



**MARINE AMENDMENT (ELECTORAL PROVISIONS)
ACT 1994**

No. 38 of 1994

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**MARINE AMENDMENT (ELECTORAL PROVISIONS)
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No. 38 of 1994

AN ACT to amend the *Marine Act 1976*

[Royal Assent 25 August 1994]

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 *Marine Amendment (Electoral Provisions) Act 1994*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Principal Act

3—In this Act, the *Marine Act 1976** is referred to as the Principal Act.

Section 4 amended (Interpretation)

4—Section 4 of the Principal Act is amended as follows:—

(a) by inserting in subsection (1) after the definition of “certificate of survey” the following definition:—

“**Chief Electoral Officer**” means the person holding that office under the *Electoral Act 1985*;

(b) by inserting in subsection (1) after the definition of “constituent board” the following definitions:—

“**council**” means a council within the meaning of the *Local Government Act 1993*;

“**council election**” means an election held under Part 15 of the *Local Government Act 1993*;

(c) by inserting in subsection (1) after the definition of “detaining officer” the following definitions:—

“**election**” means an election for wardens of boards under Part IV;

“**elector**”, in relation to a voting district, means a person entitled to vote at a council election in respect of a municipal area within the voting district;

(d) by inserting in subsection (1) after the definition of “fishing vessel” the following definition:—

“**general manager**” means the person holding that position under the *Local Government Act 1993*;

(e) by inserting in subsection (1) after the definition of “master-warden” the following definition:—

“**municipal area**” means an area referred to in section 16 of the *Local Government Act 1993*;

* No. 18 of 1976. For this Act, as amended to 1 July 1987, see the continuing Reprint of Statutes. Subsequently amended by No. 44 of 1987, No. 20 of 1989, Nos. 32, 43 and 46 of 1991, Nos. 24 and 36 of 1993 and No. 16 of 1994.

- (f) by omitting from subsection (1) the definition of “voting district” and substituting the following definition:—

“**voting district**” means a district comprised as specified in section 43;

- (g) by omitting subsection (3).

Section 18 substituted

5—Section 18 of the Principal Act is repealed and the following section is substituted:—

Ownership of property

18—The Governor, by a proclamation under section 17 or a later proclamation, may—

- (a) determine the ownership of property arising out of an alteration of limits of the jurisdiction of any board; and
- (b) order that any property of the board be conveyed or transferred to another board or person.

Part IV: Heading substituted and Division 1 heading inserted

6—The heading to Part IV of the Principal Act is omitted and the following Part heading is substituted and Division heading inserted:—

PART IV

CONSTITUTION AND ELECTION OF BOARDS

Division 1—Marine Board of Hobart

**Sections 28 to 45 substituted and sections 45A and 45B and
Division 2 and 3 headings inserted**

7—Sections 28 to 45 inclusive of the Principal Act are repealed and the following sections and Division headings are substituted:—

Division 2—Other boards

Port of Launceston Authority

28—(1) The Port of Launceston Authority consists of 5 wardens elected by the electors of the Launceston voting district.

(2) In respect of the wardens elected in 1994, the term of office of one of the following is a period of 2 years:—

- (a) if there is a poll, the warden who is elected with the third highest vote; or
- (b) if there is no poll, the warden as determined by lot conducted by the returning officer.

Port of Devonport Authority

29—The Port of Devonport Authority consists of 6 wardens of whom—

- (a) 3 are elected by the electors of the Devonport voting district; and
- (b) one is elected by the electors of the Latrobe voting district; and
- (c) one is elected by the electors of the Kentish voting district; and
- (d) one is elected by the electors of the Central Coast Ulverstone voting district.

Burnie Port Authority

30—(1) The Burnie Port Authority consists of 6 wardens of whom—

- (a) 3 are elected by the electors of the Burnie voting district; and
- (b) one is elected by the electors of the Waratah-Wynyard voting district; and

- (c) one is elected by the electors of the West Coast voting district; and
- (d) one is elected by the electors of the Central Coast Penguin voting district.

