



**LOCAL GOVERNMENT (SAVINGS AND
TRANSITIONAL) ACT 1993**

No. 98 of 1993

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**LOCAL GOVERNMENT (SAVINGS AND
TRANSITIONAL) ACT 1993**

No. 98 of 1993

AN ACT to provide for matters of a savings and transitional nature arising as a consequence of the repeal of the *Local Government Act 1962* and the enactment of the *Local Government Act 1993* and the *Local Government (Building and Miscellaneous Provisions) Act 1993*

[Royal Assent 23 December 1993]

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:—

PART 1**PRELIMINARY****Short title**

1—This Act may be cited as the *Local Government (Savings and Transitional) Act 1993*.

Commencement

2—The provisions of this Act commence on a day to be proclaimed.

Interpretation

3—In this Act—

“**council**” means a council as defined in the *Local Government Act 1993*;

“**electoral district**” means an electoral district as defined in the *Local Government Act 1993*;

“**general manager**” means the general manager as defined in the *Local Government Act 1993*;

“**municipal area**” means a municipal area as defined in the *Local Government Act 1993*;

“**proclaimed day**” means the day fixed by proclamation under section 2 under the *Local Government Act 1993*;

“**public office**” means the public office as defined in the *Local Government Act 1993*;

“**repealed Act**” means the *Local Government Act 1962*, the *Hobart Corporation Act 1963* or the *Launceston Corporation Act 1963*.

PART 2**SAVINGS AND TRANSITIONAL PROVISIONS***Division 1—Councils and employees***References to corporations, municipalities, &c.**

4—On and after the proclaimed day, a reference in any provision relating to or affecting local government in any Act—

(a) to a corporation, municipal corporation, municipal council, city council, local government body, local government authority or local authority is a reference to a council; and

(b) to a municipal district or municipality is a reference to a municipal area; and

- (c) to a ward is a reference to an electoral district; and
- (d) to a council clerk, town clerk, clerk of the corporation, clerk of the local authority or clerk is a reference to the general manager; and
- (e) to an officer of the corporation or the treasurer or collector of rates is a reference to the general manager; and
- (f) to a municipal election is a reference to an election under the *Local Government Act 1993*; and
- (g) to a municipal office is a reference to a public office under the *Local Government Act 1993*; and
- (h) to a member of a council is a reference to a councillor under the *Local Government Act 1993*.

Towns, cities and municipalities

5—(1) Any town or city created or declared under a repealed Act before the proclaimed day continues, on that day, to be a town or a city under the *Local Government Act 1993*.

(2) Any municipality proclaimed, created or continued under a repealed Act before the proclaimed day is, on that day, a municipal area under the *Local Government Act 1993*.

(3) Any municipal district created under a repealed Act before the proclaimed day is, on that day, a municipal area under the *Local Government Act 1993*.

(4) Any ward created under a repealed Act before the proclaimed day is, on that day, an electoral district under the *Local Government Act 1993*.

(5) The boundaries of any town, city, municipal district or ward in existence immediately before the proclaimed day continue, on that day, to be boundaries under the *Local Government Act 1993*.

Named municipalities, wards and councils

6—On and after the proclaimed day, a reference in any Act—

- (a) to a named municipality is a reference to the municipal area specified in Schedule 3 to the *Local Government Act 1993* which corresponds to that municipality, whether by that name or any other name; and

- (b) to a named ward is a reference to the electoral district specified in Schedule 3 to the *Local Government Act 1993* which corresponds to that ward, whether by that or any other name; and
- (c) to a named council is a reference to the council specified in Schedule 3 to the *Local Government Act 1993* which corresponds to that council, whether by that name or any other name.

Property rights

7—Any estate or interest in land and all rights, obligations and liabilities of a council which existed immediately before the proclaimed day continue, on that day, to be vested in, or incurred by, the council.

Borrowings

8—Any money borrowed or raised by a council under a repealed Act and payable and recoverable before the proclaimed day is, on and after that day, payable and recoverable under the *Local Government Act 1993*.

Funds

9—(1) Any sinking fund or trust fund under a repealed Act and in existence immediately before the proclaimed day continues, on that day, to exist.

(2) Any person holding the office of commissioner of a sinking fund or trustee of a fund under a repealed Act immediately before the proclaimed day continues, on that day, to hold that office.

