



LOCAL GOVERNMENT AMENDMENT ACT 1985

No. 86 of 1985

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AN ACT to amend the Local Government Act 1962.

[Royal Assent 1 November 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 *Local Government Amendment Act 1985*. Short title

Commence-
ment.

2—This Act shall commence on the day on which it receives the Royal assent.

Principal Act.

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

Amendment of
section 13 of
Principal Act
(The Municipal
Commission).

4—(1) Section 13 (4) of the Principal Act is amended by omitting “ Institute of Municipal Administration ” and substituting “ Institute of Municipal Management, Tasmania Division ”.

(2) Section 13 (5) of the Principal Act is amended by omitting “ Institute of Municipal Administration ”, where twice occurring, and substituting “ Institute of Municipal Management, Tasmania Division ”.

Amendment of
section 160 of
Principal Act
(Council
Clerks’ Board).

5—(1) Section 160 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:—

(2) The Board shall consist of 5 members appointed by the Governor.

(2) Section 160 (3) of the Principal Act is amended as follows:—

(a) by omitting “ appointed by the Governor ”;

(b) by inserting the following paragraph before paragraph (a):—

(aa) one shall be the Director of Local Government or a person nominated by him;

(c) by omitting from paragraph (d) “ Institute of Municipal Administration (Incorporated), Tasmanian Division ” and substituting “ Institute of Municipal Management, Tasmania Division ”.

Amendment of
section 197 of
Principal Act
(Limitation
on by-laws).

6—Section 197 of the Principal Act is amended by omitting subsections (1) and (2).

* 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, Nos. 88 and 91 of 1983, Nos. 29, 46, 52, and 83 of 1984, and Nos. 7, 28, 31, 49, 51, and 80 of 1985, and affected by No. 30 of 1981.

7—Section 199 of the Principal Act is amended by inserting the following subsections after subsection (2):—

Amendment of section 199 of Principal Act (Ancillary power).

(3) Where the corporation makes a by-law under this Act in respect of the granting of licences licensing land under the care, custody, control, or management of the corporation to be used for the purpose of the carrying on of the trading activities of persons who hold kerbstone vendors' licences granted under a by-law made under this Act by the corporation, nothing in subsection (1) (c) limits the fee or charge that may be imposed by the first-mentioned by-law for or in respect of those first-mentioned licences to a fee or charge based on the administrative cost to the corporation of granting those licences.

(4) In subsection (3), "trading activities" means activities carried on for fee or reward for other than charitable purposes.

(5) Where the corporation makes a by-law imposing a fee or charge for or in respect of a licence licensing land as mentioned in subsection (3), that by-law may—

(a) provide that that fee or charge shall be determined by—

(i) the Valuer-General or another person who holds a subsisting practising certificate issued under section 15 of the *Valuers Registration Act 1974*; or

(ii) agreement between the corporation and the person to whom the licence is granted;
or

(b) provide that the corporation may invite public tenders for the use of the site to which the licence is to relate and that that fee or charge shall be an amount equal to the amount of the tender accepted by the corporation for the use of that site.

(6) Where, under a by-law made under this Act by the corporation, a licence is granted licensing land under the care, custody, control, or management of the corporation to be used for the purpose of the carrying on of trading activities within the meaning of subsection (3) by a person who holds a kerbstone vendor's licence granted under a by-law made under this Act by the corporation, it shall be a term of each of those licences that the licensee shall not transfer or assign the licence without the prior written consent of the corporation.

(7) A licence referred to in subsection (6) that is transferred or assigned with the prior written consent of the corporation shall, for the remainder of the period of the licence, continue to be subject to any conditions to which it was subject immediately before the transfer or assignment.

(8) Where the corporation does not, as provided in subsection (6), consent to the transfer or assignment of a licence referred to in that subsection, that transfer or assignment and any instrument purporting to effect that transfer or assignment are of no effect.

Amendment of
Schedule 4 to
Principal Act
(PURPOSES OF
BY-LAWS).

8—Part IV of Schedule 4 to the Principal Act is amended by inserting the following paragraph after paragraph 6B:—

6C. Licensing land under the care, custody, control, or management of the corporation to be used for the purpose of the carrying on of the trading activities of persons who are licensed by the corporation as kerbstone vendors.

Transitional
provisions.

9—(1) Where the corporation of a municipality makes a by-law under the Principal Act in respect of the granting of licences licensing land under the care, custody, control, or management of the corporation to be used for the purpose referred to in section 199 (3) of that Act, as inserted by this Act, a person who—

(a) on 1st July 1985 held a subsisting permit issued by the corporation under regulation 30 (1) (e) of the prescribed regulations authorizing him to use a barrow or similar vehicle on a portion of a public street specified in the permit (being land under the care, custody, control, or management of the corporation); and

(b) pursuant to that permit, was entitled on that day, to use that barrow or similar vehicle for the purpose of the carrying on by him of trading activities,

is, subject to this section, entitled to be granted a licence under that by-law licensing that portion of the public street to be used for the purposes of the carrying on by him of those trading activities if he pays to the corporation—

(c) a fee or charge agreed on between the corporation and that person; or

(d) where a fee or charge cannot be agreed on as provided in paragraph (a)—a fee or charge determined by a person referred to in section 199 (5) (a) (i) of that Act, as inserted by this Act.

(2) In subsection (1)—

“prescribed regulations” means the *Traffic (General and Local) Regulations 1956* made under the *Traffic Act 1925*;

“trading activities” has the meaning assigned to that expression by section 199 (4) of the Principal Act, as inserted by this Act.

(3) A licence granted by the corporation of a municipality under a by-law referred to in subsection (1) to a person who is entitled, pursuant to that subsection, to be granted that licence—

(a) continues in force, subject to the observance by that person of the terms and conditions of the licence, for a period of 3 years commencing on the day on which that by-law takes effect; and

(b) may, subject to subsection (4), be renewed by that corporation, on written application by that person, for further periods, each such period being of the duration determined by the corporation and commencing immediately following the end of the period referred to in paragraph (a) or, as the case requires, the end of the immediately preceding further period.

(4) A person who is entitled under subsection (3) to the renewal of a licence by the corporation of a municipality shall pay to that corporation—

(a) a fee or charge agreed on between the corporation and that person; or

(b) where a fee or charge cannot be agreed on as provided in paragraph (a)—a fee or charge determined as mentioned in subsection (1) (d).

