

MAKING BY-LAWS (4)

TABLING A BY-LAW IN PARLIAMENT: REQUIREMENTS OF THE STANDING COMMITTEE ON SUBORDINATE LEGISLATION

GOOD PRACTICE GUIDELINES

July 08

Note: This information sheet should be read in conjunction with the other information sheets in this series:

- **Making By-laws (1):** Part 11 of the *Local Government Act 1993*
- **Making By-laws (2):** Steps in making a by-law
- **Making By-laws (3):** Regulatory Impact Statements Section 156A *Local Government Act 1993*
- **Making By-laws (5):** When a Regulatory Impact Statement is not required

Once a by-law has been made by a council and certified by the general manager and a legal practitioner it must be published in the *Tasmanian Government Gazette* before it has legal effect.¹ A by-law usually commences on the date of publication or at a later date.

When arranging for publication in the Gazette, a copy of the sealed by-law is to be sent to Print Applied Technology.² The by-law must be published in the Gazette within 21 days of being made by the council under its common seal.³ If this requirement is not followed the by-law can be disallowed by the Subordinate Legislation Committee.

Once a by-law has been published in the Gazette, the council must send copies of the by-law to the Parliamentary Standing Committee on Subordinate Legislation and arrange for the by-law to be tabled in both houses of parliament.

(1) Send copies of by-laws and relevant documentation to the Subordinate Legislation Committee

Section 9 of the *Subordinate Legislation Act 1992*, requires certain information to be provided to the Subordinate Legislation Committee within seven working days of the by-law being published in the Gazette.

The role of the committee is to scrutinise subordinate legislation. If it is not satisfied appropriate legislative requirements have been met, the by-law can be disallowed, or clauses struck out.

Council must provide the committee with the following documents:

- eight (8) copies of the by-law
- eight (8) copies of the by-law's 'purpose and effect statement'
- eight (8) copies of the Regulatory Impact Statement, as approved by the Director of Local Government.

- 1. Section 163 of the Acts Interpretation Act 1931.
- 2. Copies may be sent electronically or by mail.
- 3. Section 47 of the Acts Interpretation Act 1931.

A covering letter (see appendix 1) should accompany the required documents and be addressed to:
Secretary, Standing Committee on Subordinate Legislation
Legislative Council
Hobart TAS 7000

By-law purpose and effect statement

The purpose and effect statement explains the by-law and the procedures followed in its making. A sample purpose and effect statement has been included as a guide (see appendix 2).

Further questions about the Committee on Subordinate Legislation should be directed to the Secretary.

(2) Tabling by-laws in the Parliament

A by-law must be tabled in both houses of the Tasmanian Parliament within 10 sitting days of the by-law being published in the Gazette. Further information on sitting schedules can be obtained from the Tasmanian Parliament's web site at: <http://www.parliament.tas.gov.au>.

By-laws must be forwarded to the clerks of each house of parliament with a covering letter to each clerk. Templates for the covering letters to the clerks of both houses of parliament have been included (see appendices 3 and 4).

Ten (10) copies of the by-law as certified and published in the Gazette are required for the Legislative Council. Fifteen (15) copies are required for tabling in the House of Assembly. A separate package is to be sent to the clerk of each house of parliament and must be contained in a grey parliamentary tabling folder. Parliamentary tabling folders can be obtained on request from the Local Government Division. Information on the contents for the cover of each tabling folder has been provided (see appendices 5 and 6).

Once the clerks have received the by-law it will be tabled at the next parliamentary sitting day. If tabling is to occur on an alternative date, those dates must be specified in the instructions.

For further information about the tabling of by-laws in the House of Assembly phone Pauline Harvey on 6233 2373 or email Pauline.Harvey@parliament.tas.gov.au.

For further information about tabling by-laws in the Legislative Council phone Janet Harrison on 6233 2324 or email Janet.Harrison@parliament.tas.gov.au.

(3) Copies of information to Director of Local Government

The *Local Government Act 1993*, requires that when a by-law has been made, a council is to provide to the Director with:

- a sealed copy of the by-law
- certification required under Section 162 of the Local Government Act
- a statement explaining the purpose and effects of the by-law, and the outcomes of public consultation in respect of the by-law

(4) Copies of by-laws for the Local Government Division – statewide database of by-laws

Many councils provide up to date information about by-laws on their council website.

