

# PARLIAMENT OF VICTORIA

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## **Local Government (Amendment) Act 1996**

**Act No.**

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# PARLIAMENT OF VICTORIA

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Initiated in Assembly 29 May 1996

## A BILL

to amend the **Local Government Act 1989**, the **City of Greater Geelong Act 1993** and the **City of Melbourne Act 1993** and for other purposes.

## **Local Government (Amendment) Act 1996**

**The Parliament of Victoria enacts as follows:**

### **1. *Purpose***

The chief purpose of this Act is to amend the **Local Government Act 1989**—

- (a) to make changes concerning annual reports, corporate plans, budgets and the declaration of rates; and

- (b) to remove the requirement that buyers of land pay all current rates owing on the land as soon as they obtain the land; and
- (c) to generally improve the operation of that Act.

## 2. Commencement

- (1) This Act (other than the provisions referred to in sub-section (2)) comes into operation on the day on which it receives the Royal Assent.
- (2) Sections 6(2), 8, 13, 14 and 30(2) come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation before 1 July 1998, it comes into operation on that day.

## 3. Substitution of section 77

For section 77 of the **Local Government Act 1989** substitute—

### "77. *Improper use of information*

- (1) A person who is, or has been, a Councillor or a member of a Council committee must not make improper use of any information acquired as a Councillor or member—
- (a) to gain, or to attempt to gain, directly or indirectly, a pecuniary advantage for himself or herself or for any other person; or
- (b) to harm, or to attempt to harm, the Council.

Penalty: For a first offence: 20 penalty units;  
For a second or subsequent offence: imprisonment for 3 months.

- (2) A person who is, or has been, a Councillor or a member of a Council committee must not release information that the person knows, or should reasonably know, is information—

- (a) that is confidential to the Council; and
- (b) that the Council wishes to keep confidential.

Penalty: For a first offence: 20 penalty units;  
For a second or subsequent offence: imprisonment for 3 months."

#### **4. *Changes concerning the register of interests***

- (1) In section 81 of the **Local Government Act 1989**—

- (a) in sub-section (1), in paragraph (b) of the definition of "**return period**", for "the ordinary" **substitute** "that";
- (b) in sub-section (6)(a), for "held" **substitute** "holds";
- (c) for sub-section (6)(b) **substitute**—
  - "(b) the name or description of any company, partnership, association or other body in which he or she holds a beneficial interest which exceeds in value \$2000;
  - (c) the address or description of any land in the municipal district of the Council or in a municipal district which adjoins that municipal district in which he or she has any beneficial interest other than by way of security for any debt;

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(d) a concise description of any trust in which he or she holds a beneficial interest or of which he or she is a trustee and a member of his or her family holds a beneficial interest;

(e) any other substantial interest whether of a pecuniary nature or not of him or her or of a member of his or her family of which he or she is aware and which he or she considers might appear to raise a material conflict between his or her private interest and his or her public duty as a Councillor, member of a special committee or nominated officer.";

(d) in sub-section (7)(b)—

(i) for "holds" **substitute** "held";

(ii) for "exceeds" **substitute** "exceeded";

(e) in sub-section (7)(c), for "has" **substitute** "had";

(f) in sub-section (7)(d), for "holds" (wherever occurring) **substitute** "held".

**5. Relocation of section 127**

(1) After section 125(2) of the **Local Government Act 1989** insert—

"(3) A Council has a duty to ensure that its accounts and records are kept up to date and ready for inspection at any time by any person authorised to inspect them.".

(2) Section 127 of the **Local Government Act 1989** is **repealed**.

**6. Changes concerning annual reports**

- (1) For sections 126(1)(aa) and (ab) of the **Local Government Act 1989** substitute—

"(aa) the competitive tendering statement required by section 208G; and".

- (2) After section 126(1)(b) of the **Local Government Act 1989** insert—

"; and

(c) a copy of the performance statement prepared under section 153B; and

(d) a copy of the report on the performance statement prepared under section 128."

