   government's official website within 14 days after the  
19                   report has been accepted by the local government.  
20

21   **9.       Section 5.94 amended**

22       After section 5.94(t) insert:

23

24                   (ta) a report on a supplementary audit prepared  
25                   under section 7.12AH(1);  
26

1 **10. Section 7.1 amended**

2 (1) In section 7.1 delete “Part —” and insert:

3

4 Part, unless the contrary intention appears —

5

6 (2) In section 7.1 insert in alphabetical order:

7

8 ***audit*** has the meaning given in the Auditor General Act  
9 section 4(1);

10 ***audit contract*** means an agreement in writing that —

11 (a) was made under section 7.8(1); and

12 (b) was in force immediately before  
13 commencement day;

14 ***Auditor General Act*** means the *Auditor General*  
15 *Act 2006*;

16 ***audit report*** means a report prepared by an auditor on a  
17 local government audit;

18 ***commencement day*** means the day on which the *Local*  
19 *Government Amendment (Auditing) Act 2017*  
20 section 10 comes into operation;

21 ***financial audit*** means an audit conducted under  
22 section 7.12AB;

23 ***local government audit*** means —

24 (a) an audit conducted under this Part; or

25 (b) a performance audit;

26 ***performance audit*** means an examination or  
27 investigation carried out under the Auditor General Act  
28 section 18 (as applied by section 7.12AJ(1) of this  
29 Act);

30 ***supplementary audit*** means an audit conducted under  
31 section 7.12AG.  
32

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1       (3) In section 7.1 in the definition of *regulations* delete “Part.” and  
2       insert:

3

4             Part;

5

6       **11. Section 7.1A amended**

7             In section 7.1A(3) delete “him or her” and insert:

8

9             the CEO

10

11       **12. Section 7.1D inserted**

12             At the beginning of Part 7 Division 2 insert:

13

14             **7.1D. Application**

15                     This Division applies in relation to a local government  
16                     that has an audit contract that is in force.

17

18       **13. Section 7.3 amended**

19       (1) In section 7.3(1) delete “A local” and insert:

20

21             Subject to subsection (1A), a local

22

23       (2) After section 7.3(1) insert:

24

25             (1A) A local government cannot appoint a person to be its  
26             auditor after commencement day.

27



1 **14. Section 7.7 amended**

2 (1) In section 7.7 delete “If” and insert:

3

4 (1) Subject to subsection (2), if

5

6 (2) At the end of section 7.7 insert:

7

8 (2) The Departmental CEO cannot appoint a person to be  
9 the auditor of a local government after commencement  
10 day.

11

12 **15. Section 7.8A inserted**

13 At the beginning of Part 7 Division 3 insert:

14

15 **7.8A. Application**

16 This Division applies in relation to a local government  
17 that has an audit contract that is in force.

18

19 **16. Section 7.9 amended**

20 In section 7.9(4) delete “government to be dealt with under  
21 section 7.12A.” and insert:

22

23 government.

24

25 **17. Section 7.11 amended**

26 In section 7.11 delete “inspection or inquiry,”.

1 **18. Part 7 Divisions 3A to 3D inserted**

2 After Part 7 Division 3 insert:

3

4 **Division 3A — Financial audit**

5 **7.12AA. Application**

6 This Division applies in relation to a local government  
7 that does not have an audit contract that is in force.

8 **7.12AB. Conducting a financial audit**

9 The auditor must audit the accounts and annual  
10 financial report of a local government at least once in  
11 respect of each financial year.

12 **7.12AC. Dispensing with a financial audit**

- 13 (1) Despite section 7.12AB, the auditor may dispense with  
14 all or any part of a financial audit if the auditor  
15 considers that the dispensation is appropriate in the  
16 circumstances.
- 17 (2) The auditor must consult the Minister before exercising  
18 the power conferred by subsection (1).
- 19 (3) If the auditor exercises the power conferred by  
20 subsection (1), the auditor must notify —
- 21 (a) the Public Accounts Committee as defined in  
22 the Auditor General Act section 4(1); and
- 23 (b) the Estimates and Financial Operations  
24 Committee as defined in the Auditor General  
25 Act section 4(1).

26 **7.12AD. Reporting on a financial audit**

- 27 (1) The auditor must prepare and sign a report on a  
28 financial audit.

- 1           (2) The auditor must give the report to —  
2                 (a) the mayor, president or chairperson of the local  
3                     government; and  
4                 (b) the CEO of the local government; and  
5                 (c) the Minister.

