

MAKING BY-LAWS (6)

WHEN A REGULATORY IMPACT STATEMENT IS NOT REQUIRED

GOOD PRACTICE GUIDELINES

AUGUST 10

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

Section 156A(1) of the *Local Government Act 1993* (the Act) requires a council to prepare a Regulatory Impact Statement (RIS) in respect of any by-law it intends to make.

However, sub-section (1A) removes the requirement for a RIS for any by-law where:

- the purpose is to repeal another by-law
- it is a minor or technical amendment to an existing by-law
- it does not significantly alter the purpose or effect of the existing by-law
- it does not alter the impact on the public of the existing by-law

Whether the by-law falls into one of the categories above is a judgement to be made by the council seeking to make the by-law. The council may wish to seek legal advice on the matter as a by-law without an RIS may be challenged.

Steps in making a by-law for which a RIS is not required:

- the council passes a formal resolution by an absolute majority of its intention to make a by-law
- the by-law receives certification by a legal practitioner and the general manager of the council as required
- the by-law is sealed by the council
- the by-law is published in the *Tasmanian Government Gazette* by the council
- the by-law is made available for purchase
- the by-law is submitted to the Joint Standing Committee on Subordinate Legislation

- the by-law is tabled in parliament
- a copy of the by-law, as published in the Gazette, the certification under Section 162 of the Act, and a statement explaining the purpose and effect of the by-law and the outcomes of public consultation are sent to the Director of Local Government
- copies of the by-law are to be kept by the general manager of the council and made available for inspection or purchase by the public at a charge no greater than is needed to recoup the cost of providing the document
- any by-law which affects the conduct of the public requires notice to be provided in appropriate locations and setting out the purpose and effect of the by-law and advising of penalties for breach of the by-law.

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