

TASMANIA

LOCAL GOVERNMENT (MISCELLANEOUS AMENDMENTS) BILL 2013

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LOCAL GOVERNMENT (MISCELLANEOUS AMENDMENTS) BILL 2013

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
26 September 2013

*(Brought in by the Minister for Local Government, the
Honourable Bryan Alexander Green)*

A BILL FOR

**An Act to amend the *Local Government Act 1993* and the
*Building Act 2000***

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 *Local Government (Miscellaneous Amendments) Act 2013*.

2. Commencement

- (1) Except as provided in this section, this Act commences on the day on which this Act receives the Royal Assent.

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Part 1 – Preliminary

- (2) Part 4 commences on a day or days to be proclaimed.

PART 2 – BUILDING ACT 2000 AMENDED

3. Principal Act

In this Part, the *Building Act 2000** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting “section 170, 171 or 173” from the definition of *building order* and substituting “section 170, 171, 173 or 173A”;
- (b) by inserting the following definitions after the definition of *designer*:

dilapidated building means a building that, because of neglect, disrepair, defacement or damage, is of an appearance that is prejudicial to the visual amenity of its surroundings;

dilapidated building notice means a notice referred to in section 167B;

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dilapidated building report means a
report referred to in
section 167A;

5. Sections 167A and 167B inserted

After section 167 of the Principal Act, the
following sections are inserted in Division 2:

167A. Dilapidated building report

- (1) If a general manager is of the opinion that a building may be a dilapidated building, the general manager –
 - (a) may inspect the building; and
 - (b) is to prepare a report on the matter.
- (2) A dilapidated building report is to state –
 - (a) whether or not the building is a dilapidated building; and
 - (b) the building work, or other work, that the general manager considers is required in order for the building to cease to be a dilapidated building; and
 - (c) any other matter the general manager is of the opinion is relevant.
- (3) A general manager may obtain from any building practitioner, or other person the

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general manager thinks fit, a statement as to any matter relating to a dilapidated building report.

167B. Dilapidated building notice

- (1) A general manager may issue a dilapidated building notice to an owner of a dilapidated building if a dilapidated building report states that the building is a dilapidated building.
- (2) A dilapidated building notice issued to an owner of a dilapidated building is to –
 - (a) require the owner to show cause, in the manner and within the period specified in the notice, why the owner should not carry out the building work, or other work, specified in the dilapidated building report; and
 - (b) be accompanied by a copy of the dilapidated building report.

6. Section 173A inserted

After section 173 of the Principal Act, the following section is inserted in Division 2:

173A. Building order relating to dilapidated building

- (1) A general manager is to serve a building order relating to a dilapidated building on an owner of the building if the general

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manager does not revoke a dilapidated building notice issued in relation to the building.

- (2) A building order relating to a dilapidated building is to direct an owner of the building to carry out the building work, or other work, that the general manager considers is required in order for the building to cease to be a dilapidated building.
- (3) A building order under this section may be –
 - (a) a separate building order; or
 - (b) combined with another building order.

7. Section 200 amended (Amendment or revocation of building order)

Section 200 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or a dilapidated building notice,” after “upgrading notice,”;
- (b) by inserting in subsection (1) “or dilapidated building notice” after “original fire upgrading notice”;
- (c) by inserting in subsection (2)(b) “or amended dilapidated building notice” after “notice”;

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-
- (d) by inserting in subsection (2)(c) “or dilapidated building notice” after “notice”.

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Part 3 – Local Government Act 1993 Amended

**PART 3 – LOCAL GOVERNMENT ACT 1993
AMENDED**

8. Principal Act

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

9. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *Appeal Tribunal*:

approved means approved by the
Tasmanian Electoral
Commission;

- (b) by inserting the following definition after the definition of *authorised person*:

ballot material means –

- (a) a ballot paper; and
- (b) instructions for the completion of the ballot paper and the manner in which the ballot paper is to be returned; and

*No. 95 of 1993

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-
- (c) the envelope or envelopes to be used for the return of the ballot paper; and
 - (d) statements of candidates;
 - (c) by inserting the following definition after the definition of *candidate*:

closing day means the day referred to in section 268A;
 - (d) by inserting the following definition after the definition of *councillor*:

declaration of a poll means a declaration under section 303;
 - (e) by inserting the following definition after the definition of *Director, MPES*:

election agent means a person authorised by the candidate to act as his or her agent in connection with the candidate's campaign for election;
 - (f) by omitting “any advertising in respect of a campaign for election by a candidate or intending candidate by any of the following means:” from the definition of *electoral advertising* and substituting “any advertising, by any of the following means, that is directly or indirectly in respect of a campaign for election by a candidate or intending candidate:”;