- (3) Section 126(2) of the **Local Government Act 1989** is repealed.

- (4) After section 126(4)(b) of the **Local Government Act 1989** insert—

"; and

(c) present fairly the financial transactions of the Council during the financial year to which they relate; and

(d) present fairly the financial position of the Council at the end of that year; and

(e) be certified in the manner prescribed.

- (4A) The auditor must not sign the auditor's report concerning the financial statements unless sub-section (4)(e) has been complied with.

- (4B) The annual report must be submitted to the Minister within 3 months of the end of each financial year or such longer period as the Minister may permit in a particular case."

- (5) In section 126(5) of the **Local Government Act 1989**, for "sub-section (2)" **substitute** "sub-section (4B)".

**7. Substitution of section 126A**

After section 126 of the **Local Government Act 1989** insert—

**"126A. Meeting to discuss annual report**

- (1) A Council must hold a meeting to discuss its annual report once each year.
- (2) The meeting—
  - (a) must be held as soon as practicable (but within the time required by the regulations) after the Council has sent the report to the Minister; and
  - (b) must be advertised at least 14 days before it is held in a public notice that states the purpose of the meeting and the place from which copies of the annual report can be obtained before the meeting; and
  - (c) must not be held in conjunction with any other meeting; and
  - (d) must be kept open to the public at all times."

**8. Insertion of section 128**

After section 127B of the **Local Government Act 1989** insert—

**"128. Audited report on performance statement**

The auditor must prepare a report on the performance statement prepared by a Council under section 153B in the form and containing the details required by the



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Minister and must submit a copy of that report to the Minister and the Council as soon as is reasonably practicable after the report has been prepared."

**9. Substitution of section 144**

For section 144 of the **Local Government Act 1989** substitute—

**"144. Council must prepare a budget**

- (1) A Council must prepare a budget for each financial year.
- (2) The Council must ensure that the budget contains—
  - (a) the information the Council is required to declare under section 158(1); and
  - (b) if the Council intends to declare a differential rate under section 161, the details listed in section 161(2); and
  - (c) if the Council intends to declare a differential rate under section 161A, the details listed in section 161(2); and
  - (d) any other details required by the regulations.

**144A. Revised budget**

- (1) A Council must prepare a revised budget if circumstances arise which cause a material change in the budget and which affect the financial operations and position of the Council.
- (2) The Council must ensure that a revised budget is prepared as soon as is practicable after the Council becomes aware of the change in the budget.

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- (3) The Council must ensure that a revised budget contains all the details required by the regulations.

**144B. *Minister may require information concerning budgets***

- (1) A Council must give the Minister any details required by the regulations concerning budgets or revised budgets within the time specified in the regulations.
- (2) A Council must give the Minister any details concerning its budget or revised budget that the Minister asks for.
- (3) A Council must comply with sub-section (2) within 14 days (or any longer period specified by the Minister) of receiving a request in writing for the details from the Minister."

**10. *Relocation of section 151***

After section 145 of the **Local Government Act 1989** insert—

**"145A. *Use of loan for different purpose***

A Council may only apply unexpended money previously borrowed for a particular purpose for capital works included in the current budget or a revised budget."

**11. *Extension of right of public to make submissions concerning budget***

For sections 146(2) and (3) of the **Local Government Act 1989** substitute—

- "(2) A person has a right to make a submission under section 223 on any proposal contained in the budget or revised budget.

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- (3) In addition to any other requirements specified by this Act, the notice referred to in sub-section (1) must—
- (a) contain any details required by the regulations; and
  - (b) advise that copies of the budget or revised budget are available for inspection at the Council office for at least 14 days after the publication of the notice; and
  - (c) be displayed at the Council office and district offices and at any place required by the regulations."

**12. *Rewording of provision concerning the adoption of budgets***

For section 150(1) of the **Local Government Act 1989** substitute—

"(1) A Council may adopt a budget or revised budget if it has complied with all of the relevant requirements of this Act relating to budgets and revised budgets."

