

LAUNCESTON CORPORATION AMENDMENT ACT 1985

No. 30 of 1985

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SCHEDULE 1

CONSEQUENTIAL AMENDMENTS IN RELATION TO ELECTIONS OF ALDERMEN



LAUNCESTON CORPORATION AMENDMENT ACT 1985

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 No. 30 of 1985
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 AN ACT to amend the Launceston Corporation Act 1963 consequential on the enactment of the Local Government (City of Launceston Reorganization) Act 1985 and in relation to committees of the council of the city of Launceston.

[Royal Assent 8 May 1985]

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—This Act may be cited as the *Launceston Corporation Amendment Act 1985*. Short title.

2—This Act shall commence on the day appointed by proclamation under section 31 (1) of the *Local Government (City of Launceston Reorganization) Act 1985*. Commencement.

Principal Act.

3—In this Act, the *Launceston Corporation Act 1963** is referred to as the Principal Act.

Amendment of section 3 of Principal Act (Interpretation).

4—Section 3 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition before the definition of “ citizen ”:—

“ annual election ” means an election, under section 26, of an alderman for a ward;

(b) by omitting the definition of “ election ” and substituting the following definition:—

“ the proclaimed day ” has the meaning assigned to that expression by section 3 of the *Local Government (City of Launceston Reorganization) Act 1985*;

(c) by omitting “ Launceston. ” from the definition of “ the city ” and substituting “ Launceston; ”;

(d) by inserting the following definition after the definition of “ the city ”:—

“ ward ” means a ward of the city.

Amendment of section 8 of Principal Act (Qualifications of citizens).

5—Section 8 (b) of the Principal Act is amended by omitting “ of the city ” and substituting “ of a ward ”.

Substitution of section 9 of Principal Act.

6—Section 9 of the Principal Act is repealed and the following section is substituted:—

Lands which are included in the city.

9—The city shall comprise—

(a) the lands comprised within the boundaries of the city, being the boundaries shown on the plan firstly contained in Schedule 1 to the *Local Government (City of Launceston Reorganization) Act 1985*; and

(b) all lands that are added to, and included in, the city in accordance with this Act or the *Local Government Act 1962*.

* No. 82 of 1963. For this Act, as reprinted as at 12th October 1981, see the continuing Reprint of Statutes. Subsequently amended by No. 89 of 1983.

7—Section 13 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 13 of Principal Act.

13—On and after the proclaimed day—

Constitution of council, &c.

(a) the council of the city—

(i) shall continue to consist of the mayor and 11 other aldermen; and

(ii) shall continue to be called “ the Launceston City Council ”; and

(b) there shall continue to be 3 aldermen for each ward.

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

Amendment of section 14 of Principal Act (Quorum and vacancies).

(1) Seven aldermen shall form a quorum at a duly convened meeting of the council.

9—(1) Section 15 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:—

Amendment of section 15 of Principal Act (Mayor to be elected annually).

(1) At the first meeting of the council held after the conclusion of the annual elections held in 1986, and in each succeeding year, the aldermen present at the meeting shall elect one of the aldermen to be the mayor.

(2) If, from any unforeseen or unavoidable accident, the election of mayor at the meeting referred to in subsection (1) is impracticable, that election shall be held at a meeting of the council held on such day as the council directs.

(2) Section 15 (4) of the Principal Act is amended by omitting “ the current mayoral year ” and substituting “ his predecessor’s term of office ”.

10—Section 17 of the Principal Act is amended by inserting the following subsection after subsection (2):—

Amendment of section 17 of Principal Act (Vacation of office).

(3) The mayor or deputy-mayor may resign his office without resigning the office of alderman.

Substitution of
section 19 of
Principal Act.

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

Period of
office of
alderman.

19—Unless he sooner resigns or otherwise ceases to hold office under this Act, a person who is elected as an alderman for a ward at an annual election held after the proclaimed day holds that office for the period—

- (a) commencing on the day on which a declaration is made under section 31 (2) or 50 declaring that person to be duly elected as an alderman for that ward; and
- (b) ending on the day on which a declaration is made under section 31 (2) or 50 declaring a person to be duly elected as an alderman for that ward at the third annual election held after that first-mentioned annual election.

Amendment of
section 20 of
Principal Act
(Qualifications
of aldermen).

12—Section 20 of the Principal Act is amended by inserting “ for a ward ” after “ alderman ”.

Substitution of
section 26 of
Principal Act.

13—Section 26 of the Principal Act is repealed and the following section is substituted:—

Annual
elections of
aldermen.