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- (g) by inserting the following definition after the definition of *electoral advertising*:

electoral area means the municipal area or electoral district in which an election is to be held;

- (h) by inserting the following definitions after the definition of *electoral district*:

electoral material means –

(a) ballot papers; and

(b) declarations under section 284;

electoral officer means a person appointed as such under section 265;

electoral officer in charge means an electoral officer appointed under section 265(2) to be in charge of an issuing place;

electoral roll means a roll kept under section 258;

- (i) by inserting “and, in Part 15, includes a person nominated under section 253A” after “section 61” in the definition of *general manager*;
- (j) by inserting the following definition after the definition of *intending candidate*:

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issuing place means a place appointed under section 263;

- (k) by inserting the following definition after the definition of *legal practitioner*:

list of electors means the list prepared under section 261;

- (l) by inserting “and, in Part 15, includes a proposed municipal area” after “section 16” in the definition of *municipal area*;
- (m) by inserting the following definitions after the definition of *municipal area*:

nomination period means the period beginning at 9 a.m. on the 7th Monday immediately before the closing day and ending at noon on the 5th Monday immediately before the closing day;

notice of election means the notice of election under section 269;

- (n) by inserting the following definition after the definition of *partner*:

polling period means a period of at least 10 days, excluding any Saturday, Sunday or statutory holiday as defined in the *Statutory Holidays Act 2000*, ending on closing day;

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- (o) by inserting the following definition after the definition of *relevant period*:

returning officer means a person appointed as such under section 264;

- (p) by inserting the following definitions after the definition of *review*:

roll closure day means the day on which the electoral roll for an electoral area is closed under section 260;

scrutineer means a person appointed as such under section 292;

10. Section 32 amended (Approval and certification of rules)

Section 32 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “approved rules” and substituting “rules approved under subsection (1)”;
- (b) by omitting from subsection (4)(a) “approved rules” and substituting “rules approved under subsection (1)”.

11. Section 47 amended (Resignations)

Section 47 of the Principal Act is amended by omitting subsection (6).

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12. Section 48 amended (Declaration of interest by councillor)

Section 48 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2) “that the councillor has” after “interest”;
- (b) by inserting in subsection (3) “that he or she has” after “declaring”;
- (c) by inserting in subsection (4) “that the councillor has” after “interest”.

13. Section 48A amended (Declaration of interest by member)

Section 48A of the Principal Act is amended as follows:

- (a) by inserting in subsection (2) “that he or she has” after “interest”;
- (b) by inserting in subsection (3) “that he or she has” after “interest”;
- (c) by inserting in subsection (4) “that he or she has” after “interest”;
- (d) by inserting in subsection (5) “by the member” after “declared”.

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14. Section 54 amended (Register of interests of councillors)

Section 54(1) of the Principal Act is amended by omitting “of councillors” and substituting “, of councillors, of which the general manager has been advised under section 48(4)”.

15. Section 132 amended (Certificate of liabilities)

Section 132(4) of the Principal Act is amended by omitting “the” first occurring.

16. Section 137 amended (Sale of land for unpaid rates)

Section 137(8) of the Principal Act is amended by omitting “retain the land as though it had purchased it.” and substituting “take steps under section 140 in relation to the land.”.

17. Section 153 amended (Publication of by-laws)

Section 153 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “made or adopted by it” after “by-law”;
- (b) by inserting in subsection (2) “, made by a council,” after “by-law”.

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18. Section 154 amended (Repeal and amendment of by-laws)

Section 154 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “(other than a by-law adopted by a council under section 172)” after “A by-law”;
- (b) by omitting from subsection (3) “by-law or part of a by-law” and substituting “by-law, or a part of a by-law, that is made by a council”.

19. Section 155 amended (Expiry of by-laws)

Section 155 of the Principal Act is amended by inserting “made, or adopted, by a council” after “by-law”.

20. Section 156A amended (Regulatory impact statement)

Section 156A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1A)(b)(i) “or” first occurring and substituting “and”;
- (b) by inserting in subsection (1A)(b)(iii) “significantly” after “not”;
- (c) by inserting the following subsection after subsection (5):

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- (5A) A council may only submit to the Director a regulatory impact statement in relation to a proposed by-law if a motion of intention to make the proposed by-law has been passed by the council under section 156(1).