Councillors

10—(1) Any person who was a councillor or alderman under a repealed Act immediately before the proclaimed day is, on that day, a councillor under the *Local Government Act 1993*.

(2) Any person who was a Lord Mayor, Deputy Lord Mayor, mayor or deputy mayor under a repealed Act immediately before the proclaimed day continues, on that day, to be a Lord Mayor, Deputy Lord Mayor, mayor or deputy mayor under the *Local Government Act 1993*.

Committees

11—(1) A committee established under a repealed Act and in existence immediately before the proclaimed day is, on that day, a council committee under the *Local Government Act 1993*.

(2) A special committee established under a repealed Act and in existence immediately before the proclaimed day continues, on that day, to be a special committee under the *Local Government Act 1993*.

Officers and employees

12—(1) Any person who was employed as an officer or a servant under a repealed Act immediately before the proclaimed day is, on that day, an employee under the *Local Government Act 1993*.

(2) Any person who holds an office under a repealed Act immediately before the proclaimed day continues, on that day, to hold that office under the *Local Government Act 1993*.

(3) The person holding the office of Director of Local Government under the *Local Government Act 1962* immediately before the proclaimed day continues, on that day, to hold that office under the *Local Government Act 1993*.

(4) Any rights and entitlements of a person in relation to long service leave under a repealed Act and in existence immediately before the proclaimed day continue, on that day, to exist.

Employees' Assurance schemes and superannuation funds

13—(1) All rights and entitlements of a person in relation to a scheme for a subsidized endowment assurance scheme or a superannuation fund established under a repealed Act and in existence immediately before the proclaimed day continue, on that day, to exist.

(2) Any rules in relation to a subsidized endowment assurance scheme or a superannuation fund made under a repealed Act and in force immediately before the proclaimed day continue, on that day, to be in force until rescinded or amended.

(3) Any agreement by the executive committee of the Municipal Association of Tasmania made under the *Local Government Act 1962* and in force immediately before the proclaimed day, continues, on that day, to be in force until amended or revoked.

Division 2—Rates, licences, appeals and legal proceedings**Rates, charges, &c.**

14—(1) Any rates, charges, fees, costs, interest or penalties made, imposed or incurred under a repealed Act and due and payable before the proclaimed day continue, on that day, to be due, payable and recoverable under the *Local Government Act 1993* from any person with the liability to pay under the repealed Act.

(2) Any rights or liabilities in respect of any property or land taken in possession of by a council for arrears of rates, charges or fees under a repealed Act and in existence before the proclaimed day continue, on that day, to exist.

Rates notice, demand, &c.

15—On and after the proclaimed day, a reference in any provision in any Act relating to or affecting local government rates notice, demand, rate, separate rate or charge under the *Local Government Act 1962* is a reference to the equivalent of such a notice, demand, rate or charge under the *Local Government Act 1993*.

Urban farm land

16—(1) An application to declare land urban farm land made under the *Local Government Act 1962* before the proclaimed day is, on that day, an application made under the *Local Government Act 1993*.

(2) Any land which was urban farm land under the *Local Government Act 1962* immediately before the proclaimed day continues, on that day, to be urban farm land under the *Local Government Act 1993*.

Licences, leases and permits

17—Any licence, lease or permit granted under a repealed Act and in force immediately before the proclaimed day is, on that day, a licence, lease or permit granted under the *Local Government Act 1993* or the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

Contracts and agreements

18—Any contract or agreement made under a repealed Act before the proclaimed day is, on or after that day, enforceable under the repealed Act.

Appeals, references and objections

19—(1) Any appeal instituted under a repealed Act and not heard or determined before the proclaimed day may, on or after that day, be heard and determined under the repealed Act.

(2) A reference lodged under a repealed Act and not heard or determined before the proclaimed day, may, on or after that day, be heard and determined under the repealed Act.

(3) Any objection made under a repealed Act and not heard, determined or dealt with before the proclaimed day may, on or after that day, be heard, determined or dealt with under the repealed Act.

(4) An appeal made under the *Local Government Act 1962* to the Building Appeal Board as constituted under that Act before the proclaimed day is, on or after that day, to be heard and determined by the Building Appeal Board as constituted under the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

Legal proceedings

20—(1) Any legal or other proceeding instituted under a repealed Act and not heard or determined before the proclaimed day may, on or after that day, be heard and determined under the repealed Act.

