

TASMANIA

LAND USE PLANNING AND APPROVALS (MISCELLANEOUS AMENDMENTS) BILL 2009

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**LAND USE PLANNING AND APPROVALS
(MISCELLANEOUS AMENDMENTS) BILL 2009**

*(Brought in by the Minister for Planning, the Honourable
David Edward Llewellyn)*

A BILL FOR

An Act to amend the *Land Use Planning and Approvals Act 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

1. Short title

This Act may be cited as the *Land Use Planning and Approvals (Miscellaneous Amendments) Act 2009*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

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**PART 2 – LAND USE PLANNING AND APPROVALS
ACT 1993 AMENDED**

3. Principal Act

In this Part, the *Land Use Planning and Approvals Act 1993** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after the definition of “Appeal Tribunal” the following definition:

“authorised officer” means a person who, under section 65I, is, or is authorised to be, an authorised officer;

5. Section 53 amended (When does a permit take effect?)

Section 53(7) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “permit.” and substituting “permit; or”;
- (b) by inserting the following paragraph after paragraph (b):

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(c) it is cancelled under section 65G.

6. Section 61 amended (Appeals against planning decisions)

Section 61 of the Principal Act is amended by inserting after subsection (6) the following subsections:

- (7) A person on whom an enforcement notice is served under section 65C may, within 14 days, appeal to the Appeal Tribunal against the decision of the authorised officer who issued the notice.
- (8) If a planning authority cancels under section 65G a permit in relation to land, an owner or occupier of the land may appeal to the Appeal Tribunal against the decision of the planning authority within 14 days after notice of the cancellation of the permit is, under that section, served on, or given to, the owner or occupier.

7. Section 62 amended (Determination of appeals)

Section 62(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d)(ii) “Appeal Tribunal.” and substituting “Appeal Tribunal; or”;

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- (b) by inserting the following paragraphs after paragraph (d):
 - (e) in the case of an appeal against a decision to issue an enforcement notice under section 65C, declare that the notice is to be taken to have never been issued; or
 - (f) in the case of an appeal against a decision to cancel a permit under section 65G, declare that the permit is to be taken to have never been cancelled.

8. Section 63 amended (Obstruction of sealed schemes)

Section 63 of the Principal Act is amended by omitting subsection (5) and substituting the following subsections:

- (5) If a person is convicted of an offence against subsection (3), the court may, in addition to any fine imposed under subsection (4), order that the person pay to the planning authority the reasonable cost incurred by the authority in investigating the offence or prosecuting the offence, or both.
- (5A) If a person is convicted of an offence against subsection (3), the court may order that the offender is required to

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carry out, within the period specified in the order, work specified in the order.

- (5B) The work that may be specified in an order under subsection (5A) is work that will ensure that a use or development carried out by the person is in accordance with the relevant planning scheme, special planning order, permit, special permit or determination.
- (5C) If a court makes an order of a kind referred to in subsection (5A) and the offender to whom the order relates does not, within the period specified in the order, carry out the work specified in the order, the relevant planning authority may carry out the work.
- (5D) If a planning authority carries out work under subsection (5C), the planning authority may recover the costs of that work, as a debt, from the offender.

9. Section 64 amended (Civil enforcement proceedings)

Section 64 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “the Commission, a planning authority or a person” and substituting “a person, other

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than the Commission or a planning authority,”;

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

(1A) A person may only make an application under subsection (1) in relation to a contravention of, or a failure to comply with, a provision of this Part by a person other than the planning authority, if –

(a) the applicant has given notice in writing of the contravention or failure to the planning authority in whose municipal area is situated the land to which the contravention or failure relates; and

(b) within a reasonable time or, at the latest, within 120 days of the planning authority being given the notice referred to in paragraph (a) –

(i) charges in relation to the contravention or failure to comply

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have not been laid;
or

- (ii) an authorised officer has not issued an infringement notice under section 65A, or an enforcement notice under section 65C, in relation to the contravention or failure to comply.

