

# Local Government (Further Amendment) Bill

## EXPLANATORY MEMORANDUM

### Background

The purpose of the Bill is to make changes concerning—

- (a) powers of Chief Executive Officers of Councils;
- (b) competitive tendering by Councils;
- (c) the abolition of the Local Government Board and the creation of local government panels;
- (d) payment of rates and charges and interest on overdue rates and charges; and
- (e) technical matters.

### Proposed amendments

- Clause 1 This clause outlines the purposes of the Bill which are to make certain changes to the **Local Government Act 1989** (the Act) concerning the powers of Chief Executive Officers of Councils, competitive tendering by Councils, the abolition of the Local Government Board and the creation of local government panels, payment of rates and charges and interest on overdue rates and charges and to improve the operation of the Act.
- Clause 2 This clause provides for the Act to come into operation on the day on which it receives Royal Assent, apart from section 18 which is to come into operation on 1 July 1997.
- Clause 3 This clause removes the definition of "Board" (a reference to the Local Government Qualifications Board) and inserts the new definition of "**local government panel**" in the definition section.
- Clause 4 This clause substitutes the present section 94 of the Act (Council staff) to clarify the role and functions of the Chief Executive Officer.

The new sections 94, 94A and 94B recognise that the Chief Executive Officer is responsible on behalf of the Council for its organisational structure including the appointment and dismissal of staff. A Council must give the

Minister reasonable notice of any proposed council resolution relating to the employment of the Chief Executive Officer, failing which such resolution will be void.

- Clause 5 This clause makes amendments to the Act consequent on the provisions of clause 4 relating to the roles and functions of the Chief Executive Officer and the appointment of senior officers.
- Clause 6 This clause substitutes the present section 95B of the Act (Powers of the Minister concerning the employment of senior officers) consequent on the provisions of clause 4 relating to the roles and functions of the Chief Executive Officer and the appointment of senior officers.
- Clause 7 This clause repeals section 97 of the Act as a further consequential amendment.
- Clause 8 This clause inserts a new provision in the Act relating to paid outside employment of senior officers. Where a senior officer including the Chief Executive Officer is given approval to engage in any paid employment outside of the duties of his or her office, the Chief Executive Officer must give public notice of the approval details and maintain a register, unless the Minister directs that such information may be kept confidential.
- Clause 9 This clause provides that when Councils are sending their rates and charges notices, the notice must state the date or dates when the rates and charges are due. Councils must issue notices at least 14 days before each instalment is due.
- Clause 10 This clause provides that a Council must not declare a special rate or charge under section 163 (Special rate and special charge) without first giving public notice of its intention to do so at least 28 days prior to making the declaration. The clause sets out the information to be included in the public notice.
- Clause 11 This clause substitutes the present section 163A of the Act (Submissions concerning special rates and charges) to provide that a person may make a general written submission to a Council in relation to a proposed declaration of a special rate or charge.
- Clause 12 This clause amends the present section 167 of the Act (Payment of rates and charges) by providing Councils with the choice of giving ratepayers the option of paying their rates and charges by lump sum or instalment or by instalment only. The dates for payment of a lump sum or an instalment will be fixed by the Minister by notice.

Clause 13 This clause amends section 172 of the Act (Council may charge interest on unpaid rates and charges) to provide that the penalty interest for the late payment of rates and charges and other money owing to the Council be linked to the **Penalty Interest Rates Act 1983** and that the penalty rate prevailing on 1 July be used to calculate the penalty on any outstanding rates and charges for the whole of the rating period.

For payments by instalments, interest will be calculated from the date on which the instalment was due. For lump sum payments, interest will accrue from the date that rates and charges were declared, which is presently the case.

Clause 14 This clause amends section 180(1) of the Act (Unpaid rate or charge) to allow Councils to recover any part of a rate or charge which may be outstanding.

Clause 15 This clause substitutes the present section 181 (Disposal of land for unpaid rates) to clarify the circumstances and the conditions under which a Council may dispose of land to recover rates or charges which have been outstanding for more than 3 years. The clause sets out how the proceeds of a sale or transfer amount are to be applied.

Clause 16 This clause provides that a Council need not call for tenders for a contract which is a sub-contract under an in-house agreement for an amount less than \$100 000.

Clause 17 This clause modifies the requirements for a regional library corporation in relation to annual reports.

Clause 18 This clause substitutes the present section 208A of the Act (Councils must become parties to competitive arrangements) and defines "**total expenditure**" to include capital expenditure but to exclude depreciation for the purposes of competitive arrangements.

Clause 19 This clause extends the definition of "competitive process" in the present section 208C (What is a competitive process?) to include contracts valued at less than \$50 000 where—

for contracts of less than \$5000, Council has obtained at least 3 oral quotations; and

for contracts of between \$5000 and \$50 000, Council has obtained at least 3 written quotations—

and in both cases, records the names of the people from whom the quotations were obtained in its competitive tendering register.

Clause 20 This clause inserts a new provision whereby Councils will be deemed to have entered into a competitive arrangement that has a value equal to the amount they have contributed to a Commonwealth or State Government project or service contract.

Clause 21 This clause substitutes 2 present Parts of the Act (Part 10A—The Local Government Board and Part 10B—Local Government Reviews).

The new Part 10A provides for the Minister to establish local government panels to conduct a review of any matter relating to local government restructuring and to advise him or her on any other matter. It provides for membership of the panels and other matters relating to the functioning of the panels.

The new Part 10B provides a process for reviewing the structure of local government. It deals with the conduct of a review by a local government panel and the considerations to which the panel may have regard.

This Part alters or varies section 85 of the **Constitution Act 1975** to prevent the Supreme Court from hearing applications in respect of any review carried out under this Part or in relation to any other act, matter or thing relating to a review.

Clause 22 This clause substitutes the present section 220P (Operation of this Part) as a consequence of the establishment of local government panels. Thus the new section 220P provides that the Minister may not make a recommendation to the Governor in Council to give effect to boundary and other changes relating to the constitution of a Council unless a local government panel has conducted a review of the matter and the Minister has considered the report of the panel.

Clause 23 This clause substitutes the present section 220T (Minor changes) as a further consequence of the establishment of local government panels. It provides that the Minister may recommend that an Order in Council be made to give effect to minor boundary changes without a local government panel review.

Clause 24 This clause inserts new sections 223A and 223B into the Act. These new sections replace the existing sections 130 and 131.

Section 223A provides for the appointment of inspectors of municipal administration by the Minister and the conditions of appointment. Section 223B clarifies the powers of such inspectors including their investigatory powers.

- Clause 25 This clause repeals section 130 (Appointment of inspectors of municipal administration) and section 131 (Powers of inspectors of municipal administration) which have been replaced by sections 223A and 223B.
- Clause 26 This clause is being inserted as a consequence of the abolition of the Local Government Board and provides that members of the Board cease to hold office. It also repeals Schedule 11A relating to Membership and Meetings of the Board.
- Clause 27 This clause substitutes clause 5(2) in Schedule 10 (Power to name roads, erect signs and require premises to be numbered) to provide that the Council must advise the Place Names Committee established under the **Survey Co-ordination Act 1958** after (not before) approving a new street or road name.
- Clause 28 This clause repeals the following spent Acts:
- Local Government (Miscellaneous Amendments) Act 1993;**
- Local Government (Competitive Tendering) Act 1994;** and
- Local Government (Elections) Act 1995.**

