
HOBART CORPORATION ACT 1977

ANALYSIS

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HOBART CORPORATION

No. 26 of 1977

AN ACT to amend the Hobart Corporation Act 1963.

[28 April 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Hobart Corporation Act* 1977. Short title, citation, and commencement.

(2) The *Hobart Corporation Act* 1963*, as subsequently amended, is in this Act referred to as the Principal Act.

* No. 81 of 1963. Subsequently amended by Nos. 55 and 64 of 1965, Nos. 62 and 64 of 1967, No. 86 of 1971, Nos. 21 and 75 of 1973, No. 106 of 1974, and No. 39 of 1976.

(3) Except as provided in subsections (4) and (5) and section 19, the provisions of this Act shall commence on the day on which the Governor gives his assent to this Act.

(4) Sections 3, 6, 9 to 12, 14, 24, and 25 shall commence on the same day as sections 3 to 14, 45, 48, and 50 of the *Local Government Act 1977* commence.

(5) Sections 7, 17, and 20 shall commence on the same day as the day on which the Governor gives his assent to the *Local Government Act 1977*.

Interpretation.

2 Section 3 of the Principal Act is amended by inserting in subsection (1), after the definition of "citizen", the following definition:—

“ ‘ June public holiday ’ means the day appointed by the Governor as a public holiday under section 4 (1) (b) of the *Bank Holidays Act 1919*;”.

3 Section 9 of the Principal Act is repealed and the following section is substituted:—

Qualifications of citizens.

“ 9 The citizens of the city are those persons—

- (a) who have the qualifications specified in section 65 (1) of the *Local Government Act 1962*; and
- (b) whose names appear in the electoral index of the city.”.

Mayor to be elected biennially.

4 Section 14 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:—

“(1) Subject to subsection (1A), the mayor shall be elected in accordance with this Act on the third Saturday in June in the year 1978 and in each alternate year thereafter.

“(1A) Where an election under subsection (1) would, apart from this subsection, be held on a Saturday in June in any year that is the Saturday next before the June public holiday, that election shall be held on the fourth Saturday in that month.

“(1B) The mayor shall take office at noon on the Friday next after his election or as soon after that hour as the certificate of that election has been sealed as provided in section 56A.”.

5 Section 18 of the Principal Act is amended—

(a) by omitting subsection (1) and substituting the following subsections:—

Rotational
retirement
of aldermen.

“(1) The 6 aldermen who have been longest in office without re-election shall retire at noon—

(a) on—

(i) the fourth Friday in June in the year 1978; and

(ii) the Friday next after the third Saturday in June in each alternate year after that year,

if the election to fill the places of the aldermen so retiring is held on the day in that month that is prescribed by subsection (1A) for holding such an election; or

(b) on—

(i) the Friday after the fourth Saturday in June in the year 1978; and

(ii) the Friday next after the fourth Saturday in June in each alternate year after that year,

if that election is held on the day in that month that is prescribed by subsection (1B) for holding such an election.

“(1A) Except as provided in subsection (1B), an election for the purposes of subsection (1) shall be held on the third Saturday in June in the appropriate year.

“(1B) Where the third Saturday in June in the year 1978 or any alternate year after that year is the Saturday next before the June public holiday, an election for the purposes of subsection (1) shall be held on the fourth Saturday in the appropriate year.”; and

(b) by renumbering subsection (1A) (second occurring) as subsection (1C).

6 Section 19 of the Principal Act is repealed and the following section is substituted:—

“19 Subject to section 48 of the *Local Government Act 1962*, every citizen is eligible to be elected, and, if elected, to hold office, as an alderman.”

Qualifications
of aldermen.

Other
extraordinary
vacancies.

7 Section 22 of the Principal Act is amended by omitting paragraph (b) of subsection (1) and substituting the following paragraph:—

“(b) if any rate or charge for which he is primarily liable to the corporation remains due and unpaid—

(i) for 6 months after it is demanded, if the rate or charge is payable otherwise than by instalments;
or

(ii) at the end of the financial year in respect of which it is made, if the rate or charge is payable by instalments,

pursuant to section 249 of the *Local Government Act 1962*.”.

Date of
election.

8 Section 24 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:—

“(1) Except as provided by subsection (1A), elections shall be held on the third Saturday in June in the year 1978, and in each alternate year after that year, for the purpose of filling vacancies—

(a) in the offices of mayor and deputy-mayor;

(b) caused by the retirement of aldermen that will occur on the following Friday; and

(c) caused by an alderman ceasing to hold office otherwise than by retirement by rotation before the third Friday in May in the appropriate year.

“(1A) Where the third Saturday in the year 1978 or any alternate year after that year is the Saturday next before the June public holiday, elections shall be held on the fourth Saturday in June in that year, and in that alternate year, for the purpose of filling the vacancies referred to in subsection (1) (a) and those caused by—

(a) the retirement of aldermen that will occur on the following Friday; and

(b) an alderman ceasing to hold office otherwise than by retirement by rotation before the fourth Friday in May in the appropriate year.”.

Application
of the *Local
Government
Act 1962*.

9 Section 26 of the Principal Act is amended by omitting from subsection (2) the words “paragraph (b) of subsection (1)” and substituting the words “subsection (2) (a) (ii)”.