(1B) A person may only make an application under subsection (1) in relation to a contravention of, or a failure to comply with, section 63A by a planning authority, if –

- (a) the person has given to the planning authority notice in writing that specifies –

- (i) the area of land to which the contravention or failure to comply relates; and

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- (ii) how a planning scheme or special planning order in relation to the land is not being complied with by an owner or occupier of the land; and
 - (iii) that the person is of the opinion that the planning authority has failed to take all reasonable steps to ensure that the planning scheme or special order is complied with in relation to the land; and
- (b) within a reasonable time or, at the latest, within 120 days of the notice referred to in paragraph (a) being given to the planning authority –
 - (i) charges have not been laid against the owner or occupier of the land in relation to

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the owner or occupier's failure to comply with the planning scheme or special planning order in relation to the land; or

(ii) an authorised officer has not issued an infringement notice under section 65A, or an enforcement notice under section 65C, in relation to the failure of the owner or occupier to comply with the planning scheme or special planning order.

(c) by omitting subsections (2A) and (2B) and substituting the following subsections:

(2A) If an application under this section is made by a person in relation to land, the planning authority in whose municipal area

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the land is situated is taken to be a party to the application.

(2B) At any time after receiving an application made under this section, the Appeal Tribunal may direct that the planning authority, in whose municipal area is situated the land to which the application relates, be made an applicant in the application.

(d) by omitting subsection (2C).

10. Part 4, Divisions 4A and 4B inserted

After section 65 of the Principal Act, the following Divisions are inserted in Part 4:

Division 4A – Enforcement by planning authorities

65A. Infringement notices

(1) In this section –

“infringement offence” means an offence against this Act or the regulations that is prescribed by the regulations to be an infringement offence.

(2) An authorised officer may issue an infringement notice and serve it on a person if the officer reasonably believes

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that the person has committed an infringement offence.

- (3) An infringement notice may not be served on an individual who has not attained the age of 16 years.
- (4) An infringement notice –
 - (a) is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and
 - (b) is not to relate to more than 4 offences.
- (5) The regulations –
 - (a) may prescribe the penalty applicable to each infringement offence that is payable under an infringement notice; and
 - (b) may prescribe different penalties for bodies corporate and individuals.
- (6) In the application of the *Monetary Penalties Enforcement Act 2005* to an infringement notice issued and served under this section –
 - (a) the authorised officer who issued and served the infringement notice is taken to be a public

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sector body within the meaning of that Act; and

- (b) a penalty prescribed under subsection (5) in respect of an infringement offence is taken to be the prescribed penalty applicable to that offence for the purposes of section 14(a)(ii) of that Act.

65B. Notice of intention to issue an enforcement notice to be issued before enforcement notice is issued

- (1) An authorised officer may issue a notice of intention to issue an enforcement notice in relation to an offence and serve it on a person.
- (2) A notice of intention to issue an enforcement notice may only be served under subsection (1) on a person by an authorised officer if the officer reasonably believes the person has committed, is committing, or is about to commit, an offence against section 57(4A), section 63(3) or section 64(7).
- (3) The planning authority must notify in writing an owner of land, in relation to which a notice of intention to issue an enforcement notice is served under

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subsection (1), if the person on whom the notice is served is not the owner of the land.

- (4) A notice of intention to issue an enforcement notice in relation to an offence must –
 - (a) be in writing; and
 - (b) specify the provision of this Act to which the offence relates; and
 - (c) contain particulars of the offence that give adequate information as to the nature of the offence; and
 - (d) specify that it is proposed to issue an enforcement notice in relation to the offence; and
 - (e) specify that representations may be made in relation to the offence to an authorised officer specified in the notice; and
 - (f) specify that the representations may only be made in writing, delivered to an address specified in the notice, within the period specified in the notice.
- (5) The last day of a period specified under subsection (4)(f) in a notice of intention to issue an enforcement notice must not

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be sooner than 14 business days after the notice is served.

- (6) A person on whom a notice of intention to issue an enforcement notice is served may, within the period specified under subsection (4)(f) in the notice, make representations in writing to an address specified in the notice.
- (7) A notice of intention to issue an enforcement notice in relation to a use or development of land may, as an alternative to being served in accordance with section 84, be served by affixing the notice to a building or structure on the land in a place where a person entering the land would be likely to see the notice.