6           **7.12AE. Fees for a financial audit**

- 7           (1) The auditor must determine whether a fee is to be  
8                 charged for a financial audit of a local government and  
9                 if so, the amount of that fee.  
10          (2) A fee determined under subsection (1) must be paid by  
11             the local government.

12                           **Division 3B — Supplementary audit**

13           **7.12AF. Application**

14                           This Division applies in relation to a local government  
15                           that does not have an audit contract that is in force.

16           **7.12AG. Conducting a supplementary audit**

17                           The auditor may audit any particular aspect of the  
18                           accounts of a local government that the Minister  
19                           requests the auditor to audit.

20           **7.12AH. Reporting on a supplementary audit**

- 21           (1) The auditor must prepare and sign a report on a  
22                 supplementary audit.  
23           (2) The auditor must give the report to the Minister.  
24           (3) The Minister —  
25                 (a) may give a copy of the report to the mayor,  
26                     president or chairperson of the local  
27                     government, and to the CEO of the local  
28                     government; and

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1                   (b) may request the CEO of the local government  
2                   to publish the report on the local government's  
3                   official website.

4                   (4) The CEO must publish a copy of the report on the local  
5                   government's official website within 14 days after  
6                   receiving a request under subsection (3)(b).

7                   **7.12AI. Fees for a supplementary audit**

8                   (1) The auditor must determine whether a fee is to be  
9                   charged for a supplementary audit of a local  
10                  government and if so, the amount of that fee.

11                  (2) A fee determined under subsection (1) must be paid by  
12                  the local government.

13                                   **Division 3C — Performance audit**

14                   **7.12AJ. Conducting a performance audit**

15                  (1) The Auditor General Act section 18 applies in relation  
16                  to a local government as if —

17                           (a) the local government were an agency; and

18                           (b) money collected, received or held by any  
19                           person for or on behalf of the local government  
20                           were public money; and

21                           (c) money collected, received or held by the local  
22                           government for or on behalf of a person other  
23                           than the local government were other money;  
24                           and

25                           (d) property held for or on behalf of the local  
26                           government, other than money referred to in  
27                           paragraph (b), were public property; and

28                           (e) property held by the local government for or on  
29                           behalf of a person other than the local  
30                           government were other property; and

- 1 (f) the reference in the Auditor General Act  
2 section 18(2)(d) to “legislative provisions,  
3 public sector policies or its own internal  
4 policies;” were a reference to “legislative  
5 provisions or its own internal policies;”.
- 6 (2) A performance audit is taken for the purposes of the  
7 Auditor General Act to have been carried out under the  
8 Auditor General Act Part 3 Division 1.

9 **7.12AK. Reporting on a performance audit**

- 10 (1) The Auditor General Act section 25 applies in relation  
11 to a performance audit as if —  
12 (a) a local government were an agency; and  
13 (b) the council of the local government were its  
14 accountable authority.
- 15 (2) The auditor must give a report on a performance audit  
16 to the local government.

17 **Division 3D — Other audits**

18 **7.12AL. Audits of accounts of related entities and certain**  
19 **subsidiary bodies**

- 20 The Auditor General Act sections 16 and 17 apply in  
21 relation to a local government as if —  
22 (a) the local government were an agency; and  
23 (b) the council of the local government were its  
24 accountable authority.  
25

26 **19. Section 7.12A amended**

- 27 (1) In section 7.12A(1)(a) delete “his or her” and insert:  
28  
29 the auditor’s  
30

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- 1 (2) In section 7.12A(3):  
2 (a) delete “is to examine the report of the auditor prepared  
3 under section 7.9(1), and any report prepared under  
4 section 7.9(3) forwarded to it, and is to —” and insert:  
5  
6 must —  
7  
8 (b) before paragraph (a) insert:  
9  
10 (aa) examine an audit report received by the local  
11 government; and  
12  
13 (c) in paragraph (a) delete “report, or reports,” and insert:  
14  
15 audit report,  
16  
17 (3) Delete section 7.12A(4) and insert:  
18  
19 (4) A local government must —  
20 (a) prepare a report addressing any matters  
21 identified as significant by the auditor in the  
22 audit report, and stating what action the local  
23 government has taken or intends to take with  
24 respect to each of those matters; and  
25 (b) give a copy of that report to the Minister within  
26 3 months after the audit report is received by  
27 the local government.  
28 (5) Within 14 days after a local government gives a report  
29 to the Minister under subsection (4)(b), the CEO must  
30 publish a copy of the report on the local government’s  
31 official website.  
32