26—(1) After the proclaimed day, an election shall be held in each ward on the 4th Saturday in March in 1986, and on the 4th Saturday in March in every succeeding year, for the purpose of filling the vacancy in that ward caused by the rotational retirement of aldermen provided for by the *Local Government (City of Launceston Reorganization) Act 1985*.

(2) Where an annual election under subsection (1) would, apart from this subsection, be held on Easter Eve in any year, that annual election shall be held on the following Saturday.

Substitution of
section 27 of
Principal Act.

14—Section 27 of the Principal Act is repealed and the following section is substituted:—

Returning
officer.

27—(1) An annual election shall be held before a person to be known as the returning officer.

(2) Subject to subsection (3), the town clerk shall be the returning officer for an annual election.

(3) If the town clerk is unable for any reason to perform the duties of returning officer at an annual election, the council shall appoint a fit and proper person, who is not an alderman or a candidate at that annual election or any other annual election required to be held on the same day, to be the returning officer for the first-mentioned annual election.

15—(1) Section 28 (1) of the Principal Act is amended by inserting “(1A),” before “(2)”.

(2) Section 28 of the Principal Act is further amended by inserting the following subsection after subsection (1):—

(1A) Division 2 of Part IV of that Act applies to the city, in relation to the first annual elections held after the proclaimed day, as if a reference to the valuation list of the city were a reference to a valuation list consisting of the Launceston valuation list, as defined by clause 1 of Schedule 2 to the *Local Government (City of Launceston Reorganization) Act 1985*, combined with the St Leonards valuation list, and the Lilydale valuation list, as defined by that clause.

16—(1) Section 29 (1) of the Principal Act is amended by omitting “an election” and substituting “an annual election”.

(2) Section 29 (2) of the Principal Act is amended as follows:—

(a) by omitting “the election”, where firstly occurring, and substituting “an annual election”;

(b) by omitting “any number of other citizens qualified to be elected as aldermen not exceeding the number required to be elected” and substituting “a citizen who is qualified to be elected as an alderman at that annual election”.

(3) Section 29 (3) of the Principal Act is amended by omitting “each” and substituting “the”.

(4) Section 29 of the Principal Act is further amended by omitting subsection (4) and substituting the following subsections:—

(4) A citizen is not eligible to be elected at an annual election unless he is nominated in accordance with subsection (3).

(4A) A citizen is not entitled to nominate a person as a candidate for an annual election unless the citizen is qualified to vote at the election.

Amendment of section 28 of Principal Act (Application of *Local Government Act 1962*).

Amendment of section 29 of Principal Act (Nominations of persons for annual elections).

(4B) If a person consents to be nominated as a candidate for more than one annual election required to be held on the same day, each of his nominations is void.

Substitution of section 31 of Principal Act.

17—Section 31 of the Principal Act is repealed and the following section is substituted:—

Uncontested annual elections.

31—(1) If, at an annual election, one person only is nominated as a candidate for that election, a poll shall not be taken.

(2) Where, as mentioned in subsection (1), a poll is not taken at an annual election, the returning officer shall, subject to subsection (3), as soon as practicable, declare the person nominated as a candidate for that election to be duly elected as an alderman for the ward to which that election relates and that person becomes an alderman for that ward on the day on which the declaration is made.

(3) Where a poll is required at an annual election held on the same day as an annual election referred to in subsection (2), the declaration required by that subsection to be made by the returning officer shall be made on the same day as the declaration that he is, by section 50, required to make in respect of the result of that poll.

Amendment of section 32 of Principal Act (Duties of returning officer).

18—(1) Section 32 (1) of the Principal Act is amended as follows:—

- (a) by inserting “ annual ” before “ election ”, where firstly occurring;
- (b) by omitting from paragraph (f) “ the election ” and substituting “ that election ”;
- (c) by omitting from paragraph (g) “ in accordance with Form 4 ”.

(2) Section 32 (2) of the Principal Act is amended as follows:—

- (a) by omitting from paragraph (a) “ Christian ” and substituting “ forenames ”;
- (b) by omitting paragraph (b) and substituting the following paragraph:—

(b) contain instructions for voting in accordance with section 37 (c); and

(3) Section 32 (4) of the Principal Act is amended by omitting “ in Form 4 and ”.

19—Section 37 of the Principal Act is amended as follows:—

Amendment of
section 37 of
Principal Act
(Method of
voting).