(2) The alteration of the name or constitution of a council as a result of the *Local Government Act 1993* does not render defective any legal or other proceedings instituted by or against a council under a repealed Act before the proclaimed day.

Regulations and by-laws

21—(1) Any regulations made under a repealed Act and in force immediately before the proclaimed day continue, on that day, to be in force until amended or rescinded under the *Local Government Act 1993* or the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

(2) Any by-laws made under a repealed Act and in force immediately before the proclaimed day continue, to be in force—

(a) until repealed under a later enactment; or

(b) for a period of 5 years from that day—

whichever is the earlier.

(3) Any by-law in force pursuant to subsection (2) which is inconsistent with any provision of the *Local Government Act 1993* or the *Local Government (Building and Miscellaneous Provisions) Act 1993* is invalid to the extent of that inconsistency.

(4) Any standing order made under a by-law under a repealed Act and in force immediately before the proclaimed day continues, on that day, to be in force for a period of 60 days.

Division 3—Joint undertaking**Joint undertaking**

22—(1) A sealed scheme for a joint undertaking under the *Local Government Act 1962* and in force immediately before the proclaimed day continues, on that day, to be in force for a period of 12 months.

(2) An order made under the *Local Government Act 1962* in relation to any joint undertaking and in force immediately before the proclaimed day continues, on that day, to be in force.

Joint committees

23—Any joint committee appointed under the *Local Government Act 1962* and in existence immediately before the proclaimed day is, on that day, a special committee under the *Local Government Act 1993*.

Local committees

24—A local committee or urban committee established under the *Local Government Act 1962* and in existence before the proclaimed day is, on that day, a local committee under the *Local Government Act 1993*.

Division 4—Municipal Association of Tasmania**Membership**

25—A council which was a member of the Municipal Association of Tasmania under the *Local Government Act 1962* immediately before the proclaimed day is, on that day, a member of that Association under the *Local Government Act 1993*.

Insurance funds

26—Any fund established under Part XXIII of the *Local Government Act 1962* and in existence immediately before the proclaimed day is, on that day, a fund under the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

Employees

27—Any person who was employed by the Municipal Association of Tasmania under the *Local Government Act 1962* immediately before the proclaimed day is, on that day, an employee of that Association under the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

Rules

28—Any rules made by the Municipal Association of Tasmania under the *Local Government Act 1962* and in force immediately before the proclaimed day continue, on that day, to be in force until rescinded or amended.

Division 5—Building matters**Landslip areas**

29—An area declared to be a landslip area under a repealed Act before the proclaimed day is, on that day, a landslip area under the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

Building areas

30—Any urban building area, country building area or changing building area existing under a repealed Act immediately before the proclaimed day is, on that day, an urban building area, country building area or a changing building area under the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

Certificate of compliance

31—(1) A certificate of compliance in relation to a building given under the *Local Government Act 1962* and in force immediately before the proclaimed day continues, on that day, to be in force.

(2) A certificate given under section 462 (4) of the *Local Government Act 1962* and in force immediately before the proclaimed day continues, on that day, to be in force.

Adhesion orders

32—An adhesion order made under a repealed Act and in force immediately before the proclaimed day continues, on that day, to be in force.

Preservation orders

33—A preservation order made under a repealed Act and in force immediately before the proclaimed day continues, on that day, to be in force until revoked.

Applications

34—An application in relation to building, plumbing or subdivision made under the *Local Government Act 1962* and not determined or dealt with before the proclaimed day is, on that day, an application made under the *Local Government Act 1993* or the *Local Government (Building and Miscellaneous Provisions) Act 1993* as appropriate.

Division 6—Cemeteries, public health and waterworks**Exclusive right of burial**

35—An exclusive right of burial granted under the *Local Government Act 1962* and in force immediately before the proclaimed day continues, on that day, to be in force until it expires under that Act.

Notices and orders

36—Any notice or order served or made under a repealed Act and in force immediately before the proclaimed day continues, on that day, to be in force.