65C. Enforcement notices

- (1) An authorised officer may issue an enforcement notice in relation to an offence and serve it on a person.
- (2) An authorised officer may only issue and serve on a person an enforcement notice if the officer reasonably believes the person has committed, is committing, or is about to commit, an offence against section 57(4A), section 63(3) or section 64(7).

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- (3) The planning authority must notify in writing an owner of land, in relation to which an enforcement notice is served under subsection (1), if the person on whom the enforcement notice is served is not the owner of the land.
- (4) Subject to subsection (5), an enforcement notice may only be issued and served on a person if –
- (a) a notice of intention to issue an enforcement notice has been issued and served on the person under section 65B; and
 - (b) the enforcement notice is issued and served after the end of the last day of the period specified under section 65B(4)(f) in the notice of intention to issue an enforcement notice; and
 - (c) the authorised officer has considered any representations made under section 65B(6) by the person on whom the notice of intention to issue an enforcement notice was served.
- (5) Subsection (4) does not apply in relation to an enforcement notice if the authorised officer issuing the notice reasonably believes that it is necessary that the

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notice be issued and served without delay –

- (a) so as to prevent the imminent commission of, or the continuation of, the offence to which the notice relates; and
 - (b) because, were the offence to be committed or to continue to be committed –
 - (i) damage might be caused to the property of another person; or
 - (ii) actions could not be taken easily or without significant expense to restore land or a building or other structure on land to the condition it was in before the offence was committed.
- (6) An enforcement notice issued and served on a person in respect of an offence must –
- (a) be in writing; and
 - (b) specify the provision of this Act to which the offence relates; and

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- (c) contain particulars of the offence that give adequate information as to the nature of the offence; and
 - (d) inform the person of the person's rights under this Act to appeal against the notice; and
 - (e) specify the requirements that are imposed on the person under section 65D.
- (7) An enforcement notice that imposes under section 65D a requirement on a person that the person stop carrying out a use or development on land may, as an alternative to being served in accordance with section 84, be served by affixing the notice to a building or structure on the land in a place where a person entering the land would be likely to see the notice.
- (8) An authorised officer may, by notice served on a person on whom an enforcement notice has been served, withdraw the enforcement notice.
- (9) If an authorised officer withdraws under subsection (8) an enforcement notice in relation to land –
- (a) a person may not be prosecuted for having failed to comply with the enforcement notice; and

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- (b) the authorised officer is to give notice in writing of the withdrawal of the enforcement notice to any owner of the land who was notified under subsection (3) in relation to the enforcement notice.

65D. Requirements of enforcement notices

- (1) An enforcement notice that is served on a person under section 65C may require the person to do any one or more of the following:
 - (a) not to commit, or to cease to commit, the offence to which the notice relates;
 - (b) to take the action, specified in the notice, to remedy the consequences of the commission of the offence;
 - (c) to take all reasonable steps to ensure that a permit in relation to the land to which the notice relates is granted under this Act.
- (2) Without limiting the generality of the requirements that, under subsection (1), may be imposed on a person by an enforcement notice, an enforcement

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notice may contain one or more of the following requirements:

- (a) a requirement that the person stop carrying out development of the kind specified in the notice;
 - (b) a requirement that the person stop carrying out a use of land that is specified in the notice;
 - (c) a requirement that the person demolish or remove a building or other structure, or any works carried out, on land owned or occupied by the person;
 - (d) a requirement that the person restore, so far as reasonably practicable, land, or a building or structure on land, to the condition it was in before development was carried out by the person;
 - (e) a requirement that the person do, or not do, an act, so as to ensure that development carried out by the person on land complies with a State Policy, permit, special permit, planning scheme, or special planning order, that applies to the land.
- (3) If an enforcement notice served on a person under section 65C requires the person to ensure that work is carried out,

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the notice must specify the details of the work.