21. Section 157 amended (Notice of proposed by-law)

Section 157(2) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) made available for viewing at a website of the council from the day when the notice is first published in the newspaper until the end of the day specified in the notice as the earliest day by which the notice may be removed from the website; and

22. Section 158 amended (Proposed by-laws open to inspection and may be purchased)

Section 158 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “proposed by-law” and substituting “by-law the council proposes to make”;
- (b) by inserting the following paragraph after paragraph (a):

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- (ab) a copy of a by-law the council proposes to make, and a copy of the regulatory impact statement, for viewing at a website of the council as soon as practicable after publication of the notice referred to in section 157 until the day specified in the notice; and
- (c) by omitting from paragraph (b) “proposed by-law” and substituting “by-law the council proposes to make”.

23. Section 159 amended (Submissions in respect of proposed by-law)

Section 159(1) of the Principal Act is amended by omitting “proposed by-law” and substituting “by-law a council proposes to make”.

24. Section 160 amended (Alterations to proposed by-law)

Section 160 of the Principal Act is amended by omitting “proposed by-law” first occurring and substituting “by-law it proposes to make”.

25. Section 163 amended (Commencement of by-law)

Section 163 of the Principal Act is amended by inserting “that is made or adopted by a council” after “A by-law”.

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26. Section 164 amended (By-law to Director)

Section 164 of the Principal Act is amended by inserting “that makes a by-law” after “council”.

27. Section 165 amended (Title and numbering of by-laws)

Section 165 of the Principal Act is amended as follows:

- (a) by omitting “of a council” and substituting “that is made or adopted by a council”;
- (b) by inserting in paragraph (a)(iii) “or adopted” after “made”.

28. Section 166 amended (Copies of by-laws)

Section 166(1) of the Principal Act is amended by inserting “and for viewing at a website of the council” after “public”.

29. Sections 170A and 170B inserted

Before section 171 of the Principal Act, the following sections are inserted in Division 4:

170A. Regulatory impact statement in respect of model by-law

- (1) The Minister is to ensure that a regulatory impact statement is prepared in respect of any model by-law (including a model by-law that amends

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another model by-law) he or she intends to make under section 171(1).

- (2) Subsection (1) does not apply to any model by-law that is an amendment, to an existing model by-law, that –
 - (a) is of a minor and technical nature; or
 - (b) does not significantly alter the purpose or effect of the existing model by-law; or
 - (c) does not significantly alter the impact on the public of the existing model by-law, as adopted by a council.
- (3) A regulatory impact statement in relation to a model by-law is to include the following:
 - (a) the objectives of the model by-law and the means by which the model by-law is intended to achieve them;
 - (b) the nature of any restriction on competition;
 - (c) an assessment of the costs and benefits of –
 - (i) any restriction on competition; or

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- (ii) any impact on the conduct of business;
 - (d) an identification of the alternative options by which the objectives can be achieved (whether wholly or substantially);
 - (e) an assessment of the greatest net benefit or least net cost to the community;
 - (f) an assessment of the direct and indirect economic, social and environmental impact of the model by-law;
 - (g) details of the proposed public consultation process, if any.
- (4) The regulatory impact statement is to state whether the model by-law is likely to have an impact on business or restrict competition and, if it is, the reason why.

170B. Consultation in respect of model by-laws

The Minister may, if he or she thinks fit, arrange for public consultation to be conducted in respect of –

- (a) a regulatory impact statement; or
- (b) a proposed model-by law; or
- (c) a proposal to amend a model by-law under section 171.

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30. Section 171 amended (Making of model by-laws)

Section 171 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “(including model by-laws that amend other model by-laws)” after “model by-laws”;
- (b) by inserting in subsection (2)(a) “together with a copy of the regulatory impact statement prepared under section 170A, if such a statement is required under that section to be prepared in relation to the model by-law” after “*Gazette*”;
- (c) by omitting from subsection (2)(b) “prepared under section 156A” and substituting “, if any,”.

31. Section 172 amended (Council may adopt model by-laws)

Section 172 of the Principal Act is amended by omitting subsection (5) and substituting the following subsections:

- (5) A model by-law that is adopted by a council has, on and from the date on which notice is given under subsection (4) in relation to the model by-law, effect, according to the terms of the model by-law, as if it were a by-law made by the council, except that

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sections 162 and 164 do not apply in relation to it.