1   **20.   Section 7.13 amended**

2           In section 7.13(1):

3           (a)   delete “provision —” and insert:

4

5                   provision as follows —

6

7           (b)   delete paragraphs (aa), (ab), (ac) and (ad) and insert:

8

9           (aa)   as to the functions of a CEO in relation to —

10                   (i)   a local government audit; and

11                   (ii)   a report (an *action report*) prepared

12                           by a local government under

13                           section 7.12A(4)(a); and

14                   (iii)   an audit report; and

15                   (iv)   a report on an audit conducted by a local

16                           government under this Act or any other

17                           written law;

18           (ab)   as to the functions of an audit committee,

19                   including in relation to —

20                   (i)   the selection and recommendation of an

21                           auditor under Division 2; and

22                   (ii)   a local government audit; and

23                   (iii)   an action report; and

24                   (iv)   an audit report; and

25                   (v)   a report on an audit conducted by a local

26                           government under this Act or any other

27                           written law;

28           (ac)   as to the procedure to be followed in selecting

29                   an auditor under Division 2;

30

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- 1 (c) in paragraph (ae) delete “a report by an auditor;” and  
2 insert:  
3  
4 an audit report;  
5  
6 (d) in paragraph (a) delete “agreements between local  
7 governments and auditors;” and insert:  
8  
9 an agreement in writing (*agreement*) made under  
10 section 7.8(1);  
11  
12 (e) delete paragraph (b) and insert:  
13  
14 (b) for notifications and reports to be given in  
15 relation to an agreement, including any  
16 variations to, or termination of an agreement;  
17  
18 (f) in paragraph (ba) delete “the copies of agreements  
19 between local governments and auditors” and insert:  
20  
21 a copy of an agreement  
22  
23 (g) in paragraph (c) delete “auditor;” and insert:  
24  
25 auditor under section 7.5;  
26  
27 (h) in paragraph (d) delete “for —” and insert:  
28  
29 for the following —  
30



- 1 (i) in paragraph (f) delete “by auditors in their reports;” and  
2 insert:  
3  
4 in an audit report;  
5  
6 (j) delete paragraphs (g) and (h) and insert:  
7  
8 (g) requiring an auditor (other than the Auditor  
9 General) to provide the Minister with  
10 prescribed information as to an audit conducted  
11 by the auditor;  
12 (h) prescribing the circumstances in which an  
13 auditor (other than the Auditor General) is to be  
14 considered to have a conflict of interest and  
15 requiring an auditor (other than the Auditor  
16 General) to disclose in an audit report such  
17 information as to a possible conflict of interest  
18 as is prescribed;  
19

20 **21. Schedule 9.3 amended**

- 21 (1) Delete Schedule 9.3 clause 32.  
22 (2) At the end of Schedule 9.3 insert:  
23

24 **Division 4 — Provisions for the *Local Government***  
25 ***Amendment (Auditing) Act 2017***

26 **49. Terms used**

- 27 In this Division —  
28 ***audit contract*** has the meaning given in section 7.1;  
29 ***commencement day*** has the meaning given in section 7.1.

- 1           **50.       Minister to publish status of audit contracts**
- 2                           During the period beginning on commencement day and
- 3                           ending on the day fixed by proclamation under the *Local*
- 4                           *Government Amendment (Auditing) Act 2017* section 22(2),
- 5                           the Minister must publish on a website maintained by the
- 6                           Department a list of —
- 7                           (a)    local governments that have an audit contract that is
- 8                           in force; and
- 9                           (b)    local governments that do not have an audit contract
- 10                           that is in force.
- 11           **51.       Audit contracts may be terminated after completion of**
- 12                           **FY17/18 audit**
- 13                   (1)    In this clause —
- 14                           *FY17/18 audit*, in relation to a local government, means an
- 15                           audit of the local government conducted under
- 16                           section 7.9(1) in respect of the financial year ending on
- 17                           30 June 2018.
- 18                   (2)    This clause applies in relation to a local government after
- 19                           the completion of the FY17/18 audit for the local
- 20                           government.
- 21                   (3)    The Departmental CEO may give notice (a *notice*) to a local
- 22                           government specifying the date (the *termination date*) on
- 23                           which the audit contract for the local government is to
- 24                           terminate.
- 25                   (4)    An audit contract in relation to which a notice is given is
- 26                           terminated by force of this provision on the termination
- 27                           date.
- 28                   (5)    The Departmental CEO may give a notice on the
- 29                           Departmental CEO's own initiative.
- 30                   (6)    The Minister may —
- 31                           (a)    request the Departmental CEO to give a notice to a
- 32                           local government; and
- 33                           (b)    nominate the termination date to be specified in the
- 34                           notice.