10 Section 31 of the Principal Act is amended by omitting paragraph (c) of subsection (2). Duties of returning officers.

11 Section 41 of the Principal Act is amended— Method of voting.

(a) by omitting paragraph (b) of subsection (1) and substituting the following paragraph:—

“(b) If he satisfies the poll-clerk or presiding officer that he is entitled to vote, the poll-clerk or presiding officer shall check or mark off his name upon a certified copy of the list of voters as having voted and hand a ballot-paper to that person;”;

(b) by omitting from subsection (2) the words “, giving as many votes as he is entitled to give,”;

(c) by omitting from paragraph (a) of subsection (3) the words “ as many votes as he is entitled ” and substituting the words “ his vote ”;

(d) by omitting from that paragraph the words “ votes ” (second occurring) and substituting the word “ vote ”; and

(e) by omitting from paragraph (b) of that subsection the word “ votes ” (first occurring) and substituting the word “ vote ”.

12 Section 43 of the Principal Act is amended by omitting subsection (4). Cases where persons not on list of voters may vote.

13 Section 48 of the Principal Act is amended— Application for a postal ballot-paper.

(a) by omitting from subsection (1) the words “ day of the election ” (second occurring) and substituting the words “ closing day ”;

(b) by adding at the end of subsection (2) the words “ so as to be received by him before the closing day ”; and

(c) by adding at the end the following subsection:—

“(3) In this section, ‘ closing day ’ means the day preceding the day of an election.”.

14 Section 49 of the Principal Act is amended by omitting from subsection (2) (b) the words “ and for the number of votes to which the applicant is entitled ”. Issue of postal ballot-papers.

When
extraordinary
vacancy arises.

15 Section 58 of the Principal Act is amended by omitting from subsection (3) the word "Tuesday" and substituting the word "Friday".

Limit of
expenses
allowed.

16 Section 60 of the Principal Act is amended by omitting from subsection (1) the words "two hundred dollars" and "three hundred dollars" and substituting the amounts "\$400" and "\$500" respectively.

Interest on
overdue rates.

17—(1) Section 84 of the Principal Act is amended by omitting from subsection (2) (b) the word "five" and substituting the numeral "10".

(2) This section does not apply to any interest charged on any rate, or any part or instalment of a rate, payable on or before 30th June 1977.

Borrowing
authorized.

18 Section 92 of the Principal Act is amended by omitting from subsection (2) the words "twenty million dollars" and substituting the amount "\$50 000 000".

Power to
appoint
receiver.

19—(1) Section 133 of the Principal Act is amended by omitting from subsection (1) (b) the word "pound".

(2) This section shall be deemed to have commenced on 14th February 1966.

Construction
of highways.

20 Section 142 of the Principal Act is amended by omitting paragraph (a) of subsection (4) and substituting the following paragraph:—

"(a) sections 394, 395, 410, 412 (3) and (4), and 415A were not included;"

Amendment of
heading to
Part XIV,
Division I.

21 Part XIV of the Principal Act is amended by inserting in the heading to Division I, before the word "*rivulets*", the word "*certain*".

Powers in
relation to
Hobart Rivulet.

22 Section 200 of the Principal Act is amended by omitting the symbol "(b)" (second occurring) and substituting the symbol "(c)".

23 Section 201 of the Principal Act is amended—Power to
improve
rivulets.

- (a) by omitting from subsection (1) the word “The” and substituting the words “Subject to subsection (1A), the”;
- (b) by inserting after that subsection the following subsection:—
 “(1A) Where a rivulet is vested in a person other than the corporation, the corporation shall not widen, divert, or improve the rivulet pursuant to subsection (1) unless it does so in pursuance of, and in accordance with, an agreement made between it and that other person.”; and
- (c) by inserting in subsection (2), after the word “thereof”, the words “which is vested in the corporation pursuant to section 198 or which it has purchased or taken pursuant to subsection (1) and”.

24 The third Schedule to the Principal Act is amended—Amendments
of the third
Schedule.

- (a) by omitting paragraph (2) of form 3 and substituting the following paragraph:—
 “(2) his name appears in the electoral index of the city,”;
- (b) by omitting from that form the sentence beginning with the word “*Strike”;
- (c) by omitting from form 4 the words beginning with the words “ONE VOTE” and ending with the word “VOTES].”;
- (d) by omitting from form 8 the words “one vote [*or two votes*]” and substituting the word “vote”;
- (e) by omitting sub-paragraph (ii) of paragraph (c) of that form and substituting the following sub-paragraph:—
 “(ii) a residence elector’s claim card;”;
- (f) by omitting from paragraph (c) of that form the word “twenty-second” and substituting the word “sixtieth”;
- (g) by omitting paragraph (e) of that form; and
- (h) by omitting from form 11 the following words:—
 “.....*Votes*
 (as the case may be.)”.

Transitional
provisions.

25—(1) Nothing contained in this Act prejudices or affects the incorporation of the city or its continuity as the same corporate body that was in existence immediately before the commencement of the prescribed provisions of this Act.

(2) A person who holds the office of mayor, deputy-mayor, or alderman immediately before the commencement of the prescribed provisions of this Act continues to hold that office under and subject to the Principal Act as amended by this Act and shall not be deemed to have ceased to be qualified for that office by reason of the alteration in the qualifications for that office made by this Act.

(3) In this section, “the prescribed provisions of this Act” means the sections of this Act referred to in section 1 (4).