The Local Government Division also maintains a statewide database which is used extensively by councils and members of the public. To ensure the database is up to date, councils should provide, at the same time a by-law is made, an electronic copy of that by-law to: lgo@dpac.tas.gov.au. The public listing of current by-laws can be found on the Divisional website at <http://www.dpac.tas.gov.au/divisions/lgo>.

Appendix I — Sample covering letter for committee on subordinate legislation

<<Name of Secretary>>

Parliamentary Standing Committee on Subordinate Legislation

Parliament House

HOBART TAS 7000

<<date>>

Dear <<name of Secretary>>

By-laws for consideration of the Parliamentary Standing Committee on Subordinate Legislation

Please find enclosed eight (8) copies of [by-law(s)] that [has/have] been published in the *Tasmanian Government Gazette*, and a statement [for each by-law] as to the purpose and effect of the by-law. Eight (8) copies of the Regulatory Impact Statement are also enclosed.

I enclose these documents for consideration of the Parliamentary Standing Committee on Subordinate Legislation in accordance with the requirements of the *Subordinate Legislation Act 1992*.

<<name of council>>

<<title of by-law>>

<<by-law number and year>>

<<name of council>>

<<title of by-law>>

<<by-law number and year>>

The by-law(s) [were/was] duly published in the *Tasmanian Government Gazette* and the <<name of council>> has made arrangements with the Clerks of the House of Assembly and of the Legislative Council for the by-law(s) to be tabled in both houses of parliament in accordance with Section 47(3) of the *Acts Interpretation Act 1931*.

Yours sincerely,

General Manager

<Name of Council>

Appendix 2 — Sample statement of purpose and effect

Local Government Act 1993

STATEMENT OF PURPOSE AND EFFECT OF A BY-LAW

NAME OF COUNCIL

TITLE OF BY-LAW

BY-LAW NO

INTENTION DESCRIPTION OF THE PURPOSE AND EFFECT OF THE BY-LAW

.....

.....

INTENTION TO MAKE A BY-LAW

Attached is an extract of the [name of council] minutes indicating:

- (1) the date of council meeting
- (2) the wording of the resolution
- (3) that the resolution passed by an absolute majority of the council

NOTICE OF INTENTION TO MAKE A BY-LAW

Attached is a copy of the advertisement placed with [newspaper name and first publication date] of council's intention to make this by-law.

SUBMISSIONS

A total of <number> submissions were received following public consultation on the by-law.

A meeting of [name of council] considered the submissions on <date>.

MAKING OF THE BY-LAW

Attached is an extract of the minutes indicating:

- (1) the date of council meeting
- (2) the wording of the resolution
- (3) that the resolution passed by an absolute majority of the council.

<Name>

General Manager

<name of council>

<date>

Appendix 3 — Sample covering letter to the Clerk of the House of Assembly

Clerk of the House
HOUSE OF ASSEMBLY
Parliament House
Hobart

<<name of council>>

<<title of by-law>>

<<by-law number and year>>

<<If including more than one by-law in the folder, include details, as above, for each by-law>>

I enclose 15 copies of the above by-law(s) for tabling in the House of Assembly at the next parliamentary sitting day.

General Manager
<<name of council>>

Encl.

Appendix 4 — Sample covering letter to the Clerk of the Legislative Council

The Clerk of the Legislative Council
LEGISLATIVE COUNCIL
Parliament House
Hobart

<<name of council>>

<<title of by-law>>

<<by-law number and year>>

<< If including more than one by-law in the folder, include details, as above, for each by-law >>

I enclose 10 copies of the above by-law for tabling in the Legislative Council at the next parliamentary sitting day.

General Manager
<<name of council>>

Encl.

Appendix 5 — Sample tabling paper cover for the House of Assembly

<<name of council>>

<<title of by-law>>

<<by-law number and year>>

LEGISLATIVE COUNCIL

THE CLERK OF THE COUNCIL

Appendix 6 — Sample tabling paper cover for the Legislative Council

<<name of council>>

<<title of by-law>>
<<by-law number and year>>

HOUSE OF ASSEMBLY

THE CLERK OF THE ASSEMBLY

Disclaimer: Information on legislation contained in this document is intended for information and general guidance only. Such information is not professional legal opinion.