(5A) If a model by-law (the ***amending model by-law***) amends another model by-law that has been adopted by a council, the amending model by-law –

(a) is, on and from the date on which notice is given under section 171(5) that the amending model by-law has not been disallowed, to be taken to be a model by-law adopted by the council; and

(b) despite section 163, commences on the day on which it is published in accordance with section 153.

(5B) A council that adopts, or is to be taken under subsection (5A) to have adopted, a model by-law is to affix its common seal to 2 copies of the model by-law and is to forward one of them to the Director.

32. Section 174 amended (Repeal of model by-law)

Section 174 of the Principal Act is amended as follows:

(a) by inserting the following subsection after subsection (1):

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- (1A) A notification under subsection (1) may specify that the repeal to which the notice relates is a self-executing repeal.
- (b) by inserting in subsection (2) “, unless the repeal is a self-executing repeal” after “as adopted”;
- (c) by inserting the following subsection after subsection (2):
- (3) If a notification of the repeal of a model by-law under subsection (1) specifies that the repeal is a self-executing repeal, a model by-law, adopted by a council, that consists of the repealed model by-law (as amended, if at all, under this Part), is repealed on and from the date of the notification.

33. Section 200 amended (Abatement notices)

Section 200(1)(a) of the Principal Act is amended by omitting “its” and substituting “the”.

34. Section 204A inserted

After section 204 of the Principal Act, the following section is inserted in Division 6:

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204A. Infringement notice for non-compliance with abatement notice

- (1) An authorised officer of a council may issue and serve an infringement notice on a person if the authorised officer reasonably believes that the person has committed an offence against section 200(3).
- (2) An infringement notice may not be served on an individual who has not attained the age of 18 years.
- (3) 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 3 offences against section 200(3).
- (4) The penalty payable under an infringement notice for an offence against section 200(3) to which the infringement notice relates is 3 penalty units.

35. Section 253 repealed

Section 253 of the Principal Act is repealed.

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36. Section 254 substituted

Section 254 of the Principal Act is repealed and the following section is substituted:

254. Entitlement to be on list of electors and to vote in election

- (1) A person is entitled to be enrolled on the electoral roll kept under section 258(7) in respect of an electoral area if the person is enrolled on the electoral roll for the House of Assembly in respect of an address within that electoral area.
- (2) A person, other than a person referred to in subsection (1), is entitled to be enrolled on the electoral roll kept under section 258(1) in respect of an electoral area if the person –
 - (a) is an owner or occupier of land in the electoral area; and
 - (b) is over the age of 18; and
 - (c) is not serving a term of imprisonment; and
 - (d) is not subject to an initial order, or a continuing care order, under the *Mental Health Act 1996* or an order under the *Guardianship and Administration Act 1995*.
- (3) A person is entitled to be enrolled on the electoral roll kept under section 258(1) in

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respect of an electoral area if a nomination of the person to vote in respect of the electoral area on behalf of a corporate body has effect under section 255.

- (4) A person is entitled to vote in an election in respect of an electoral area if the person –
 - (a) is on a list of electors kept under section 261(2) in respect of the electoral area; and
 - (b) is, or will be, 18 years old or more before the closing day for the election.
- (5) A person is entitled to vote in an election in respect of an electoral area if the person is on a list of electors kept under section 261(1) in respect of the electoral area.
- (6) A person is entitled to vote, on behalf of a corporate body, in an election in respect of an electoral area, if –
 - (a) a nomination of the person to vote in respect of the electoral area on behalf of the corporate body has effect under section 255; and
 - (b) the person is on a list of electors kept under section 261(1) in respect of the electoral area.

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- (7) A person who is a resident in one municipal area and is also an owner or occupier of land in one or more other municipal areas, is entitled to vote, in an election, in respect of each of those municipal areas in respect of which the person is on a list of electors kept under section 261(1) or (2).

37. Section 255 amended (Voting by corporations)

Section 255 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “may –” and substituting “must do one of the following in respect of a nomination.”;
- (b) by inserting in subsection (3)(a) “, unless paragraph (b) or (c) applies in respect of the nomination” after “nomination”;
- (c) by omitting from subsection (3)(a) “or”;
- (d) by omitting from subsection (3)(b) “or” second occurring;
- (e) by inserting the following subparagraph after subparagraph (ii) in subsection (3)(c):
 - (iia) is a person whose nomination in respect of another corporate body is in force in respect of the municipal area; or
- (f) by omitting subsection (4);

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(g) by inserting the following paragraph after paragraph (b) in subsection (5):

(ba) the name of the person is deleted under section 258(6); or

38. Section 257 amended (Electoral enrolment form)

Section 257 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

(1) A person who is entitled under section 254(2) to be enrolled on the electoral roll kept under section 258(1) in respect of an electoral area may lodge with the general manager an electoral enrolment form in respect of the electoral area.

