

#### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The object of this Bill is to amend the Local Government Act 1993 (the Act):

(a) to convert the status of local and county councils from their existing status as bodies corporate to the status of bodies politic of the State with the legal capacity and powers of an individual, and

(b) to provide that a person who is appointed to an employment position at a council on a temporary basis while the holder of the position is on parental leave may continue in that position for a period of up to 24 months (instead of the existing upper limit of 12 months applicable to other temporary appointments), and

(c) to include a regulation-making power to specify the matters to be taken into account by the Minister in granting consent to a council forming or acquiring a controlling interest in a corporation or other entity, and the conditions of such a consent.

The Bill also enacts transitional provisions that convert existing local and county councils from being bodies corporate to being bodies politic of the State. The

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transitional provisions make it clear that the conversion of status does not affect the continuity of status of a council and does not constitute a new legal entity.

As a result of their conversion of status, local and county councils will not be constitutional corporations for the purposes of laws of the Commonwealth (including workplace relations laws).

#### Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the Local Government Act 1993 set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

#### Schedule 1 Amendments

Schedule 1 [1] provides that a local council is a body politic of the State with perpetual succession and the legal capacity and powers of an individual. The amendment also provides that a council is not a body corporate (including a corporation). Schedule 1 [5] makes the same amendment for county councils.

Schedule 1 [2] and [6] make consequential amendments to provisions that state the names of local and county councils.

Schedule 1 [3] makes the amendment referred to in paragraph (b) of the Overview above.

Schedule 1 [4] provides for the making of regulations with respect to the matters to be taken into account by the Minister in deciding whether to grant consent to a council forming or acquiring a controlling interest in a corporation or other entity.

The amendment extends to county councils because of section 400 of the Act.

Schedule 1 [7] inserts a savings and transitional regulation-making power.

Schedule 1 [8] provides the following transitional arrangements for the amendments:

(a) existing local and county councils will have their status converted from that of a body corporate to that of a body politic of the State but the conversion of status will not affect the continuity of an existing local or county council and

will not create a new legal entity,  
(b) the amendment concerning the maximum period of appointment for temporary employees will extend to existing appointments.