



TASMANIA

LOCAL GOVERNMENT AMENDMENT ACT 1995

No. 88 of 1995

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**LOCAL GOVERNMENT AMENDMENT ACT 1995**

No. 88 of 1995

AN ACT to amend the *Local Government Act 1993* and other enactments

[Royal Assent 14 November 1995]

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:—

Short title

1—This Act may be cited as the *Local Government Amendment Act 1995*.

Commencement

2—This Act commences on a day to be proclaimed.

Principal Act

3—In this Act, the *Local Government Act 1993** is referred to as the Principal Act.

Section 4 amended (Local Government Board)

4—Section 4 (2) (a) of the Principal Act is amended by omitting “Municipal” and substituting “Local Government”.

Section 12 amended (Result of review)

- 5—Section 12 of the Principal Act is amended as follows:—
- (a) by inserting in subsection (1) (j) “all” after “dismiss”;
 - (b) by omitting from subsection (4) “or (i)” and substituting “, (i), (l) or (m)”.

Section 41 amended (Eligibility for nomination as mayor or deputy mayor)

6—Section 41 (5) of the Principal Act is amended by inserting “at an election by the electors” after “deputy mayor”.

Section 42 amended (Election by councillors)

- 7—Section 42 of the Principal Act is amended as follows:—
- (a) by inserting in subsection (1) “or following the occurrence of a vacancy in the office of mayor or deputy mayor” after “Part 15”;
 - (b) by omitting from subsection (3) “mayor and” and substituting “mayor or”.

* No. 95 of 1993. Amended by No. 82 of 1994, Nos. 8, 20 and 71 of 1995 and S.R. 1994, Nos. 2, 24 and 232.

Section 43 amended (Election by electors)

8—Section 43 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

(1) If the mayor and deputy mayor of a council within a municipal area which is divided into electoral districts are to be elected by the electors, the election is to be conducted without taking into account those electoral districts.

Section 46 amended (Term of office of councillors)

9—Section 46 of the Principal Act is amended by inserting the following subsections after subsection (2):—

(2A) If there is no poll required to elect councillors, the councillors who are taken to be first elected are to be determined by the drawing or casting of lots conducted by the returning officer in the prescribed manner.

(2B) If a by-election is held concurrently with an election, the last councillor who is elected fills the casual vacancy for which the by-election was held.

(2C) The Governor, on the recommendation of the Minister, may make an order determining the term of office of a councillor of a council elected—

(a) at an election following the dismissal of all the councillors of that council; or

(b) at a deferred poll.

Section 59 amended (Public meetings and submissions)

10—Section 59 (1) of the Principal Act is amended by omitting “matter becomes an issue of significant interest” and substituting “petition is accepted by a council”.

Section 60A inserted

11—After section 60 of the Principal Act, the following section is inserted in Part 6:—

Council initiated elector polls

60A—(1) A council, on its own motion, may hold an elector poll on any issue the council determines.

(2) An elector poll under subsection (1) may be conducted in any manner the council determines.

Section 75 substituted

12—Section 75 of the Principal Act is repealed and the following section is inserted:—

Investments

75—A council may invest any money—

(a) in any manner in which a trustee is authorised by law to invest trust funds; and

(b) in any investment the Treasurer approves.

Section 78 amended (Borrowings)

13—Section 78 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:—

(2) A council may not raise a loan in any financial year exceeding any amount the Treasurer determines for that financial year.

Section 94 amended (Service charge)

14—Section 94 of the Principal Act is amended as follows:—

(a) by inserting in subsection (2) “part or all of” after “respect of”;

(b) by inserting the following subsection after subsection (2):—

(2A) A service charge for water supply may include a component for the amount of water supplied.

Section 95 amended (General provisions)

15—Section 95 of the Principal Act is amended by omitting subsection (1).

Section 124 amended (Instalment payments)

16—Section 124 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (2) “any” before “rates”;
- (b) by omitting from subsection (3) “a total minimum amount set under section 92 is applicable to those rates” and substituting “the total amount of rates payable is equal to, or less than, the prescribed amount”.

Section 150 amended (Restrictions on making of by-laws)

17—Section 150 (2) of the Principal Act is amended by omitting “A” and substituting “Any provision of a”.

Section 162 amended (Certification of by-law)

18—Section 162 of the Principal Act is amended by omitting “it is” and substituting “the provisions of the by-law are”.