39. Section 258 amended (Electoral roll)

Section 258 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

(1) The general manager is to keep, in a manner determined by the Electoral Commissioner, an electoral roll in respect of each electoral area.

(b) by inserting in subsection (2) “under subsection (1) in respect of an electoral area” after “kept”;

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(c) by omitting paragraph (a) from subsection (2) and substituting the following paragraph:

(a) a list of persons –

(i) who are entitled under section 254(2) to be enrolled on the electoral roll and who have lodged under section 257 an electoral enrolment form in respect of the electoral area; or

(ii) who are entitled under section 254(3) to be enrolled on the electoral roll; and

(d) by omitting from subsection (2)(b) “vote” and substituting “be enrolled on the electoral roll”;

(e) by omitting subsection (7) and substituting the following subsection:

(7) The Electoral Commissioner is to keep in respect of an electoral area an electoral roll of persons entitled to be enrolled on the electoral roll under section 254(1).

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40. Section 259 amended (Inspection of electoral roll)

Section 259 of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “An elector or a corporate body” and substituting “Any person”;

(b) by omitting subsection (2) and substituting the following subsection:

(2) A person who is entitled to be enrolled on an electoral roll in respect of an electoral area may, by notice in writing to the general manager, object to –

(a) an error, in the electoral roll, in the particulars in respect of any person or body corporate; or

(b) the omission of the name of any person from the electoral roll, if –

(i) the person whose name has been omitted has lodged an electoral enrolment form under section 257 in respect of the electoral area; or

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- (ii) a nomination, to vote on behalf of a corporate body in the electoral area, of the person whose name has been omitted, has effect under section 255.
- (c) by inserting in subsection (3) “kept under section 258(1)” after “roll”.

41. Section 261 amended (List of electors)

Section 261 of the Principal Act is amended by inserting after subsection (6) the following subsection:

- (7) A person, body or organisation must not, without reasonable excuse, use information obtained from a list of electors provided under subsection (6), unless the information is used for purposes connected with an election.

Penalty: Fine not exceeding 50 penalty units.

42. Section 261A inserted

After section 261 of the Principal Act, the following section is inserted in Division 2:

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261A. Inspection of list of electors

Any person may, at any reasonable time and free of charge, inspect the list of electors kept under section 261(1) and (2).

43. Section 262 amended (Reviews)

Section 262 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3) “kept under section 258(1)” after “electoral roll”;
- (b) by omitting from subsection (4) “section 289” and substituting “section 286”.

44. Section 270 amended (Eligibility for nomination as councillor)

Section 270 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “in respect of a municipal area” after “for the office of councillor”;
- (b) by omitting from subsection (1)(a) “an elector in” and substituting “enrolled on an electoral roll in respect of”;
- (c) by omitting from subsection (3) “an elector in” and substituting “enrolled on an electoral roll in respect of”.

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45. Section 271 amended (Notice of nominations)

Section 271(2)(a) of the Principal Act is amended by omitting “electors of” and substituting “persons enrolled on an electoral roll for”.

46. Section 272 amended (Acceptance or rejection of nomination)

Section 272 of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “Electoral Commissioner” and substituting “Tasmanian Electoral Commission”;
- (b) by omitting from subsection (5) “Electoral Commissioner” and substituting “Tasmanian Electoral Commission”;
- (c) by omitting from subsection (6) “Electoral Commissioner” and substituting “Tasmanian Electoral Commission”.

47. Section 278 amended (Electoral advertising)

Section 278 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

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- (1) A person must not, during the relevant period, use, otherwise than in accordance with the regulations, electoral advertising with a view to promoting or procuring the election of any candidate at an election.

Penalty: Fine not exceeding 100
penalty units.

- (b) by inserting the following subsections after subsection (5):

- (6) A person must not use or display the arms of a council, or a logo of a council, in any electoral advertising.

Penalty: Fine not exceeding 20
penalty units.

- (7) Subsection (6) does not apply to –

- (a) any matter printed, published or distributed by or on behalf of the Electoral Commissioner in the exercise or performance of his or her powers or functions; or
- (b) any electoral advertising by means of any broadcast by television.