- (a) by inserting “annual ” after “ Every ”;
- (b) by omitting paragraph (c) and substituting the following paragraph:—

(c) that person shall immediately take his ballot-paper to a compartment provided for that purpose and there, without delay—

- (i) shall place the number 1 within, or substantially within, the square opposite the name of the candidate for whom he votes as his first preference;
- (ii) shall also (where there are more than 2 candidates) give contingent votes for at least 2 of the remaining candidates by placing within, or substantially within, the squares respectively opposite their names the numbers 2 and 3, so as to indicate the order of his preference; and
- (iii) may, in addition, indicate the order of his preference for as many more of the other candidates, if any, as he pleases, by placing within, or substantially within, the squares respectively opposite their names other numbers next in numerical order after those already used by him.

- (c) by inserting in paragraph (e) “ in the ward to which the election relates ” after “ polling-place ”, where secondly occurring.

20—(1) Section 39 (6) of the Principal Act is amended by inserting “ of the ward to which the relevant annual election relates ” after “ index ”.

Amendment of
section 39 of
Principal Act
(Case where
person not on
list of voters
may vote).

(2) Section 39 (7) of the Principal Act is amended by inserting “ of the ward to which the relevant annual election relates ” after “ index ”.

Amendment of section 43 of Principal Act (Adjournment of election in case proceedings are interrupted by riot).

21—(1) Section 43 (1) of the Principal Act is amended as follows:—

- (a) by inserting “ annual ” before “ election ”;
- (b) by inserting “, subject to subsection (1A)”, before “ adjourn ”, where firstly occurring;
- (c) by omitting “ day ” and substituting “ Saturday ”.

(2) Section 43 of the Principal Act is further amended by inserting the following subsection after subsection (1):—

(1A) Where the day on which the taking of the poll at an annual election is adjourned under subsection (1) would, apart from this subsection, be Easter Eve, that day shall be the second Saturday following the day of that annual election.

(3) Section 43 (2) of the Principal Act is amended by omitting “ the election ” and substituting “ at an annual election pursuant to subsection (1), that election ”.

Insertion in Principal Act of new section 43A.

Right of electoral officers to vote at annual elections. Cf. No. 81 of 1963, s. 46A.

22—After section 43 of the Principal Act, the following section is inserted in Division 5 of Part IV:—

43A—The returning officer, presiding officers, assistant presiding officers, and poll-clerks for an annual election are not debarred by their respective offices from voting at that election.

Amendment of section 44 of Principal Act (Application for a postal ballot-paper).

23—(1) Section 44 (1) of the Principal Act is amended as follows:—

- (a) by inserting “ at an annual election ” after “ vote ”;
- (b) by omitting “ an election ” and substituting “ that election ”;
- (c) by omitting from paragraph (a) “ 5 miles ” and substituting “ 10 kilometres ”;
- (d) by omitting “ 3 weeks before noon of the day of ” and substituting “ the period of 3 weeks ending on the day before ”.

(2) Section 44 (3) of the Principal Act is amended by omitting “ the election ”, where firstly occurring and substituting “ the relevant annual election or any other annual election required to be held on the same day ”.

(3) Section 44 (4) (c) of the Principal Act is amended as follows:—

- (a) by omitting “ the election ” and substituting “ the annual election for the Ward of the City of Launceston ”;
- (b) by inserting “ the ward to which the relevant annual election relates,” after “ inserting ”.

24—(1) Section 45 (1) of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraph:—

Amendment of section 45 of Principal Act (Postal votes: How recorded).

- (c) mark the ballot-paper as indicated by the instructions printed on the back of it and so that the authorized witness does not see the vote;

(2) Section 45 (2A) (a) of the Principal Act is amended by inserting “ for the relevant annual election ” after “ place ”.

25—After section 49 of the Principal Act, the following section is inserted:—

Insertion in Principal Act of new section 49A.

49A—The result of an annual election shall be determined in accordance with the regulations made under subparagraph (ii) of paragraph (c) of section 61 (1) of the *Local Government Act* 1962, unless the corporation has, by special resolution, decided that one of the other systems prescribed under that paragraph shall apply, and such a decision has effect accordingly.

Result of annual election.

26—Section 50 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 50 of Principal Act.

50—The returning officer shall, at the town hall and as soon as practicable after he has counted all the votes cast in an annual election, make a declaration—

Declaration by returning officer of result of election.

- (a) declaring the number of votes given for each candidate at the election and the number of invalid ballot-papers and rejected votes at the election; and
- (b) declaring the name of the candidate who has received the greater or greatest number of votes to be duly elected as an alderman for the ward to which the election relates,

and shall advertise the declaration in a newspaper.

