

## LOCAL GOVERNMENT AMENDMENT ACT 1984

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### No. 52 of 1984

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## LOCAL GOVERNMENT AMENDMENT ACT 1984

No. 52 of 1984

AN ACT to amend the Local Government Act 1962.

[Royal Assent 27 June 1984]

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 *Local Government Amendment Act 1984*. Short title.

**2**—This Act shall commence on 1st July 1984. Commence-  
ment.

**3**—In this Act, the *Local Government Act 1962*\* is referred to as the Principal Act. Principal Act.

\* No. 67 of 1962. For this Act, as amended to 1st July 1980, see the continuing Reprint of Statutes. Subsequently amended by Nos. 19, 44, and 59 of 1980, Nos. 48, 77, and 89 of 1981, Nos. 9, 35, 51, 56, 73, 76, 98, and 99 of 1982, and No. 91 of 1983 and affected by No. 30 of 1981.

Amendment of section 4 of Principal Act (Interpretation).

**4**—Section 4 (1) of the Principal Act is amended by inserting after the definition of “highway” the following definition:—

“the Hobart regional water district” means the district specified in section 12 (1) of the *Hobart Regional Water Act* 1984.

Amendment of section 662 of Principal Act (Petition for water district).

**5**—Section 662 of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:—

(3) A petition under subsection (1) shall not be presented except in furtherance of a scheme approved by the Rivers and Water Supply Commission.

(4) Subsection (5) applies to—

(a) the municipalities of Clarence, Kingborough, New Norfolk, Brighton, Green Ponds, Richmond, and Sorell; and

(b) any other municipality that is situated so as to be able to take advantage of any water system or catchment area serving the Hobart regional water district if that municipality is, pursuant to section 12 (2) of the *Hobart Regional Water Act* 1984, declared to be a constituent municipality within the meaning of that Act.

(5) Where it is proposed to make a proclamation relating to a water district of a municipality to which this subsection applies, the Minister shall, before submitting the proclamation to the Governor—

(a) submit a draft of the proclamation to the Rivers and Water Supply Commission and the Hobart Regional Water Board; and

(b) take into account any comments with respect to the draft proclamation that may be made by that Commission or that Board.

Amendment of section 663 of Principal Act (Power to construct and maintain water-works, &c.).

**6**—Section 663 of the Principal Act is amended by omitting “the Water, Sewerage, and Drainage Board or”.

**7**—Section 664 of the Principal Act is amended—

- (a) by inserting in subsection (1) “ that is outside the Hobart regional water district ” after “ place ”;
- (b) by inserting in subsection (3) “ that is outside the Hobart regional water district but ” after “ stream ”;
- (c) by omitting from that subsection “ the Water, Sewerage, and Drainage Board or ”.

Amendment of section 664 of Principal Act (Source of supply for water district under section 662 outside Hobart regional water district).

**8**—After section 674 of the Principal Act, the following Division is inserted:—

Insertion in Part XVI of Principal Act of new Division 24A.

*Division 24A—Cost of extension of water mains*

674A—In this Division—

Interpretation.

“ main ” includes a branch pipe, service pipe, and a fitting considered necessary for the supply of water by the corporation of a prescribed municipality;

“ prescribed municipality ” means the city of Glenorchy or the municipality of Clarence or Kingborough.

674B—Where the corporation of a prescribed municipality proposes to extend a main to serve any land in a water district, the corporation shall determine in accordance with this Division the manner of payment for the cost of the extension.

Duty of certain municipalities to determine cost of extension of mains.

674C—(1) The cost of an extension of a main is, if the corporation so resolves, payable in the first instance—

Liability to pay for extension of mains.

(a) wholly by the corporation;

(b) partly by the corporation and partly by the owners of lands to be served by the extension, in such proportion as the corporation determines; or

(c) wholly by those owners,

and, so far as it is payable by the corporation in the first instance, may, in accordance with the resolution, be payable ultimately wholly or partly by the owners of lands benefited by the extension as provided in section 674F.

(2) In determining the manner of payment for the purposes of subsection (1), the corporation—

(a) shall, in the case of more than one owner of land, determine the total amount to be paid by each owner (whether in the first instance or ultimately); and

(b) may, where the full benefit to the land to be served by the extension of a main is not received immediately determine whether to impose on the owner or owners only a liability in the first instance, only an ultimate liability, or both of those liabilities.

(3) A determination made under subsection (2) (a) shall be in proportion to the benefits to each piece of land expected from the extension of a main and, where a piece of land may lawfully be subdivided into building blocks, the corporation shall have regard to—

- (a) the maximum number of blocks into which the land could reasonably be subdivided, having regard to its position and physical characteristics, and which could be served by the extension; and
- (b) the time, if any, when a subdivision is likely to take place.