**13. *Substitution of section 153A***

For section 153A of the **Local Government Act 1989** substitute—

**"153A. *Corporate plan***

- (1) By the end of each financial year a Council must submit to the Minister a corporate plan that sets out—
  - (a) the corporate objectives of the Council for the next 3 financial years; and

- (b) strategies for achieving those objectives;  
and
- (c) indicators against which the  
performance of the Council in achieving  
those objectives can be measured; and
- (d) a general resource allocation plan,  
covering both financial and  
non-financial resources, for the next 3  
financial years; and
- (e) the business plan that the Council will  
pursue over the next financial year; and
- (f) performance targets and measures by  
which the Council's performance may be  
judged in relation to the achievement of  
that business plan; and
- (g) any other matters that are required by  
the regulations.
- (2) A Council must review its corporate plan  
before submitting it to the Minister.
- (3) The Minister may extend the period within  
which a Council must comply with  
sub-section (1).
- (4) If a Council fails to submit a corporate plan  
to the Minister within the time allowed, the  
Minister must ensure that details of the  
failure are published in the annual report of  
the Department administering this Act.
- (5) A copy of the current corporate plan must be  
available for inspection by the public at the  
Council office and district offices and at any  
place required by the regulations."

**14. Insertion of section 153B**

After section 153A of the **Local Government Act 1989** insert—

**"153B. Performance statement**

- (1) As soon as is reasonably practicable after the end of each financial year, a Council must prepare a performance statement.
- (2) The statement must—
  - (a) outline the performance targets and measures set out in relation to the achievement of the business plan in respect of that year described in the Council's corporate plan; and
  - (b) describe the extent to which the business plan was met in that year having regard to those targets and measures.
- (3) The statement must be in the form, and must contain the details, required by the regulations.
- (4) The Council must submit the statement to its auditor as soon as possible after the statement has been prepared.
- (5) The Council must submit the statement to the Minister within 3 months of the end of the financial year to which the statement relates.
- (6) The Council must do this even if the auditor has not yet prepared the report on the statement required by section 128.
- (7) If the statement shows that the Council has failed to substantially achieve the targets set out in the business plan, the Council must ensure that the copy of the statement

submitted to the Minister is accompanied by a written explanation of why it failed to achieve those targets."

**15. Substitution of section 155**

For section 155 of the **Local Government Act 1989** substitute—

**"155. What rates and charges may a Council declare?**

A Council may declare the following rates and charges on rateable land—

- (a) general rates under section 158;
- (b) municipal charges under section 159;
- (c) service rates under section 162;
- (d) service charges under section 162;
- (e) special rates under section 163;
- (f) special charges under section 163."

**16. Extension of the ability of Councils to recover unpaid rates**

In section 156(2) of the **Local Government Act 1989**, after "occupier of" insert ", or the mortgagee in possession of,".

**17. Public to be able to make submissions concerning any change to valuation system**

For section 157(5) of the **Local Government Act 1989** substitute—

"(5) A person has a right to make a submission under section 223 on a Council's decision to change its system of valuation."

**18. Minor changes concerning rates**

(1) For section 158(1)(b)(ii) of the **Local Government Act 1989** substitute—

"(ii) differential rates (if the Council is permitted to raise such rates under section 161(1)); or

(iii) urban farm rates, farm rates or residential use rates (if the Council is permitted to raise such rates under section 161A).".

(2) For section 160(b) of the **Local Government Act 1989** substitute—

"(b) the general rate for any rateable land is to be determined by multiplying the value of the land (as determined under the valuation system used by the Council) by that percentage.".

**19. *Reorganisation of provisions and changes concerning differential rates***

(1) For section 161(1) of the **Local Government Act 1989** substitute—

"(1) A Council may raise any general rates by the application of a differential rate if—

(a) it uses the capital improved value system of valuing land; and

(b) it considers that the differential rate will contribute to the equitable and efficient carrying out of its functions.".