Water districts

37—(1) A water district proclaimed and defined under a repealed Act and in existence immediately before the proclaimed day is, on that day, a water district under the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

(2) A restricted supply water district declared under a repealed Act and in existence immediately before the proclaimed day is, on that day, a restricted supply water district under the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

(3) The Launceston Limited Sewerage District as in existence immediately before the proclaimed day continues, on that day, to be a limited sewerage district for the purposes of the *Sewers and Drains Act 1954*.

Division 7—Miscellaneous matters**By-elections**

38—A by-election for a vacancy in the office of a councillor who was elected under the *Local Government Act 1962* at an election held in 1993 is to be held in accordance with Part 15 of the *Local Government Act 1993*.

Voting on behalf of corporations

39—A person who was empowered by a corporate body under the *Local Government Act 1962* to vote on its behalf at an election under that Act before the proclaimed day is, on that day, a person nominated by the corporate body to vote on its behalf at an election under the *Local Government Act 1993*.

Recommendation of Board

40—A recommendation made by the Local Government Advisory Board under the *Local Government Act 1962* in relation to any matter similar to a matter specified in section 9 of the *Local Government Act 1993* and not implemented before the proclaimed day is, on that day, a recommendation of the Local Government Board under the *Local Government Act 1993* as if a review had been carried out under the *Local Government Act 1993*.

Duty in relation to highways and streets

41—A duty which the Hobart City Council and the Launceston City Council had to construct, maintain or repair a highway or street under a repealed Act immediately before the proclaimed day is, on that day, a duty to construct, maintain or repair under the *Local Government (Highways) Act 1982*.

Work to be done

42—Any work ordered or required to be done under the *Local Government Act 1962* before the proclaimed day is, on and after that day, to be done or continued to be done in accordance with the order or requirement.

Permissions, approvals and consent

43—Any permission, approval and consent given under a repealed Act and in force before the proclaimed day continues, on that day, to be in force until withdrawn, expired or revoked.

Miscellaneous references

44—On and after the proclaimed day, a reference in any provision relating to or affecting local government in any Act to any notice, licence, lease, permit, permission, approval, consent, certificate or order under the *Local Government Act 1962* is a reference to a notice, licence, lease, permit, permission, approval, consent, certificate or order under the equivalent provision, if any, of the *Local Government Act 1993* or the *Local Government (Building and Miscellaneous Provisions) Act 1993* as appropriate.

Delegations

45—A delegation by a council under a repealed Act and in force immediately before the proclaimed day continues, on that day, to be a delegation under the *Local Government Act 1993* for a period of 60 days unless sooner revoked.

References to *Local Government Act 1962*

46—On and after the proclaimed day—

- (a) a reference in any Act to any section, Division, Part or Schedule of the *Local Government Act 1962*, the *Hobart Corporation Act 1963* or the *Launceston Corporation Act 1963* is a reference to the equivalent provision, if any, in the *Local Government Act 1993* or the *Local Government (Building and Miscellaneous Provisions) Act 1993*; and
- (b) a reference to the *Local Government Act 1962*, the *Hobart Corporation Act 1963* or the *Launceston Corporation Act 1963* is a reference to the *Local Government Act 1993* or the *Local Government (Building and Miscellaneous Provisions) Act 1993* as appropriate.

Regions

47—In any Act—

- (a) a reference to the Southern Region is a reference to the municipal areas of Brighton, Central Highlands, Clarence, Glamorgan-Spring Bay, Glenorchy, Hobart, Huon Valley, Kingborough, New Norfolk, Sorell, Southern Midlands and Tasman; and
 - (b) a reference to the Northern Region is a reference to the municipal areas of Break O'Day, Dorset, Flinders, George Town, Launceston, Meander Valley, Northern Midlands and West Tamar; and
 - (c) a reference to the North-Western Region is a reference to the municipal areas of Burnie, Central Coast, Circular Head, Devonport, Kentish, King Island, Latrobe, Waratah-Wynyard and West Coast.
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PART 3**MISCELLANEOUS****Regulations**

48—(1) The Governor may make regulations for the purpose of this Act.

(2) The regulations may contain provisions of a savings or transitional nature in relation to this Act or the *Local Government Act 1962*.

Administration of Act

49—Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Minister for Local Government; and
- (b) the Department responsible to the Minister for Local Government in relation to the administration of this Act is the Department of Environment and Land Management.

[Second reading presentation speech made in:—
House of Assembly on 10 November 1993
Legislative Council on 1 December 1993]

