

LOCAL GOVERNMENT AMENDMENT (ADMINISTRATIVE AMENDMENTS) ACT 1983

No. 91 of 1983

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**LOCAL GOVERNMENT AMENDMENT (ADMINISTRATIVE
AMENDMENTS) ACT 1983**

No. 91 of 1983

AN ACT to amend the Local Government Act 1962 with respect to certain administrative procedures and for related and other purposes.

[Royal Assent 11 January 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* Short title.
(*Administrative Amendments*) Act 1983.

2—This Act shall commence on the day on which it receives the royal assent. Commence-
ment.

3—In this Act, the *Local Government Act 1962** is referred to as the 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, and Nos. 9, 35, 51, 56, 73, 76, 98, and 99 of 1982, and affected by No. 30 of 1981.

Amendment of section 180 of Principal Act (Clerkship, &c., of general and petty sessions).

4—Section 180 (*a*) of the Principal Act is amended as follows:—

(*a*) by omitting “deputy clerk of the peace,”;

(*b*) by omitting “sessions,” and substituting “sessions”.

Insertion in Principal Act of new section 180A.

5—The following section is inserted in Division 1 of Part VIII of the Principal Act after section 180:—

Delegation of powers, &c., by corporations.

180A—(1) The corporation may, by special resolution, delegate to one or more officers of the corporation or to a committee consisting of members of the council the exercise or performance of such of its powers or functions under this Act (except the powers of making by-laws under this Act and this power of delegation) as are specified in the resolution and may, by resolution, revoke wholly or in part any such delegation.

(2) A resolution for the purposes of subsection (1), other than a resolution revoking a delegation, shall be passed by a majority of at least two-thirds of the members of the council present at the meeting at which it is moved.

(3) A power or function, the exercise or performance of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(4) A delegation under this section may be made subject to such conditions or limitations as to the exercise or performance of any of the powers or functions delegated, or as to time or circumstance, as are specified in the resolution.

(5) Notwithstanding any delegation under this section, the corporation may continue to exercise or perform all or any of the powers or functions delegated.

(6) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the corporation and shall be deemed to have been done by or to the corporation.

(7) An instrument purporting to be signed by a delegate of the corporation in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the corporation under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the corporation under this section.

6—Section 253 (4) of the Principal Act is amended by omitting “deputy clerk of the peace”, where twice occurring, and substituting “clerk of petty sessions”. Amendment of section 253 of Principal Act (Judicial review of rates).

7—Section 425 of the Principal Act is amended by omitting subsection (5) and substituting the following subsection:— Amendment of section 425 of Principal Act (The Building Regulations).

(5) The Building Regulations shall not extend to electrical installations.

8—Section 429A of the Principal Act is amended by inserting the following subsections after subsection (2):— Amendment of section 429A of Principal Act (Buildings and structures to comply with the Building Regulations and the approved plans, &c.).

(3) Where a person fails to comply with subsection (1), the corporation may serve on that person an order requiring him to comply with and conform to the Building Regulations as required by that subsection.

(4) Where a person fails to comply with subsection (2), the corporation may serve on that person an order requiring him to carry out that erection or alteration strictly in accordance with those plans or specifications as required by that subsection.

(5) A person on whom an order under subsection (3) or (4) is served shall comply with that order within the time limit specified in the order.

9—Section 443 of the Principal Act is repealed and the following section is substituted:— Substitution of section 443 of Principal Act.

443—(1) A person shall not, without the prior consent of the corporation, use or occupy a building or structure which is subject to the Building Regulations until that building or structure has been completed in accordance with the plans and specifications approved by the corporation. Use or occupation of building, &c., before completion.

(2) The owner of a building or structure which is used or occupied in contravention of subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500, together with an additional penalty not exceeding \$50 for every day during which the offence continues.

Amendment of
section 627 of
Principal Act
(Licences).

10—Section 627 (3) of the Principal Act is amended by omitting “ to the Secretary for Local Government and by him ”.

Substitution of
section 722 of
Principal Act.

11—Section 722 of the Principal Act is repealed and the following section is substituted:—

Application of
Division 2 of
Part XVIII of
Local Govern-
ment Act 1962.

722—This Division applies to all parts of the State except such parts of the State as may from time to time be specified by proclamation.

Amendment of
section 727 of
Principal Act
(Power of
Commissioner
to provisionally
approve
scheme).

12—Section 727 (3) of the Principal Act is amended by inserting “ by regulations made under this Act ” after “ prescribed ”.

Amendment of
section 730 of
Principal Act
(Final approval
of scheme).

13—Section 730 (3) of the Principal Act is amended by inserting “ by regulations made under this Act ” after “ prescribed ”.

Amendment of
section 829 of
Principal Act
(General
penalty).

14—Section 829 (2) of the Principal Act is amended by omitting “ \$160 ” and substituting “ \$500 ”.

Amendment of
Schedule 2 to
Principal Act
(FORMS).

15—Part I of Schedule 2 to the Principal Act is amended as follows:—

(a) by inserting “ TO THE COUNCIL CLERK (or TOWN CLERK),” above “ MUNICIPALITY (or CITY) OF ” in each of Forms 1, 2, and 4;

(b) by inserting “ ward of of the ” after “ election in the ” in Form 5.

16—Schedule 6 to the Principal Act is amended by inserting the following clause after clause 11:—

Amendment of
Schedule 6 to
Principal Act
(SUBJECTS OF
BUILDING
REGULATIONS).

11A. The equipment that may or may not be used, either generally or in specified cases, for the purpose of the prevention and extinguishing of fires in buildings and structures, and the requirements and conditions to be met and complied with in the installation and use of that equipment.

17—(1) Where, before the commencement of this Act—

Validations.

(a) a municipality, in purported compliance with the Principal Act, publicly notified a planning scheme that had been provisionally approved under section 727 of that Act; and

(b) the public notification of the planning scheme by the municipality was—

(i) as prescribed in the regulations under that Act that were then in force; or

(ii) as provided in section 877 of that Act and in accordance with the form in Part VII of Schedule 2 to that Act,

the municipality shall be deemed to have complied with all the provisions of that Act that it was required to comply with in relation to the public notification of the provisional approval of the planning scheme under section 727 of that Act.

(2) Where, before the commencement of this Act—

(a) a municipality, in purported compliance with the Principal Act, gave public notice of a planning scheme that had been sealed under section 730 of that Act; and

(b) the public notice of the planning scheme by the municipality was—

(i) as prescribed in the regulations under that Act that were then in force; or

(ii) as provided in section 877 of that Act and in accordance with the form in Part VII of Schedule 2 to that Act,

the municipality shall be deemed to have complied with all the provisions of that Act that it was required to comply with in relation to the giving of public notice of the sealing of the planning scheme under section 730 of that Act.

Validation
of certain
proclamations.

18—A proclamation made under section 2 of the *Town and Country Planning Act* 1944 shall be deemed to have been made under section 722 of the Principal Act as in force immediately before the commencement of this Act and shall be deemed to have continued to have had effect on and from 1st January 1964 until immediately before the commencement of this Act.