(2) Section 157(4) of the **Local Government Act 1989** is **repealed**.

(3) In section 161(3) of the **Local Government Act 1989**—

(a) for "inspection by residents of the Council's municipal district at the Council office during the Council office's office hours:" **substitute** "public inspection at the Council office—";

(b) paragraph (a) is **repealed**;

- (c) in paragraph (c), after "differential rating" insert "and what proportion of the total rates and charges this represents".

- (4) Section 161(4) of the **Local Government Act 1989** is repealed.

**20. Insertion of section 161A**

After section 161 of the **Local Government Act 1989** insert—

**"161A. Limited differential rates**

- (1) This section only applies to a Council that does not use the capital improved value system of valuing land.
- (2) The Council may raise general rates by applying a differential rate in relation to farm land, urban farm land or residential use land, but only if—
- (a) the farm rate, urban farm rate or residential use rate is applied on the basis of whether or not any land is within a specific ward in the Council's municipal district; and
- (b) a majority of the Councillors for any such ward which is to be subject to the higher differential rate agree to that differential rate.
- (3) If a Council declares a differential rate under this section, sections 161(2), (3) and (5) apply in respect of the declaration."

**21. Relocation of section 182**

After section 163 of the **Local Government Act 1989** insert—



**"163A. *Submissions concerning special rates and charges***

On the declaration of a special rate or special charge by a Council, a person may make a submission under section 223 in relation to—

- (a) the Council's declaration of the rate or charge; or
- (b) the application of the rate or charge to certain land; or
- (c) the amount of the rate or charge; or
- (d) the basis of the calculation of the rate or charge; or
- (e) the special benefit that the Council considers will result from the rate or charge."

**22. *Consequential amendments concerning the relocation of section 182***

- (1) In the heading to Division 3 of Part 8 of the **Local Government Act 1989**, omit "Submissions and".
- (2) Section 182 of the **Local Government Act 1989** is repealed.

**23. *Buyers need not pay current rates of new property immediately***

- (1) In section 175(1) of the **Local Government Act 1989**, omit all words after paragraph (b).
- (2) After section 175(1) of the **Local Government Act 1989** insert—

"(1A) If the previous owner of the rateable land had been paying any rate or charge by instalments at the time the ownership of the land changed, the person who becomes the owner

of the land may continue the payment of that rate or charge by instalments.

(1B) The person who becomes the owner of rateable land may also pay a rate or charge by instalments if the previous owner could have paid it by instalments and the person becomes the owner of the land before the date the first instalment falls due.

(1C) In all other cases, the person who becomes the owner of rateable land must pay any amount due under sub-section (1)—

(a) by the date it was due to have been paid by the previous owner of the land; or

(b) if that date has already passed, immediately after the person becomes the owner of the land.

(1D) Sub-sections (1A) and (1B)—

(a) do not apply to instalment payments relating to rates or charges that are in arrears; and

(b) are not to be read as enabling a new owner to obtain the benefit of any concessional rate or charge that the new owner is not entitled to in her, his or its own right."

## 24. *Minor amendments*

In the **Local Government Act 1989**—

(a) in section 184(1)(b), for "2 months" **substitute** "60 days";

(b) section 184(4) is **repealed**;

(c) in section 185(2)(a), for "one month" **substitute** "30 days".

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**25. *Repeal of sunset provisions concerning caps on rates and charges***

Sections 185B(10) and 185C(3) of the **Local Government Act 1989** are repealed.

**26. *Council to be able to contract with another Council without the Minister's permission***

After section 193(5) of the **Local Government Act 1989** insert—

"(5A) Despite sub-section (5), a Council may enter into an arrangement to jointly tender or contract with another Council without the approval of the Minister and the Treasurer."