- (4) If an enforcement notice served on a person under section 65C requires the person –
 - (a) to refrain from doing an act, the notice must also specify the period for which the requirement applies or that the requirement applies until the person is otherwise notified by an authorised officer; or
 - (b) to do an act, the notice must specify the period within which the act is required to be done.
- (5) An enforcement notice issued under section 65C may not contain a requirement in respect of a matter in relation to which, in accordance with section 44(1)(a), (b) or (e) or 44(2)(a), (b) or (e) of the *Environmental Management and Pollution Control Act 1994*, an environment protection notice may be issued.
- (6) An enforcement notice may not be issued under section 65C in relation to land if the notice contains a requirement that is inconsistent with a requirement of an environment protection notice, issued under section 44 of the *Environmental*

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Management and Pollution Control Act 1994, that applies in relation to the land.

- (7) An authorised officer who issues an enforcement notice in relation to land, to which an environment protection notice issued under section 44 of the *Environmental Management and Pollution Control Act 1994* applies, must notify the Director, within the meaning of that Act, that the enforcement notice has been issued.

65E. Offences and penalties in relation to enforcement notices

- (1) A person must not, without reasonable excuse, fail to comply with a requirement imposed on the person by an enforcement notice served on the person under section 65C.

Penalty: Fine not exceeding 500 penalty units.

- (2) If a person is convicted of an offence against subsection (1), the court may, in addition to any fine imposed under that subsection, order that the person pay to the planning authority the reasonable cost incurred by the authority in investigating or prosecuting (or both) either or both of the following offences:

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- (a) the offence against subsection (1);
 - (b) the suspected offence in relation to which the enforcement notice was served.
- (3) If a person is convicted of an offence against subsection (1), the court may order that the offender is required to carry out, within the period specified in the order, work specified in the order.
- (4) The work that may be specified in an order under subsection (3) in relation to an offence is –
 - (a) work that the enforcement notice to which the offence relates required to be carried out; or
 - (b) work that is required to be carried out, because a requirement specified in the enforcement notice to which the offence relates was not complied with –

so as to ensure that a use or development is in accordance with the relevant planning scheme, special planning order, permit, special permit or determination.
- (5) If a court makes an order under subsection (3), and the offender to whom the order relates does not, within the time specified in the order, carry out the work

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specified in the order, the relevant planning authority may carry out the work.

- (6) If a planning authority carries out work under subsection (5), the planning authority may recover the costs of that work, as a debt, from the offender.
- (7) A person, other than –
- (a) an authorised officer; or
 - (b) the person on whom an enforcement notice has been served by affixing the notice to land –

must not, without lawful authority, damage, deface or remove an enforcement notice that has been affixed to land.

Penalty: Fine not exceeding 500 penalty units.

65F. Notice of intention to cancel a permit to be issued before permit cancelled

- (1) If an authorised officer considers that there are grounds on which a permit in force in relation to land may be cancelled under section 65G, the authorised officer may issue a notice of intention to cancel a permit and serve it –

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- (a) on an owner of the land; or
 - (b) on an occupier of the land and the owner of the land, if the grounds relate to the use or development of the land by the occupier.
- (2) A notice of intention to cancel a permit must –
 - (a) be in writing; and
 - (b) specify that the planning authority is proposing to cancel the permit to which the notice relates; and
 - (c) specify on which of the grounds, mentioned in section 65G, it is proposed to cancel the permit; and
 - (d) contain particulars of the grounds on which it is proposed to cancel the permit, which particulars give adequate information as to why it is proposed to cancel the permit; and
 - (e) specify that representations may be made, to an authorised officer specified in the notice, in relation to the proposal to cancel the permit; and

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- (f) specify that the representations may only be made in writing, delivered to an address specified in the notice, within the period specified in the notice.
 - (3) The last day of a period specified under subsection (2)(f) in a notice of intention to cancel a permit must not be sooner than 14 business days after the notice is served.
 - (4) A person on whom a notice of intention to cancel a permit has been served may, within the period specified under subsection (2)(f) in the notice, make representations in writing to an address specified in the notice.
 - (5) A notice of intention to cancel a permit in relation to a use or development of land may, as an alternative to being served in accordance with section 84, be served by affixing the notice to a building or structure on the land in a place where a person entering the land would be likely to see the notice.