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48. Section 284 amended (Ballot material)

Section 284 of the Principal Act is amended by inserting after subsection (4) the following subsection:

- (5) The Tasmanian Electoral Commission may display, on a website, the statements of the candidates for an election.

49. Section 286 amended (Supplementary issue of ballot material)

Section 286 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “to an elector if satisfied that the elector” and substituting “in respect of an electoral area to a person if satisfied that the person”;
- (b) by omitting from subsection (1)(a) “has not” and substituting “is an elector in respect of the electoral area and has not”;
- (c) by omitting from subsection (1)(b) “has spoiled” and substituting “is an elector in respect of the electoral area and has spoiled”;
- (d) by omitting paragraph (c) from subsection (1) and substituting the following paragraph:
 - (c) claims to be entitled under section 254(1), (2) or (3) to be

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enrolled on the electoral roll in
respect of the electoral area; or

- (e) by omitting from subsection (2)
“subsection (1)(d)” and substituting
“subsection (1)(c) or (d)”.

50. Section 286A inserted

After section 286 of the Principal Act, the
following section is inserted in Division 6:

**286A. When ballot paper sent as supplementary
election material may be accepted**

A ballot paper issued to a person in
accordance with section 286(1)(c) in
respect of an electoral area may be
accepted if –

- (a) the person’s name has been
omitted in error from the list of
electors in respect of that
electoral area; or
- (b) the person’s name has been
omitted in error from an electoral
roll kept under section 258(1); or
- (c) the person’s name has been on
the electoral roll for the House of
Assembly in respect of an address
within the municipal area at any
time since the closure of that roll
for the most recent ordinary
election under this Act for the

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electoral area and the person appears to have continuously resided in the municipal area since that closure.

51. Section 296 inserted

After section 295 of the Principal Act, the following section is inserted in Division 6:

296. Procedures for voting by persons outside Tasmania

- (1) The Tasmanian Electoral Commission, for the purposes of this section, may approve procedures to enable approved electors to vote in accordance with this section.
- (2) An electronic copy of a ballot paper, and an electronic copy of a declaration document, in respect of an election may be obtained by an approved elector in accordance with the approved procedures.
- (3) An approved elector may vote in an election by sending –
 - (a) by an electronic means specified in the approved procedures, completed electronic copies of each of the downloaded documents; or

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- (b) by mail, completed paper copies of each of the downloaded documents –

so that the completed electronic copies or completed paper copies are received by the relevant person before the end of the polling period in respect of the election.

- (4) If completed electronic copies, or completed paper copies, of the downloaded documents, that are sent by an approved elector are received by the relevant person before the end of the polling period in respect of the election in accordance with subsection (3) –

- (a) a person approved by the Electoral Commissioner is to transcribe onto a ballot paper the voting indicated on the completed electronic copy, or completed paper copy, of the electronic ballot paper; and

- (b) the ballot paper on which the voting is transcribed under paragraph (a) is to be dealt with as a ballot paper received by post; and

- (c) a person approved by the Electoral Commissioner is to print a paper copy of the completed electronic copy of the

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electronic declaration document;
and

- (d) the paper copy, of the completed electronic copy of the electronic declaration document, that is sent by mail under subsection (3)(b) or printed under paragraph (c) is to be taken to be a declaration by the approved elector that is signed on an envelope as required under section 285.
- (5) An electronic record is to be made of the persons and the electronic address from whom or which completed electronic copies or completed paper copies were received in accordance with subsection (3).
- (6) An electronic record kept under subsection (5) in respect of an election is to be kept until the election can no longer be questioned.
- (7) A person does not commit an offence against a provision of this Part in relation to an action taken by the person if the action is taken in good faith for the purposes of this section or the approved procedures.
- (8) In this section –

approved elector means a person who
is –

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- (a) an elector in respect of an electoral area; and
- (b) outside Tasmania; and
- (c) a member of a class of electors to which the approved procedures apply;

approved procedures means procedures approved for the purposes of this section;

completed electronic copy, in relation to a downloaded document, means an electronic copy of the downloaded document that is completed by the person in accordance with the instructions on the downloaded document;

completed paper copy, in relation to a downloaded document, means a paper copy of the downloaded document that is completed by the person in accordance with the instructions on the downloaded document;

declaration document means an electronic document, to be completed by a person, stating that the person is the person who received ballot material electronically and is voting using

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procedures approved under this section;

downloaded documents means an electronic copy of a ballot paper, and an electronic copy of a declaration document, that are obtained under subsection (2);

electronic ballot paper means an electronic copy of a ballot paper obtained under subsection (2);

electronic declaration document means an electronic copy of a declaration document obtained under subsection (2);

relevant person means –

- (a) the returning officer; or
- (b) the electoral officer in charge of an issuing place.