(2) In respect of the wardens elected by the electors of the Burnie voting district in 1994, the term of office of one of the following is a period of 2 years:—

- (a) if there is a poll, the warden who is elected with the third highest vote; or
- (b) if there is no poll, the warden as determined by lot conducted by the returning officer.

Marine Board of Circular Head

31—The Marine Board of Circular Head consists of 7 wardens elected by the electors of the Circular Head voting district.

Marine Board of King Island

32—The Marine Board of King Island consists of 5 wardens elected by the electors of the King Island voting district.

Marine Board of Flinders

33—(1) The Marine Board of Flinders consists of 3 wardens elected by the electors of the Flinders voting district.

(2) All offices of wardens are declared vacant for the election to be held in 1994.

(3) If there is a poll—

- (a) the term of office for the warden who is elected with the second highest vote is a period of 2 years; and
- (b) the term of office for the warden who is elected with the third highest vote is a period of one year.

(4) If there is no poll, the terms of office are determined by lot conducted by the returning officer.

Division 3—Election provisions

Election day

34—An election is to be held on a day appointed by the Minister by notice published in the *Gazette*.

Returning officers

35—(1) Each board is to appoint a person as returning officer for an election at least 2 months before the election.

(2) A person who is a candidate for the office of warden in a voting district is not entitled to be appointed as returning officer in respect of that voting district.

List of electors

36—(1) The list of electors for an election in respect of each voting district consists of the following electors as at time of closure:—

- (a) electors on the electoral roll kept by the general manager of a council under section 258 of the *Local Government Act 1993* who are owners and occupiers of land situated in the municipal area within the voting district; and
- (b) the electors on the electoral roll kept by the Chief Electoral Officer under section 258 of the *Local Government Act 1993*.

(2) The Chief Electoral Officer is to—

- (a) prepare a list of electors from the electoral rolls referred to in subsection (1) as at time of closure; and
- (b) provide the relevant returning officer with a certified copy of that list.

(3) In this section, “**time of closure**” means 6·00 p.m. on the 6th Friday before the day of the election.

Eligibility for nomination as warden

37—(1) A person is eligible to nominate as a candidate for the office of warden of a board if the person is—

- (a) an elector—
 - (i) in the case of the Marine Board of Hobart, of that board; or

- (ii) in any other case, of the relevant voting district; and
- (b) not an employee of that board; and
- (c) not a warden of another board; and
- (d) not a bankrupt; and
- (e) not subject to an order under the *Mental Health Act 1963*.

(2) A person is not eligible to nominate as a candidate for the office of warden if the person has been sentenced for a crime but the sentence has not been executed.

Notice of nomination

38—(1) A person who is eligible to nominate as a candidate for the office of warden of a board may lodge with, or post or send by facsimile to, the returning officer a notice of nomination.

- (2) A notice of nomination is to be—
- (a) in an approved form; and
 - (b) lodged, posted or sent so as to be received by the returning officer before the end of the nomination period.

(3) In this section, “**nomination period**” means the period beginning at 9 a.m. on the 4th Monday immediately before the day of the election and ending at noon on the 4th Friday immediately before that day.

Voting by corporations

39—(1) A corporate body which owns or occupies any land in a voting district is entitled to nominate one person in any voting district to vote on its behalf at an election for a board in that voting district.

(2) A nomination under subsection (1) is to be made in accordance with section 255 of the *Local Government Act 1993*.

(3) Subject to section 40, a person may vote on behalf of a corporate body without prejudice to any other entitlement to vote under this Part.

(4) A corporate body may only nominate one person to vote on its behalf at an election in a voting district regardless of whether it owns or occupies land in several locations in that voting district.

Maximum number of votes

40—An elector, in respect of one voting district, has no more than 2 votes of which—

- (a) only one vote is in his or her own right; and
- (b) only one vote is on behalf of a corporate body under section 39.

Term of office

41—(1) Subject to sections 28 (2), 30 (2), 33 (3) and 33 (4), the term of office of a warden of any board is a period of 3 years from the date of the election.