Insertion in
Principal Act
of new
section 50A.

Date when
elected
candidates
become
aldermen.

Substitution of
section 53, and
repeal of
section 54, of
Principal Act.

Filling of
extraordinary
vacancies.

27—After section 50 of the Principal Act, the following section is inserted:—

50A—A candidate at an annual election in respect of whom a declaration under section 50 (*b*) is made becomes an alderman for the ward to which the declaration relates on the day on which the declaration is made.

28—Sections 53 and 54 of the Principal Act are repealed and the following section is substituted:—

53—(1) Where an extraordinary vacancy occurs in the office of an alderman for a ward, the vacancy shall be filled as follows:—

(*a*) the mayor shall cause a notice of the vacancy to be advertised on 2 consecutive days within 14 days after—

(i) the proclaimed day, in the case of a vacancy in the office of an alderman elected at an election within the meaning of the *Local Government (City of Launceston Reorganization) Act 1985*, being a vacancy arising during the transitional period within the meaning of that Act; or

(ii) the day on which the vacancy becomes known to him, in any other case;

(*b*) if, before the expiration of 14 days after the last publication of the notice under paragraph (*a*), not less than 7 citizens who are entitled to vote at an annual election in respect of that ward present a written requisition to the mayor requiring that an election be held—

(i) if the vacancy occurs 3 months or more before the date of the next annual election in respect of that ward, an election to fill the vacancy shall be held as soon as possible on a day to be fixed by the town clerk and shall be held before the same person, and shall be conducted in the same manner in every respect, as an annual election; or

- (ii) if the vacancy occurs less than 3 months before the date of the next annual election in respect of that ward, an election to fill the vacancy shall be held at the same time as that next annual election;
- (c) if a requisition is not made under paragraph (b), the council shall elect a citizen to fill the vacant office, being a citizen who is entitled to vote at an annual election in respect of that ward;
- (d) if the vacancy is to be filled at an election at the same time as the next annual election in respect of that ward, that first-mentioned election shall be combined with that annual election, unless a system of proportional representation is in use for counting the votes, and where the election is so combined—
 - (i) the elected candidate who obtained the least number of votes shall be deemed to have been elected to fill the vacancy;
 - (ii) if the number of candidates nominated does not exceed the number of persons to be elected at the combined election, a candidate whose term of office as an alderman for that ward ends on the day on which a declaration is made under section 31 (2) in respect of the annual election that is so combined shall be deemed to have been elected to fill the vacancy caused by his retirement; and
 - (iii) if there is no such candidate, the candidates who shall be deemed to have been elected to fill the ordinary and extraordinary vacancies shall be determined by lot conducted by the returning officer for the election.

(2) A person who, pursuant to subsection (1), is elected to fill an extraordinary vacancy in the office of an alderman holds that office for the remainder of his predecessor's term of office.

Repeal of section 55 of Principal Act (Limit of expenses allowed).

29—Section 55 of the Principal Act is repealed.

Amendment of section 61 of Principal Act (When meetings to be called).

30—Section 61 of the Principal Act is amended as follows:—

- (a) by omitting “ at least 5 ” and substituting “ at least 7 ”;
- (b) by omitting “ or any 5 of them if more than 5 ” and substituting “ or any 7 of them if more than 7 ”.

Amendment of section 67 of Principal Act (Committee meetings).

31—Section 67 of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:—

(3) Each committee of the council appointed after the proclaimed day shall, at its first meeting, and at the first meeting after the election, in 1986 and in each subsequent year, of the mayor in accordance with section 15, elect a chairman who shall hold office until his successor is elected.

(3A) In the absence of the chairman from a meeting of a committee, the members of the committee present and voting may elect an alderman to act in the office of chairman for that meeting.

(3B) If, at an election under subsection (3) or (3A), there is an equality of votes, it shall be decided by lot which of the members of the committee having an equal number of votes shall be, or act in the office of, chairman, as the case may be.

Amendment of section 225 of Principal Act (Electoral offences).