**27. *Refinement concerning regional group competitive arrangements***

After section 208BA(2) of the **Local Government Act 1989** insert—

"(3) If a regional group enters into an arrangement to which this section applies on behalf of only some of the Councils who are members of the group, then for the purposes of this Division, in that year each of those Councils is a party to a competitive arrangement with a value equal to the result of this calculation—

$CP \times VCA$

where—

CP is the Council's proportion, as specified in the competitive arrangement, of the regional group's liability or entitlement;

VCA has the same meaning as it has in sub-section (2)."

**28. *Change concerning the constitution of municipal electoral tribunals***

(1) In Schedule 4 of the **Local Government Act 1989**—

(a) for clause 1(a) **substitute**—

"(a) a magistrate or acting magistrate appointed by the Minister on the nomination of the Attorney-General; and";

(b) after clause 2(4) **insert**—

"(5) The appointment as a member of the Tribunal of a person who, at the time of his or her appointment, held the office of magistrate under section 7 of the **Magistrates' Court Act 1989** or acting magistrate under section 9 of that Act ceases at the time the person ceases to hold office as a magistrate or acting magistrate (unless the appointment has already ceased).".

(2) In section 48(1) of the **Local Government Act 1989**, after "magistrate" **insert** "or acting magistrate".

**29. *Minor consequential amendments***

Sections 128 and 151 and Schedule 8A of the **Local Government Act 1989** are **repealed**.

**30. *Repeal of the Bourke Street Mall Act 1982***

(1) Sections 3 to 11 and 13 to 16 of the **Bourke Street Mall Act 1982** are **repealed**.

(2) The **Bourke Street Mall Act 1982** is **repealed**.

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**31. *Repeal of spent provisions in the City of Greater Geelong Act 1993***

Sections 5(1)(b), (c), (d) and (e) and (2), 7, 8, 9, 10(2), (3) and (4), 11, 12, 13, 14, 15, 16(1), (2), (3) and (5), 17, 18, 19, 20, 21, 22, 25 and 26 and Schedules 1, 2 and 3 of the **City of Greater Geelong Act 1993** are repealed.

**32. *Repeal of spent provisions in the City of Melbourne Act 1993***

- (1) Sections 5(1)(c), (d) and (e), 7, 8, 9, 10, 11(2), 13, 14(1), (2), (3), (4) and (6), 15, 16, 17, 18, 19, 20, 21, 22 and 25 and Schedules 2, 3, 4 and 5 of the **City of Melbourne Act 1993** are repealed.
- (2) After section 10(3) of the **Local Government Act 1989** insert—
  - "(4) Despite anything to the contrary in this Act—
    - (a) the municipal district of the Melbourne City Council must consist of 4 wards;  
and
    - (b) 1 Councillor must represent each ward;  
and
    - (c) 5 councillors must represent the municipal district as a whole and must be elected in accordance with Part 4A of Schedule 3; and
    - (d) the Melbourne City Council must consist of 9 Councillors."

**33. *Statute law revision***

In the **Local Government Act 1989**—

- (a) in section 3(1), in the definition of "entitlement date", omit "or the date determined under section 24(7)";

- 5
- (b) in section 90(2), **omit** "71(2), 73(3)(b)";
- (c) in section 183(4), for "adaptions" **substitute** "adaptations";
- 10
- (d) in section 191(1)(e), for "any hospital within the meaning of the **Hospitals and Charities Act 1958** being a public hospital" **substitute** "a public hospital within the meaning of the **Health Services Act 1988**";
- (e) in section 208G(5), for "section 129A(1)(c)" **substitute** "section 127B";
- 15
- (f) in section 243(9), for "section 6(2) of the **Subordinate Legislation Act 1962**" **substitute** "section 23(2) of the **Subordinate Legislation Act 1994**";
- 20
- (g) in Schedule 3, in clause 2(5), for "sub-section" **substitute** "sub-clause";
- (h) in Schedule 10, in clause 4(2)(b), after "referred to" **insert** "in";
- (i) in Schedule 11A, in clause 1(2), for "(a) of sub-section (1)" **substitute** "(d) of sub-clause (1)".
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**NOTES**

By Authority. Government Printer for the State of Victoria.