Section 253 amended (Interpretation of Part 15)

19—Section 253 of the Principal Act is amended as follows:—

- (a) by omitting the definition of “nomination period” and substituting the following definition:—

“**nomination period**” means the period beginning at 9 a.m. on the 6th Monday immediately before the polling-day and ending at noon on the 4th Thursday immediately before the polling-day;

- (b) by omitting “Saturday declared by the Governor by order” from paragraph (a) of the definition of “polling-day” and substituting “day fixed by the Governor under section 268A”;
- (c) by omitting “Saturday” from paragraph (b) of the definition of “polling-day” and substituting “day”;

(d) by omitting the definition of “polling period” and substituting the following definition:—

“**polling period**” means a period of 10 days, excluding any Saturday, Sunday or Bank holiday, preceding and including the polling-day during any hours the Chief Electoral Officer determines under section 282A;

Section 260 amended (Closure of electoral roll)

20—Section 260 of the Principal Act is amended by omitting “5th” and substituting “6th”.

Section 268A inserted

21—After section 268 of the Principal Act, the following section is inserted in Division 4 of Part 15:—

Polling-day and polling period

268A—(1) The Governor, by order, may fix a day to be a polling-day.

(2) The Chief Electoral Officer may determine the hours of a polling period.

Section 274 amended (Election without poll)

22—Section 274 of the Principal Act is amended as follows:—

(a) by omitting from subsection (2) (b) “on or after 6 p.m.”;

(b) by omitting subsection (3).

Section 278 amended (Electoral advertising)

23—Section 278 of the Principal Act is amended by omitting subsection (3).

Section 297 amended (Postal voting election)

24—Section 297 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:—

(1) A council may decide that an election is to be held by postal voting.

(2) If a council makes a decision under subsection (1)—

(a) the Chief Electoral Officer is to include a notice to that effect in the notice of election; and

(b) the returning officer is to send or deliver postal vote certificates and ballot papers to all the electors of the municipal area.

Section 298 amended (Postal vote documents)

25—Section 298 of the Principal Act is amended as follows:—

(a) by omitting subsection (3) and substituting the following subsection:—

(3) The elector is to sign the postal vote certificate and declaration where indicated.

(b) by omitting from subsection (8) “in writing”.

Section 306 amended (Keeping of electoral material)

26—Section 306 (5) of the Principal Act is amended by omitting “until the next election” and substituting “for 4 years”.

Section 307 amended (Casual vacancies)

27—Section 307 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

(1) A casual vacancy is to be filled by a recount, carried out under Schedule 8, of the ballot papers of the election at which the councillor causing the vacancy was elected.

Section 308 amended (By-elections)

28—Section 308 of the Principal Act is amended as follows:—

(a) by inserting in subsection (1) the following paragraph after paragraph (a):—

(ab) the vacancy is in an office filled by means of a recount and the term of that office has ended under section 307 (6); or

(b) by inserting the following subsection after subsection (1):—

(1A) The Chief Electoral Officer may fix a day as the polling-day for a by-election.

(c) by omitting from subsection (2) (a) “a Saturday” and substituting “the day”;

(d) by inserting the following subsection after subsection (3):—

(4) The term of office of a councillor elected at a by-election to fill a casual vacancy is the remainder of the term of office of the councillor who caused the casual vacancy.

Section 310 amended (Adjournment of poll)

29—Section 310 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) (a) “disaster; or” and substituting “disaster; and”;

(b) by omitting from subsection (1) (b) “another Saturday as” and substituting “the polling period and”;

(c) by omitting subsection (2).

Section 312 amended (Offences relating to polling)

30—Section 312 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) (d) “regulations; or” and substituting “regulations.”;

- (b) by omitting subsection (1) (e);
- (c) by omitting subsection (3) (e).

Section 324 amended (Regulations for Part 15)

31—Section 324 of the Principal Act is amended by inserting the following subsection after subsection (2):—

(2A) In respect of advertising relating to an election, regulations may be made prescribing—

- (a) the maximum number allowed to be displayed, and the maximum size allowed, for a sign or poster; and
- (b) the maximum amount of broadcasting time allowed on television or radio and the maximum cost allowed; and
- (c) the maximum amount of advertising space allowed in newspapers and the maximum cost allowed.

Part 16: Division 1 heading amended

32—The heading to Division 1 of Part 16 is amended by omitting “*Municipal*” and substituting “*Local Government*”.

Section 325 amended (Interpretation of Division 1)

33—Section 325 of the Principal Act is amended as follows:—

- (a) by omitting “Municipal” from the definition of “Association” and substituting “Local Government”;
- (b) by omitting “Municipal” from the definition of “member council” and substituting “Local Government”.

Section 326 amended (Local Government Association of Tasmania)

34—Section 326 (1) of the Principal Act is amended by omitting “Municipal” and substituting “Local Government”.