- 
- 1 (7) On request by the Minister, the Departmental CEO must  
2 give a notice to the local government specifying the  
3 termination date nominated by the Minister.
- 4 (8) A notice given or request made under this clause must be in  
5 writing.
- 6 **52. Audit contracts are terminated after completion of**  
7 **FY19/20 audit**
- 8 (1) In this clause —
- 9 *FY19/20 audit*, in relation to a local government, means an  
10 audit of the local government conducted under  
11 section 7.9(1) in respect of the financial year ending on  
12 30 June 2020.
- 13 (2) An audit contract for a local government, unless earlier  
14 lawfully terminated, is terminated by force of this provision  
15 on completion of the FY19/20 audit for the local  
16 government.
- 17 **53. No breach of contract**
- 18 Anything that occurs by operation of this Division is not to  
19 be regarded as a breach of contract.
- 20 **54. Transitional regulations**
- 21 (1) In this clause —
- 22 *specified* means specified or described in the regulations;  
23 *transitional matter* —
- 24 (a) means a matter or issue of a transitional nature that  
25 arises as a result of the enactment of the *Local*  
26 *Government Amendment (Auditing) Act 2017*; and
- 27 (b) includes a saving or application matter.
- 28 (2) If there is not sufficient provision in this Division for  
29 dealing with a transitional matter, regulations under this Act  
30 may prescribe all matters that are required or necessary or  
31 convenient to be prescribed for dealing with the matter.

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- 1 (3) Regulations made under subclause (2) may provide that  
2 specified provisions of a written law —  
3 (a) do not apply to or in relation to any matter; or  
4 (b) apply with specified modifications to or in relation  
5 to any matter.
- 6 (4) If regulations made under subclause (2) provide that a  
7 specified state of affairs is taken to have existed, or not to  
8 have existed, on and from a day that is earlier than the day  
9 on which the regulations are published in the *Gazette* but not  
10 earlier than the day this clause comes into operation, the  
11 regulations have effect according to their terms.
- 12 (5) If regulations made under subclause (2) contain a provision  
13 referred to in subclause (4), the provision does not operate  
14 so as —  
15 (a) to affect in a manner prejudicial to any person  
16 (other than the State or an authority of the State) the  
17 rights of that person existing before the day of  
18 publication of those regulations; or  
19 (b) to impose liabilities on any person (other than the  
20 State or an authority of the State) in respect of  
21 anything done or omitted to be done before the day  
22 of publication of those regulations.
- 23 (6) Regulations made under subclause (2) in relation to a matter  
24 referred to in subclause (3) must be made within whatever  
25 period is reasonably and practicably necessary to deal with a  
26 transitional matter.

27 **22. Superseded provisions to be deleted**

- 28 (1) In this section —  
29 *superseded provisions* means the following provisions of the  
30 *Local Government Act 1995* —  
31 (a) section 5.43(c);  
32 (b) in section 7.1, the definitions of *approved auditor*,  
33 *disqualified person*, *qualified person* and *registered*  
34 *company auditor*;

- 1 (c) Part 7 Division 2;  
2 (d) Part 7 Division 3;  
3 (e) section 7.12AA;  
4 (f) section 7.12AF;  
5 (g) section 7.13(1)(ab)(i), (ac), (a)-(e), (g) and (h).
- 6 (2) The superseded provisions are deleted on a day fixed by  
7 proclamation.
- 8 (3) A proclamation cannot be made under subsection (2) unless the  
9 Minister is satisfied that there is no reason for the superseded  
10 provisions to remain in operation.
- 11 (4) This section is deleted immediately after the superseded  
12 provisions are deleted.
- 13 Note for Part 7:  
14 The description at the beginning of Part 7 is to be altered by:  
15 (a) deleting "*the financial accounts of*";  
16 (b) deleting paragraph (a) and inserting:  
17 (a) *the establishment of audit committees; and*

18

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