(2) A warden whose term of office expires continues in office until another person is declared elected to that office.

Casual vacancies

42—(1) If a casual vacancy on a board occurs, the remaining wardens of that board are to appoint a person to the vacant office.

(2) A person appointed to fill a vacancy under subsection (1) holds office until the next election.

(3) A person elected at an election to fill a casual vacancy holds office for the unexpired period of the term for which the predecessor was elected.

(4) The candidates to be elected at an election to fill casual vacancies are as follows:—

- (a) if there is a poll, the candidate with the highest votes of those not elected to an ordinary vacancy is to be elected for the casual vacancy of the longest duration, the candidate with the next highest votes of those not elected to an ordinary vacancy is to be elected for the casual vacancy with next longest duration, and so on until all the casual vacancies are filled; or

- (b) if there is a poll and the votes are equal, the candidates to be elected are determined by lot conducted by the returning officer; or
- (c) if there is no poll, the candidates to be elected are determined by lot conducted by the returning officer.

(5) If a vacancy in the office of warden is not filled at an election for any reason, the Minister may appoint an eligible person to that vacancy.

Voting districts

43—(1) The voting districts are as follows:—

- (a) Launceston voting district, comprising—
 - (i) the municipal area of Launceston; and
 - (ii) the municipal area of West Tamar; and
 - (iii) the municipal area of George Town;
- (b) Devonport voting district, comprising the municipal area of Devonport;
- (c) Latrobe voting district, comprising the municipal area of Latrobe;
- (d) Kentish voting district, comprising the municipal area of Kentish;
- (e) Central Coast Ulverstone voting district, comprising the municipal area of Central Coast, except for the part containing the former municipality of Penguin;
- (f) Burnie voting district, comprising the municipal area of Burnie;
- (g) Waratah-Wynyard voting district, comprising the municipal area of Waratah-Wynyard;
- (h) West Coast voting district, comprising the municipal area of West Coast;
- (i) Central Coast Penguin voting district, comprising that part of the municipal area of Central Coast which contains the former municipality of Penguin;
- (j) Circular Head voting district, comprising the municipal area of Circular Head;

- (k) King Island voting district, comprising the municipal area of King Island;
- (l) Flinders voting district, comprising the municipal area of Flinders.

(2) In this section, “**former municipality of Penguin**” means the municipality of that name in existence under the *Local Government Act 1962* immediately before 2 April 1993 and abolished on that day.

Polling places

44—The returning officer is to appoint polling places for an election.

Electoral officers

45—(1) The returning officer is to appoint electoral officers in respect of an election.

(2) A person who is a candidate for the office of warden in a voting district is not entitled to be appointed as an electoral officer in respect of that voting district.

Expenses

45A—Each board is to pay the relevant council or councils and the Chief Electoral Officer amounts which are sufficient to cover any expenses incurred in respect of electoral rolls and lists of electors for an election under this Division.

Non-application to Marine Board of Hobart

45B—The following provisions do not apply to the election for wardens of the Marine Board of Hobart:—

- (a) sections 34 to 36 inclusive;
- (b) sections 38 to 40 inclusive;
- (c) sections 43 to 45A inclusive.

Section 47 amended (Vacation of office of warden)

8—Section 47 (1) of the Principal Act is amended by omitting paragraph (e) and substituting the following paragraph:—

- (e) ceases to be eligible for nomination as a warden.

Section 50 substituted

9—Section 50 of the Principal Act is repealed and the following section is substituted:—

Master-warden and deputy master-warden

50—(1) Each board is to elect one of its members as master-warden.

(2) Each board, other than the Marine Board of Flinders, is to elect one of its members as deputy master-warden.

(3) The deputy master-warden is to act as master-warden if—

- (a) the master-warden is absent or incapable of acting as master-warden; or
- (b) the office of master-warden is vacant.

Schedule 3 repealed

10—Schedule 3 to the Principal Act is repealed.

*[Second reading presentation speech made in:—
House of Assembly on 5 May 1994
Legislative Council on 28 July 1994]*

