

# MAKING BY-LAWS (5)

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

GOOD PRACTICE GUIDELINES  
JANUARY 11

**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 (4):** Penalties and Infringement Notices - The Monetary Penalties Enforcement Act 2005

**Making By-laws (5):** Tabling a by-law in parliament & the requirements of the Standing Committee on Subordinate Legislation

**Making By-laws (6):** Making a by-law for which 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.<sup>1</sup> A by-law usually commences on the date of publication or at a later date specified in the by-law.

When arranging for publication in the Gazette, a copy of the sealed by-law is to be sent to Print Applied Technology<sup>2</sup> with a request for 25 copies of the by-law to be printed for tabling in Parliament. The by-law must be published in the Gazette within 21 days of being made by the council under its common seal.<sup>3</sup> A by-law that is not published in the Gazette is of no effect.<sup>4</sup>

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 (Subordinate Legislation Committee) 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

Councils should provide certain information 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<sup>5</sup>. If it is not satisfied that appropriate legislative requirements have been met, the by-law may be disallowed or clauses struck out.

1. Section 163 of the Acts Interpretation Act 1931

2. Copies may be sent by mail or electronically to: Print Applied Technology, GPO Box 307 HOBART TAS 7001 or [sales@thepat.com.au](mailto:sales@thepat.com.au)

3. Section 47 of the Acts Interpretation Act 1931

4. Section 153 of the Local Government Act 1993

5. Subordinate Legislation Committee 1969

Councils should provide the committee with the following documents:

- Eight (8) copies of the by-law as certified and published in the Gazette (available from Print Applied Technology)
- eight (8) copies of the by-law's 'purpose and effect statement' made under section 164(c)(i) of the *Local Government Act 1993*
- eight (8) copies of the Regulatory Impact Statement, as approved by the Director of Local Government
- Eight (8) copies of the by-law certifications made by a legal practitioner and the general manager under Section 162 of the *Local Government Act 1993*

A covering letter (see appendix 1) should accompany the required documents.

### **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 Subordinate Legislation Committee should be directed to the secretary of the committee.

### **(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. Information on sitting schedules can be obtained from the Tasmanian Parliament's web site at: <http://www.parliament.tas.gov.au>.

Printed 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) printed copies of the by-law as certified and published in the Gazette are required for the Legislative Council. Fifteen (15) printed 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 blue/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: telephone 6233 2200 or email [assembly@parliament.tas.gov.au](mailto:assembly@parliament.tas.gov.au).

For further information about tabling by-laws in the Legislative Council telephone 6233 2300 or email [council@parliament.tas.gov.au](mailto:council@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 the director with:

- a sealed copy of the by-law
- the 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 directory of by-laws**

Councils should provide up to date information about by-laws on their council website.

The Local Government Division also maintains a statewide directory which is used extensively by councils and members of the public. The public listing of current by-laws can be found on the division's website at <http://www.dpac.tas.gov.au/divisions/lgd>.

**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.

<<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:

the date of council meeting

the wording of the resolution

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 iproviding more than one folder of by-laws, 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>>

HOUSE OF ASSEMBLY

THE CLERK OF THE ASSEMBLY



Appendix 6 — Sample tabling paper cover for the Legislative Council

<<name of council>>

<<title of by-law>>

<<by-law number and year>>

LEGISLATIVE COUNCIL

THE CLERK OF THE COUNCIL

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