(4) Where the corporation has determined that the cost of an extension of a main shall be paid wholly or partly by an owner of land to be served or benefited by the extension, it shall give him 30 days' notice of his liability, stating—

- (a) whether his liability is in the first instance, or ultimate, or partly one and partly the other;
- (b) whether his liability is for the whole cost or a proportion of the cost specified in the notice;
- (c) if his liability is partly in the first instance and partly ultimate, the amounts of those respective liabilities;
- (d) if more than one owner is liable, the amount of the corporation's liability, that of the owners as a whole, and the proportion that the amount of the individual liability of the particular owner bears to the amount of the liability of the owners as a whole; and
- (e) the amount claimed, which may be—
  - (i) an amount certain, based on the average cost of laying new mains within the relevant water district during the preceding 12 months, or such other period as the corporation thinks fit; or

- (ii) an amount to be notified on the completion of the extension, so long as that amount is a proportion specified in the notice of an amount certified by the city or municipal engineer as the total cost of the extension, including an amount for preliminary and administrative expenses determined by that engineer, as the corporation thinks fit.

674D—(1) An owner of land who receives a notice under section 674C may, within 30 days or such further time as the corporation may allow, object by notice in writing delivered to the corporation to—

Objections to notices under section 674C.

- (a) the proportion of the cost to be borne by him on the ground that it is excessive or unreasonable;
- (b) liability in the first instance, on the ground that, where there is also an ultimate liability, the proportion between them is unreasonable or, where there is not also an ultimate liability, it is unjust to that owner not so to postpone part of the liability; or
- (c) the amount claimed, if any.

(2) On receipt of an objection under subsection (1), the corporation shall, in default of agreement with the owner as to his liability under this Division—

- (a) accept and give effect to the objection by withdrawing the notice and any other notices in respect of the extension of the main to which the objection relates, making a fresh determination, and giving fresh notice; or
- (b) refer the objection to a court of summary jurisdiction having jurisdiction over the land concerned.

(3) A court of summary jurisdiction, constituted by a magistrate sitting alone, may, on hearing an objection under subsection (1) that is referred to it under subsection (2)—

- (a) make an order quashing the notice or directing that it have effect either without amendment or as amended in the manner specified in the order; and
- (b) make such further orders, including orders as to costs, as the court thinks fit.

(4) A decision of a court under subsection (3) is final and without appeal, and no defence which might have been raised by way of objection under this section is admissible in proceedings by the corporation for the recovery of an amount owing under this Division.

Recovery of amounts payable under this Division.

674E—(1) On the expiration of a notice given under section 674C or, if several related notices have been so given, of all those notices, the amount claimed in the notice or in each such notice, as the case may be, becomes a charge on the land to which the notice relates and recoverable, subject to this Division, under Division 2 of Part XIX.

(2) Where an owner of land objects under section 674D, the operation of subsection (1) is suspended until proceedings on the objection are determined.

(3) When the city or municipal engineer certifies that an extension of a main to which a notice under section 674C relates has been laid, and where appropriate to do so, as to the total cost of the extension, the corporation shall serve a notice on an owner of land liable to pay an amount under this Division in respect of that extension informing him of the amount of his liability and, if he is liable in the first instance, requiring him to pay that amount within 30 days.

(4) On default of payment as required by subsection (3), the amount payable may be recovered as a debt due to the corporation in a court of competent jurisdiction.

Amounts payable by way of ultimate liability.

674F—(1) Where under section 674C an owner of land has been notified of an ultimate liability, that liability is postponed in accordance with this section.

(2) If, at any time after notification of an ultimate liability under this Division, the corporation resolves that the benefit in respect of which the liability was created has been, or is about to be, wholly or partially realized and that by reason of that benefit payment of the liability should be presently made, the corporation shall so notify the owner, requiring him to pay the amount of that liability within 90 days or such further time as may be specified in the notice.



(3) On the expiration of a notice under subsection (2) and on default of payment as required by that subsection—

- (a) the amount of the liability may be recovered as a debt due to the corporation in a court of competent jurisdiction; and
- (b) the charge on the land under section 674E becomes enforceable.

674G—(1) The corporation may agree, in writing, with an owner of land required to pay an amount under section 674E or 674F to accept payment by 40 quarterly instalments (or, if the amount payable is less than \$100, by 20 quarterly instalments) and the amount payable or such portion of that amount as remains unpaid from time to time shall bear interest at a rate not exceeding a rate fixed by the Treasurer for the purposes of this section. Payment of amounts owing by instalments.

(2) The first quarterly instalment under any such agreement is payable within one month after the execution of the agreement and subsequent instalments are payable on the first days of January, April, July, and October in each year.

(3) An owner paying by instalments may pay to the corporation at any time any one or more instalments before the due date of payment and interest on any instalment so paid shall cease from the date of the payment.

(4) If an owner fails to pay the amount of any instalment under this section within one month after it has been demanded, the whole or portion of the amount so demanded and remaining unpaid, together with all unpaid interest, becomes payable forthwith to the corporation.

674H—Nothing in this Division affects the power of a prescribed municipality to obtain payment for extensions of water mains and the laying of any such mains and other pipes as provided in section 467. Mains, &c., in subdivisions.