65G. Cancellation of permits

- (1) A planning authority may cancel a permit in relation to land in the municipal area of the authority by serving a notice in writing –

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- (a) on an owner of the land; or
 - (b) on the occupier of the land, if the grounds on which the permit is cancelled relate to the use or development of the land by the occupier.
- (2) A permit in relation to land may only be cancelled under subsection (1) on grounds referred to in this section.
- (3) A permit in relation to land may only be cancelled under subsection (1) if –
 - (a) an enforcement notice has been served under section 65C on the owner or occupier of the land on whom the notice under subsection (1) is served, and the enforcement notice has not been withdrawn under section 65C(8); and
 - (b) the owner or occupier on whom the enforcement notice was served has failed to comply with, or has contravened, a requirement specified in the enforcement notice.
- (4) If a notice is served under subsection (1) on a person other than an owner of the land to which the notice relates, the planning authority must notify the owner

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in writing of the cancellation of the permit.

(5) A planning authority has grounds for cancelling a permit in relation to land if the authority is reasonably of the opinion that –

(a) the permit would not have been granted; or

(b) different conditions to the conditions, if any, it imposed on the permit, would have been imposed –

if the applicant had not made a material misstatement of fact, or concealed material facts, in relation to the application for the permit.

(6) A planning authority has grounds for cancelling a permit in relation to land if the authority is reasonably of the opinion that an owner or occupier of the land has substantially failed to comply with, or has contravened, a condition of the permit.

(7) A planning authority has grounds for cancelling a permit in relation to land if the grounds are prescribed in regulations made for the purposes of this subsection.

(8) A planning authority may only cancel a permit in relation to land if –

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- (a) a notice of intention to cancel a permit has, under section 65F, been served on –
 - (i) the owner of the land; or
 - (ii) if a person other than the owner of the land is using or developing the land, both that person and the owner of the land; and
- (b) the permit is cancelled after the end of the last day of the period specified under section 65F(2)(f) in the notice of intention to cancel a permit; and
- (c) the authorised officer has considered any representations made under section 65F(4) by the person or persons on whom the notice of intention to cancel a permit was served.

65H. Issue of notices where applications made to Tribunal

- (1) If an application is made under section 64 in relation to –
 - (a) a contravention of, or a failure to comply with, a provision of this Part; or

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- (b) a likely contravention of, or a likely failure to comply with, a provision of this Part –

a notice under this Division may not be issued and served on a person in relation to the contravention or failure, or the likely contravention or failure, until the application is determined by the Appeal Tribunal.

- (2) If –

- (a) an application is made under section 64 in relation to a contravention of, or a failure to comply with, a provision of this Part; and
- (b) the Appeal Tribunal makes an order in relation to the contravention or failure –

a notice under this Division may not be issued and served on a person in relation to the contravention or failure unless a person contravenes, or fails to comply with, the order.

- (3) If the Appeal Tribunal has determined, on an application under section 64, that an alleged contravention of, or an alleged failure to comply with, a provision of this Part did not occur, a notice under this Division may not be issued and served on

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a person in relation to the contravention or failure to comply.

(4) If an appeal is made to the Appeal Tribunal under section 61 in relation to a decision to issue to a person an enforcement notice under section 65C in relation to –

(a) a contravention of, or a failure to comply with, a provision of this Part; or

(b) a likely contravention of, or a likely failure to comply with, a provision of this Part –

a notice under this Division may not be issued and served on the person in relation to the contravention or failure to comply until the appeal is determined.

Division 4B – Authorised officers

65I. Authorised officers

(1) In this section –

“general manager of a council”
means a person who is appointed under section 61 of the *Local Government Act 1993* to be the general manager of a council.

(2) A general manager of a council may authorise a person to be, for the purposes

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of this Act, an authorised officer in respect of the municipal area of the council.

- (3) A general manager of a council is, in respect of the municipal area of the council, an authorised officer for the purposes of this Act.
- (4) A police officer is an authorised officer for the purposes of the Act.
- (5) An authorised officer in respect of the municipal area of a council may only exercise a power of an authorised officer under this Act for the purposes of the administration or enforcement of this Act in relation to land within the municipal area.