52. Section 305 amended (Recount of votes)

Section 305 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “Electoral Commissioner” and substituting “Tasmanian Electoral Commission”;

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- (b) by omitting from subsection (4) “Electoral Commissioner” and substituting “Tasmanian Electoral Commission”.

53. Section 306 amended (Keeping of electoral material)

Section 306(6) of the Principal Act is amended by inserting “or another purpose approved by the Electoral Commissioner” after “vacancy”.

54. Section 307 amended (Casual vacancies)

Section 307 of the Principal Act is amended as follows:

- (a) by omitting subsection (3B);
- (b) by inserting the following subsection after subsection (6):
 - (7) The Electoral Commissioner must not disclose to a person the results, of a recount in respect of a hypothetical casual vacancy, that may be obtained by performing an electronic calculation based on any electronic records of ballot papers, completed by electors or former electors, that are held in an electronic form by the Electoral Commissioner.

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55. Section 308 amended (By-elections)

Section 308 of the Principal Act is amended as follows:

- (a) by omitting paragraphs (ab), (ac) and (ad) from subsection (1);
- (b) by omitting subsection (2);
- (c) by omitting from subsection (3A) “not held in conjunction with the next ordinary election”;
- (d) by omitting from subsection (4) “subsections (1A), (2), (3) and (3A)” and substituting “subsections (1A), (3) and (3A)”.

56. Section 310 amended (Adjournment of poll)

Section 310 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Electoral Commissioner” and substituting “Tasmanian Electoral Commission”;
- (b) by omitting from subsection (2) “Electoral Commissioner” and substituting “Tasmanian Electoral Commission”.

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57. Section 341 amended (Immunity from liability)

Section 341 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

(1) A person who is –

- (a) a councillor; or
- (b) a member of the Board; or
- (c) a member of a Code of Conduct panel, an audit panel or a Standards panel; or
- (d) a member of a special committee or a controlling authority; or
- (e) an administrator, or an employee, of a council –

is not personally liable for an honest act or omission done or made, as such a councillor, member, administrator or employee, in the exercise or purported exercise of a power, or in the performance or purported performance of a function, under this or any other Act.

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- (b) by omitting from subsection (2) “or a member of” and substituting “, a Code of Conduct panel, an audit panel or”;
- (c) by inserting in subsection (2) “, panel” after “the committee”;
- (d) by inserting the following subsection after subsection (2):
 - (3) A liability that would, but for subsection (1), lie against a member of a Standards panel, lies against the Local Government Association of Tasmania.

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58. Principal Act

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

59. Section 66 amended (Strategic plan)

Section 66 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “a 5 year period and updated as required” and substituting “a 10 year period”;
- (b) by omitting from subsection (3) “or updating an existing strategic plan”;
- (c) by omitting from subsection (4) “or updated strategic plan”.

60. Section 68 amended (Proposed strategic plan)

Section 68 of the Principal Act is amended as follows:

- (a) by omitting “or updating an existing strategic plan”;
- (b) by omitting from paragraph (b) “or updating”.

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61. Section 69 amended (Public inspection of strategic plan)

Section 69 of the Principal Act is amended by omitting “or amendments to a strategic plan”.

62. Sections 70, 70A, 70B, 70C, 70D, 70E and 70F inserted

After section 69 of the Principal Act, the following sections are inserted in Division 2:

70. Long-term financial management plans

- (1) A council is to prepare a long-term financial management plan for the municipal area.
- (2) A long-term financial management plan is to be in respect of at least a 10 year period.
- (3) A long-term financial management plan for a municipal area is to –
 - (a) be consistent with the strategic plan for the municipal area; and
 - (b) refer to the long-term strategic asset management plan for the municipal area; and
 - (c) contain at least the matters that are specified in an order made under section 70F as required to be included in a long-term financial management plan.

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70A. Financial management strategies

- (1) A council is to prepare a financial management strategy for the municipal area.
- (2) A financial management strategy for a municipal area is to –
 - (a) be consistent with the strategic plan for the municipal area; and
 - (b) contain at least the matters that are specified in an order made under section 70F as required to be included in a financial management strategy.