32—Section 225 of the Principal Act is amended by inserting the following subsection after subsection (4):—

(5) In its application to and in relation to an annual election, Division 2 of Part XXII of the *Local Government Act 1962* shall be read as if—

- (a) section 830 of that Act were repealed;
- (b) a reference in that Division to a municipal election or an election under that Act were a reference to an annual election within the meaning of this Act;
- (c) a reference in that Division to an elector or a voter were a reference to an elector or a voter at an election within the meaning of this Act;
- (d) a reference in section 830A (1) of that Act to section 83 were a reference to section 29 (1);

- (e) a reference in section 830A (1) of that Act to a certificate of the election having been given as provided in section 105 were a reference to the declaration of the candidate elected as an alderman at the election for the relevant ward having been made by the returning officer under section 31 (2) or 50;
- (f) a reference in section 833 (1) and (2) (e) to section 94 were a reference to section 37; and
- (g) a reference in section 834 to Part IV were a reference to section 51 (1).

33—The Principal Act is amended as set out in Schedule 1.

Consequential amendments in relation to elections of aldermen.

34—Schedule 2 to the Principal Act is amended as follows:—

Amendment of Schedule 2 to Principal Act (RULES FOR ELECTION OF MAYOR AND DEPUTY-MAYOR).

- (a) by omitting rule 1;
- (b) by inserting in rule 2 “ at the relevant meeting ” after “ present ”, where firstly occurring;
- (c) by omitting from rule 10 “ as provided by these rules ” and substituting “ in the same manner as provided by these rules for the election of the mayor ”.

35—(1) In this section, a reference to a form quoted by a numeral, shall be construed as a reference to such of the forms in Schedule 3 to the Principal Act as is so numbered.

Amendment of Schedule 3 to Principal Act (FORMS).

(2) Form 1 is amended by inserting “ for the Ward ” after “ an alderman ”.

(3) Form 2 is amended as follows:—

- (a) by omitting “, public notice of which has been advertised,” and substituting “ for the Ward of the City, to be held on the day of 19 ”;
- (b) by omitting “ of the said city ” and substituting “ for that ward ”;
- (c) by omitting “ alderman of the City of Launceston ”, where twice occurring, and substituting “ alderman for the Ward of the City of Launceston ”;
- (d) by omitting “ the electoral index of the city ” and substituting “ the electoral index of the Ward of the City ”.

(4) Form 3 is amended as follows:—

(a) by omitting “ alderman of the City of Launceston ”, where twice occurring, and substituting “ alderman for the Ward of the City of Launceston ”;

(b) by omitting “ electoral index of the city ” and substituting “ electoral index of the Ward of the City ”.

(5) Form 4 is omitted.

(6) Form 5 is amended by inserting “ for the Ward of the City of Launceston ” after “ alderman ”.

(7) Form 6 is amended by inserting “ Ward of the City of Launceston ” after “ *Declaration of person claiming to vote* ”.

(8) Form 7 is amended by omitting “ holden for ” and substituting “ of an alderman for the Ward of ”.

SCHEDULE 1

Section 33

CONSEQUENTIAL AMENDMENTS IN RELATION TO ELECTIONS OF ALDERMEN

COLUMN 1 Provision of Principal Act amended	COLUMN 2 Amendment
Part IV, heading to Part Part IV, heading to Division 1	Omit "ELECTION", substitute "ELECTIONS". Omit "election", substitute "annual elections".
Section 30 (1)	(a) Omit "the election", where firstly occurring, substitute "an annual election"; and (b) Omit "the election", where secondly and thirdly occurring, substitute "that election".
Section 30 (2)	Omit "candidates nominated for election", substituted "persons nominated as candidates for the relevant annual election".
Section 33	(a) Insert "for an annual election" after "ballot-boxes", where firstly occurring; and (b) Omit "the election", wherever occurring, substitute "that election".
Section 34	(a) Insert "annual" after "An"; and (b) Insert "for that election or any other annual election required to be held on the same day" after "candidates".
Section 35 (1)	Insert "annual" before "election".
Section 36 (1)	(a) Omit "for election", substitute "as a candidate for an annual election"; and (b) Insert "for that election" after "polling-place".
Section 38 (2)	Insert "annual" before "election".
Section 41 (1) (a)	Insert "annual" before "election".
Section 41 (1) (b) (iv)	Insert "annual" before "election".
Section 48	Insert "for the relevant annual election" after "poll".
Section 49 (1)	(a) Insert "for an annual election" after "poll"; and (b) Insert in paragraph (b) "at that election" after "candidate".
Section 49 (2)	Insert "for an annual election" after "count".
Section 49 (3)	Insert "for an annual election" after "count".
Section 52	Omit "the election", substitute "an annual election".
Section 57	Omit "an election under this Act", substitute "an annual election".

COLUMN 1 Provision of Principal Act amended	COLUMN 2 Amendment
Section 225 (1) (a) Section 226	Insert " annual " before " election ". Insert " annual " before " election ".