Section 329 amended (Rules)

35—Section 329 of the Principal Act is amended as follows:—

- (a) by omitting from paragraph (b) “an executive” and substituting “a general management”;
- (b) by inserting in paragraph (d) “or Division 1A of this Part” after “Division”.

Section 330 amended (Employees of Association)

36—Section 330 of the Principal Act is amended by inserting “or Division 1A of this Part” after “Division”.

Division 1A inserted

37—After section 331 of the Principal Act, the following Division is inserted:—

*Division 1A—Employee assurance schemes***Interpretation of Division 1A**

331A—In this Division—

“**Association**” means the Local Government Association of Tasmania;

“**Committee**” means the General Management Committee of the Association;

“**Commonwealth superannuation law**” means the following Acts of the Commonwealth:—

(a) *Superannuation Industry (Supervision) Act 1993*;

(b) *Income Tax Assessment Act 1936*;

(c) *Superannuation Entities Taxation Act 1987*;

(d) *Superannuation (Resolution of Complaints) Act 1993*;

“**existing scheme**” means a scheme of assurance referred to in section 331B;

“**member**” means a person admitted to membership of an existing scheme or new scheme;

“**new scheme**” means a scheme of assurance established under section 331C.

Existing scheme

331B—(1) A scheme of assurance operating and in force under Division 2 of Part 7 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* immediately before the commencement of the *Local Government Amendment Act 1995* continues as the existing scheme under this Division.

(2) Any right, benefit, entitlement, liability or obligation of any members of the existing scheme and their employers continues.

New scheme

331C—(1) The Committee may establish a new scheme of assurance and appoint trustees for that scheme under Commonwealth superannuation law in addition to, or in substitution for, an existing scheme.

(2) If the Committee establishes a new scheme, a member participating in the existing scheme may stay in the existing scheme or transfer to the new scheme.

Management of schemes

331D—Any new scheme or existing scheme is to be managed in accordance with a trust deed executed under Commonwealth superannuation law.

Welfare trust fund

331E—(1) The Committee, by a trust deed, may establish and maintain a welfare trust fund for the benefit of members.

(2) The Committee is to appoint trustees who together equally represent the interests of members and their employers to administer the welfare trust fund.

(3) The trustees may make a grant or a loan in respect of any one or more of the following:—

- (a) the rehabilitation and retraining of members who in the opinion of the trustees suffer from total and permanent or total and temporary disability;
- (b) funeral expenses of the member;
- (c) specified medical and dental costs of the member;
- (d) financial assistance for members in specified adverse circumstances;
- (e) provision of scholarships for children of members in need;
- (f) any other purpose the trustees determine.

Section 338 amended (Information)

38—Section 338 of the Principal Act is amended by inserting “the Treasurer,” after “Minister,”.

Section 339 amended (Improper use of information and misuse of office)

39—Section 339 (5) of the Principal Act is amended by omitting “subsection (1) or (2)” and substituting “this section”.

Section 347 substituted

40—Section 347 of the Principal Act is repealed and the following section is substituted:—

Exemption from fees

347—A council is exempted from the payment of any fees and charges in respect of—

- (a) searches of any record or document relating to land in its municipal area; and
- (b) copies of, and extracts from, any such record or document.

Consequential amendments

41—The Acts specified in Schedule 1 are amended in the manner specified in that Schedule.

Amendment of *Local Government (Special Elections) Act 1993*

42—The *Local Government (Special Elections) Act 1993* is amended by omitting section 7 and substituting the following sections in Division 2 of Part 2:—

Election of certain councils in 1996

7—The offices of mayor, deputy mayor and all councillors of a council, other than a relevant council, are to be filled at elections held in 1996.

Postal voting in 1996

7A—An election held for any council in 1996 is to be held by postal voting in accordance with the *Local Government Act 1993* as if the council made a decision to hold the election by postal voting.

SCHEDULE 1

Section 41

CONSEQUENTIAL AMENDMENTS

<u>Act and provisions to be amended</u>	<u>Omit</u>	<u>Substitute</u>
<i>Fire Service Act 1979</i> section 7 (3) (c)	Municipal	Local Government
<i>Land Use Planning and Approvals Act 1993</i> section 9 (1) (d)	Municipal	Local Government
<i>Libraries Act 1984</i> section 11 (2) (b)	Municipal	Local Government
<i>Plumbers and Gas-fitters Registration Act 1951</i> section 3 (2) (d)	Municipal	Local Government
<i>State Grants Commission Act 1976</i> section 4 (1) (b)	Municipal	Local Government
<i>State Policies and Projects Act 1993</i> section 31 (1) (f)	Municipal	Local Government

[Second reading presentation speech made in:—
House of Assembly on 3 October 1995
Legislative Council on 18 October 1995]