



LOCAL GOVERNMENT (No. 2).

No. 96 of 1973.

ANALYSIS.

1. Short title and citation.
2. The scrutiny.
3. Prohibition and regulation of building in unstable areas.
4. The sixth schedule.
5. Elections in municipality of Clarence.

AN ACT to amend the *Local Government Act 1962*.

[22 January 1974.]

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 *Local Government Act* Short title and citation.
(No. 2) 1973.

(2) The *Local Government Act 1962*, as subsequently amended, is in this Act referred to as the Principal Act.

The scrutiny.

2 Section one hundred and two of the Principal Act is amended by adding at the end thereof the following subsection:—

“(3) Where the result of a municipal election is determined in accordance with the regulations made under sub-paragraph (iii) of paragraph (c) of subsection (1) of section sixty-one—

(a) a candidate who, in accordance with those regulations, is declared elected before another shall be deemed to have more votes than the other; and

(b) if two or more candidates are, in accordance with those regulations, declared elected simultaneously with each other, any one of those candidates who has a greater number of first choices recorded for him than another shall be deemed to have more votes than that other.”.

3—(1) Section four hundred and thirty-one A of the Principal Act is repealed and the following section is substituted therefor:—

Prohibition and regulation of building in unstable areas.

“431A—(1) The Governor may, by order-in-council made on the recommendation of the Director of Mines, declare any area of a municipality which is subject to the danger of earth movement by reason of inherent instability as a landslip area to be known as an A landslip area or a B landslip area and define it by reference to a plan.

“(2) In an A landslip area, no person may erect or add to a building other than an insubstantial outbuilding of a farm except in accordance with subsection (3).

“(3) The Governor may, on the recommendation of the corporation, license—

(a) the erection of a shed or other insubstantial building that is not an insubstantial outbuilding of a farm; and

(b) an addition to a dwelling, in an A landslip area.

“(4) The part of the Building Regulations which is made for the purposes of paragraph 38 of the sixth schedule shall apply to—

(a) the erection of a shed or other insubstantial building or addition to a dwelling in pursuance of a licence under subsection (3); and

(b) the erection, alteration, or addition to any building or structure in a B landslip area.

“(5) Except in the case referred to in subsection (7), the Director of Mines shall, before he makes a recommendation referred to in subsection (1), notify the corporation that he proposes to make such a recommendation, and the corporation shall thereupon give notice in the form prescribed by the Governor to the owners of all land in the proposed area.

“(6) An owner or occupier of land in the proposed area may, within thirty days after the corporation has given notice under subsection (5) in respect of his land, object to the proposed recommendation in writing to the Director of Mines, and the Director of Mines shall not proceed with his recommendation until he has considered such objections and any report or evidence sent therewith.

“(7) In the case of an emergency, of which the Director of Mines shall be the sole judge, an area may be declared a landslip area under subsection (1) without compliance with subsections (5) and (6).

“(8) An order-in-council under this section shall be made to take effect not less than thirty days after its publication in the *Gazette*, and during that period or as soon as possible thereafter the Minister shall cause the order-in-council to be registered in accordance with this section in respect of any land to which it relates.

“(9) The registration of an order-in-council in respect of any land is effected—

- (a) if the land is land under the *Real Property Act 1862*, as provided by subsection (10); or
- (b) if the land is not land under the *Real Property Act 1862*, by causing the order-in-council to be registered under the *Registration of Deeds Act 1935*, as if it were an instrument to which the Minister is a party.

“(10) Where any land affected by an order-in-council is under the *Real Property Act 1862*, the Minister shall lodge with the Recorder of Titles a copy of the order-in-council, accompanied by a statement signed by the Minister specifying the titles affected thereby; and thereupon the Recorder of Titles shall record particulars of the order-in-council upon those titles, and the order-in-council shall be deemed to be registered for the purposes of this section.

“(11) Where an order-in-council is recorded upon the title to land under the *Real Property Act 1862*, the order-in-council shall be deemed to be an incumbrance for the purposes of section forty of that Act.

“(12) Subsection (10) does not apply to land that is not subject to the *Real Property Act* 1862 and has not been conveyed or alienated for a legal estate by or on behalf of the Crown and registration of an order-in-council in respect of any such land is effected by endorsement of a certified copy of that order-in-council with a certificate signed by or on behalf of the Commissioner of Crown Lands stating that the order-in-council has been registered under this section.

“(13) Where an order-in-council has been registered under subsection (12) the relevant documents shall be filed and kept by the Director of Lands in such manner as the Commissioner of Crown Lands may approve.

“(14) Where buildings and structures are erected in an A landslip area or a B landslip area after an order-in-council in respect thereof has been registered in accordance with subsections (9), (10), or (12), the Crown will give no compensation or other relief for any damage caused by earth movement to such buildings or structures.

“(15) The Governor may—

(a) revoke an order-in-council;

(b) change the category of a landslip area to the landslip area of the other kind; or

(c) alter the boundaries of a landslip area,

and, if he does, the Minister shall forthwith cause the revocation, the change of category, or the alteration of boundaries to be registered in respect of any land to which it relates in the like manner as is registered an order-in-council declaring an area as a landslip area.

“(16) If, in pursuance of subsection (15), land that is not part of a landslip area becomes part of one or land in a B landslip area becomes part of an A landslip area, subsections (5) and (6) shall be complied with in respect of that land.”

(2) Every area declared as a landslip area under section four hundred and thirty-one A repealed by this Act shall, at the commencement of this Act, be deemed to be an A landslip area, and the Minister shall, in respect of any land to which this subsection relates, register a memorandum or memorial, as the case may require, of the change of the category of such land to an A landslip area, in like manner as is registered an order-in-council under that section of the Principal Act.

(3) The Crown will give no compensation or other relief for any damage caused to any building or structure erected after the commencement of this Act in a landslip area referred to in subsection (2).

(4) Until regulations referred to in subsection (4) of section four hundred and thirty-one A of the Principal Act are made, the corporation may require such precautions to be taken with respect to buildings and structures in landslip areas as it may deem expedient, including prohibitions, restrictions, and limitations on buildings.

4 The sixth schedule to the Principal Act is amended by adding The sixth schedule. at the end thereof the following paragraph:—

“ 38. Special precautions to be taken with respect to buildings and structures in landslip areas, including prohibitions, restrictions, and limitations on building.”

5 In respect of the municipal elections held in the Municipality of Clarence on the sixteenth day of June 1973 the term of office of the councillors whose names are shown in the first column of the schedule to this Act shall be from the seventeenth day of June 1973 to the day of the first, second, or third ordinary municipal election as respectively specified in the second column of that schedule. Elections in municipality of Clarence.

THE SCHEDULE.

(Section 5.)

Elections in the municipality of Clarence.

FIRST COLUMN. Name of councillor.	SECOND COLUMN. Term of office.
<i>Cambridge Ward</i>	
Thomas John Cleary	Third
Peter Michael Brown	Second
Norman Siberry	First
<i>Bellerive Ward</i>	
Cyril Ronald Barnard	Third
Terrence Norman Gibson	Second
Theodore William Davenport	First
<i>Sandford Ward</i>	
William Gillies McKinnon	Third
Graham Roger Evans	Second
Hazel Joan Johnston	First
<i>Lindisfarne Ward</i>	
Bruce John Goodluck	Third
David Michael Tremayne	Second
Alan Vibert A'Church	First