70B. Long-term strategic asset management plans

- (1) A council is to prepare a long-term strategic asset management plan for the municipal area.
- (2) A long-term strategic asset management plan is to relate to all assets that are within a class of assets specified in an order under section 70F(3) to be major assets.
- (3) A long-term strategic asset management plan is to be in respect of at least a 10 year period.
- (4) A long-term strategic asset management plan for a municipal area is to –

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-
- (a) be consistent with the strategic plan for the municipal area; and
 - (b) refer to the long-term financial management plan for the municipal area; and
 - (c) contain at least the matters that are specified in an order made under section 70F as required to be included in a long-term strategic asset management plan.

70C. Asset management policies

- (1) A council is to prepare an asset management policy for the municipal area.
- (2) An asset management policy for a municipal area is to –
 - (a) be consistent with the strategic plan for the municipal area; and
 - (b) guide the development of the long-term strategic asset management plan for the municipal area; and
 - (c) guide the development of the long-term financial management plan for the municipal area; and
 - (d) contain at least the matters that are specified in an order made under section 70F as required to

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be included in an asset
management policy.

70D. Asset management strategies

- (1) A council is to prepare an asset management strategy for the municipal area.
- (2) An asset management strategy for a municipal area is to –
 - (a) be consistent with the strategic plan for the municipal area; and
 - (b) contain at least the matters that are specified in an order made under section 70F as required to be included in an asset management strategy.

70E. Review of plans, strategies and policies

- (1) A council, at least every 4 years, is to review its –
 - (a) strategic plan; and
 - (b) long-term financial management plan; and
 - (c) long-term strategic asset management plan; and
 - (d) financial management strategy; and
 - (e) asset management strategy; and

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(f) asset management policy.

- (2) As soon as practicable after a council adopts a plan, strategy or policy referred to in subsection (1), the general manager is to notify the Director accordingly.

70F. Orders determining minimum contents of plans, &c., and classes of assets

- (1) The Minister, by order, may specify the matters that are required to be included in –
- (a) a long-term financial management plan; or
 - (b) a long-term strategic asset management plan; or
 - (c) a financial management strategy; or
 - (d) an asset management strategy; or
 - (e) an asset management policy.
- (2) A matter may be included in a plan, policy or strategy referred to in subsection (1), even though the matter is not specified in an order under subsection (1) as required to be included in such a plan, policy or strategy.
- (3) The Minister, by order, may specify the classes of assets that are to be taken to be major assets for the purposes of section 70B.

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- (4) The Minister is to consult with councils as to the matters to be included in an order under this section.

63. Section 84 amended (Financial statements)

Section 84 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (da) in subsection (2):

(db) contain financial management indicators, and asset management indicators, specified in an order under subsection (2A); and

- (b) by inserting the following subsections after subsection (2):

(2A) The Minister, by order, may specify –

(a) financial management indicators; and

(b) asset management indicators –

to be included in the financial statements of councils.

(2B) The Minister is to consult with councils as to the matters to be included in an order under subsection (2A).

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64. Part 8, Division 4 inserted

After section 84 of the Principal Act, the following Division is inserted in Part 8:

Division 4 – Audit panels

85. Audit panels

- (1) A council is to establish an audit panel in respect of the council.
- (2) An audit panel in respect of a council is to be constituted in accordance with the requirements, if any, of an order under section 85B.

85A. Functions of audit panels

- (1) An audit panel established under section 85 is to review the council's performance in relation to –
 - (a) the council's financial system, financial governance arrangements and financial management; and
 - (b) all plans of the council under Part 7; and
 - (c) all policies, systems and controls the council has in place to safeguard its long-term financial position; and

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- (d) any other matters specified in an order under section 85B as matters that an audit panel is to consider in such a review.
- (2) A council, audit panel or person is to comply with the requirements, specified in an order under section 85B, that apply in relation to the council, audit panel or person.

85B. Orders in relation to audit panels

- (1) The Minister, by order, may –
 - (a) specify the matters that, in addition to the matters specified in section 85A(1)(a), (b) and (c), are to be considered by an audit panel in a review for the purposes of section 85A; and
 - (b) specify the requirements in accordance with which an audit panel under section 85 is to be constituted, including but not limited to the qualifications, or experience, or both, that a person who is a member of such a panel is required to have; and
 - (c) specify any other requirements relating to reviews, and audit panels, for the purposes of section 85A, including but not limited to the conduct of such

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reviews and the actions to be
taken as a result of the holding of
such reviews.

- (2) The Minister is to consult with councils
as to the matters to be included in an
order under subsection (1).

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Part 5 – Concluding Provision

PART 5 – CONCLUDING PROVISION

65. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.