65J. Powers of authorised officers

- (1) An authorised officer may, for any reasonable purpose connected with the administration or enforcement of this Act, enter and inspect any place if –
 - (a) the occupier of the place consents to the officer's entry; or
 - (b) the entry is made under a warrant; or

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- (c) the place is a public place and the entry occurs when the place is open to the public.
- (2) An authorised officer may, for any reasonable purpose connected with the administration or enforcement of this Act –
 - (a) take photographs, films or audio, video or other recordings; or
 - (b) examine or test any air or thing from a place or require the thing to be examined or tested or provided to the officer for examination or testing.
- (3) An authorised officer may require a person to provide to the officer a document, or a copy of a document, in the possession of the person, if the document is reasonably required for a purpose connected with the administration or enforcement of this Act.
- (4) The documents that a person may be required under subsection (3) to produce include a document in writing that reproduces in a comprehensible form information in the possession of the person that is stored by an electronic device, object or process.

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- (5) An authorised officer may examine, copy or take extracts from a document produced under subsection (3) or found in the conduct of a search under this Act.
 - (6) An authorised officer may require a person to provide information to the officer that is reasonably required for a purpose connected with the administration or enforcement of this Act.
 - (7) An authorised officer may require a person to answer questions in relation to a matter.
 - (8) An authorised officer may only require a person to answer questions in relation to a matter if –
 - (a) the questions relate to a matter in respect of which information is reasonably required for a purpose connected with the administration or enforcement of this Act; and
 - (b) the officer reasonably suspects the person may have the information.
 - (9) An authorised officer may require a person who the officer reasonably suspects has committed, is committing, or is about to commit, an offence against this Act, to –

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- (a) state the person's full name, date of birth and usual place of residence; and
- (b) produce evidence of the person's identity.

65K. Entry and search warrants

- (1) A magistrate may issue a warrant authorising an authorised officer to enter land, and any premises on land, that is land specified in the warrant.
- (2) A warrant issued under subsection (1) may authorise an authorised officer who is a police officer to enter land, and any premises on land, with, if necessary, reasonable force.
- (3) A magistrate may issue a warrant under subsection (1) in relation to land, and any premises on land, if the magistrate is satisfied, on the application of an authorised officer, that there are reasonable grounds to believe –
 - (a) that a contravention of this Act has been, is being, or is about to be, committed on the land or the premises; or
 - (b) that an object may be found, in or on the land or the premises, that

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constitutes evidence of a
contravention of this Act.

- (4) The grounds for an application for a warrant must be verified by affidavit.
- (5) A warrant issued under subsection (1) must specify –
 - (a) the offence to which the warrant relates; and
 - (b) a description of the land to which the warrant relates; and
 - (c) the kinds of evidential material that are to be searched for under the warrant; and
 - (d) the name of the authorised officer or officers who is or are to be responsible for executing the warrant; and
 - (e) the period for which the warrant remains in force, which is not to be more than 28 days from the date on which the warrant is issued; and
 - (f) whether the warrant may be executed at any time or during particular hours; and
 - (g) that the warrant authorises the seizure of a thing that is referred

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to in paragraph (c) or any other thing, that is found on the land, or premises on the land, in the course of the search and that the person executing the warrant believes on reasonable grounds to be –

(i) evidential material in relation to an offence to which the warrant relates; or

(ii) evidential material in relation to another offence –

if the officer believes on reasonable grounds that seizure of the thing is necessary to prevent its concealment, loss or destruction or its use in committing an offence.

(6) An application for the issue of a warrant may be made either personally or by telephone.

(7) If an application for a warrant is made by telephone –

(a) the applicant must inform the magistrate of the applicant's name and that the applicant is an authorised officer; and

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- (b) the applicant must inform the magistrate of the grounds on which the applicant seeks the warrant; and
 - (c) if it appears to the magistrate from the information given by the applicant that there are proper grounds for the issue of a warrant, the magistrate must inform the applicant of the facts on which the applicant relies for the issue of a warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and
 - (d) if the applicant gives the undertaking referred to in paragraph (c), the magistrate may then make out and sign a warrant, noting on the warrant the facts on which the magistrate relies as grounds for issue of the warrant; and
 - (e) the warrant will be taken to have been issued, and will come into force, when signed by the magistrate; and
 - (f) the magistrate must inform the applicant of the terms of the warrant; and

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- (g) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).
- (8) In executing a warrant –
 - (a) an authorised officer specified in the warrant may obtain the assistance that is necessary and reasonable in the circumstances; and
 - (b) an authorised officer specified in the warrant may, if the officer is a police officer, use the force against persons and things that is necessary and reasonable in the circumstances.
- (9) An authorised officer must, as soon as practicable after executing a warrant –
 - (a) prepare a notice in the prescribed form containing –
 - (i) the officer's name and a statement that he or she is an authorised officer; and
 - (ii) the name of the magistrate who issued the warrant and the date and time of its issue; and

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- (iii) a description of the place to which the warrant relates and of the authority conferred by the warrant; and
 - (b) give the notice to the occupier or person apparently in charge of the land to which the warrant relates or leave it for the occupier or person on a prominent place on the land.
 - (10) A warrant expires if it has not been executed by the end of 28 days after the day on which it was issued.

65L. Additional requirements in respect of authorised officer in dealings with disadvantaged persons

- (1) A person is entitled to be assisted by an interpreter or other representative during any questioning conducted by an authorised officer in the course of investigating an offence, if the person is not reasonably fluent in English or able to comprehend spoken English.
- (2) As soon as the authorised officer becomes aware, or ought to have become aware, that subsection (1) applies in relation to a person, the officer may not question or further question the person

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until the person has been informed, in a manner that the person is likely to comprehend, that the person has the right to an interpreter, or another representative, chosen by the person, who is willing and able to assist the person.

- (3) If the person requests the assistance of an interpreter or other representative, the officer must not continue with the questioning, or further questioning, until an interpreter or other representative, chosen by the person and willing and able to assist the person, is present.

65M. Obstruction, &c., of authorised officers and others

- (1) A person must not –
- (a) assault, resist, impede or obstruct an authorised officer, or a person assisting an authorised officer under section 65K, in the exercise of the officer's powers, or in the performance of the officer's functions, under this Act; or
 - (b) use threatening, abusive or insulting language to an authorised officer, or a person assisting an authorised officer under section 65K, in the exercise

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of the officer's powers, or in the performance of the officer's functions, under this Act; or

- (c) fail to comply with a requirement imposed on the person under section 65J; or
- (d) provide false or misleading information when required to provide information under section 65J; or
- (e) impersonate an authorised officer.

Penalty: Fine not exceeding 40 penalty units.

- (2) If a person is convicted by a court of an offence against subsection (1)(c) of failing to comply with a requirement, the court may order the person to comply with the requirement.

11. Section 85A inserted

After section 85 of the Principal Act, the following section is inserted in Part 6:

85A. Immunity from liability

- (1) An authorised officer, or a person assisting an authorised officer under section 65K, is not personally liable in respect of any act done or omitted to be

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done by the officer or person in good faith in the performance or exercise, or purported performance or exercise, of a function or power of an authorised officer under this Act.

- (2) A member of a planning authority is not personally liable in respect of any act done or omitted to be done by the planning authority in good faith in the performance or exercise, or purported performance or exercise, of a function or power of a planning authority under this Act.
- (3) Nothing in subsection (1) or (2) precludes the Crown or a planning authority from incurring liability that an authorised officer, a person assisting an authorised officer under section 65K or a member of a planning authority would otherwise incur.

**PART 3 – LOCAL GOVERNMENT (GENERAL)
REGULATIONS 2005 AMENDED**

12. Principal Regulations

In this Part, the *Local Government (General) Regulations 2005** are referred to as the Principal Regulations.

13. Schedule 7 amended (Questions)

Schedule 7 to the Principal Regulations is amended by inserting after paragraph (b) in item 20 in the first table in Part 3 the following item:

20A. Enforcement notices

- (a) has the council a record of an enforcement notice issued under section 65C of the Act in relation to the specified land?
- (b) if YES to (a), provide particulars.

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Part 4 – Miscellaneous and Repeal

PART 4 – MISCELLANEOUS AND REPEAL

14. Amendment of regulations

The amendment by this Act of a provision of the *Local Government (General) Regulations 2005* does not prevent the amendment or rescission of the provision by a subsequent regulation.

15. Repeal of Act

This Act is repealed on the ninetieth day from the day on which all of the provisions of this Act commence.