

TASMANIA.

THE BUILDING ACT 1937.

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1937.

ANNO PRIMO

GEORGII VI. REGIS.

No. 73.



AN ACT to provide for the Regulation and Control of the Erection, Construction, and Maintenance of Buildings and other Structures, and of matters incidental thereto in certain Areas.

A.D.
1937.

[20 December, 1937.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Building Act 1937*. Short title.

(2) The operation of this Act as regards the regulation of building in the Cities of Hobart and Launceston shall be suspended until the first day of July, one thousand nine hundred and thirty-eight, and in all other respects this Act shall take effect from the passing thereof. Commencement.

2 The Acts enumerated in the schedule are hereby repealed as from the thirtieth day of June, one thousand nine hundred and thirty-eight. Repeal.

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Application
of Act.

3—(1) This Act shall apply to the Cities of Hobart and Launceston.

(2) The council of any municipality, after passing a special resolution for that purpose, may request the Governor to proclaim the whole or any portion of such municipality as a building area for the purposes of this Act.

(3) Upon receipt of such request the Governor, by proclamation, may declare any portion of such municipality defined in such proclamation to be a building area for the purposes of this Act, and thereupon this Act shall apply to such area.

(4) The boundaries of any such building area may, at any time, in manner aforesaid be altered, and the dimensions thereof increased or reduced; and several building areas in one municipality may be so proclaimed.

Interpretation.
Of *London*
Building Act
1894.

4 In this Act, unless the contrary intention appears—

“Builder” means the person who is employed to build or to execute work on a building or structure; or, where no person is so employed, the owner of the building or structure.

“Building” means any fixed structure which is either wholly or in part enclosed with walls and roofed or intended or adapted to be roofed:

“Building line” means a line beyond which property-owners or others have no legal or vested right to extend a building or any part thereof, without approval of the council:

“Building owner” means such one of the owners of adjoining lands as builds or is desirous of building, or such one of the owners of buildings, storeys, or rooms separated from one another by a party wall or party structure as does, or is desirous of doing, a work affecting that party wall or party structure:

“Clerk” means the town clerk of a city or the council clerk of a municipality:

“Court” means a court of petty sessions:

“Occupier” does not include a lodger:

“Owner” includes any person in possession or receipt either of the whole or any part of the rents or

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profits of any land or tenement, or in the occupation of any land or tenement otherwise than as a tenant from year to year, or for any less term, or as a tenant at will : A.D. 1937.

“ Public building ”—

- I. Means a building used or constructed or adapted to be used as a church, chapel, or other place of public worship, or as a hospital, workhouse, public theatre, public concert-room, public hall, public ballroom, public lecture-room, public exhibition room, public library, or public place of assembly, or used, or constructed, or adapted to be used for any other public purpose, or as a stock exchange : and
- II. Includes a building used or constructed or adapted to be used as a school, college, or other place of instruction, or as an hotel, lodging-house, home, refuge, or shelter, or home for children of defective intellect or physical infirmity, where such building extends to more than two hundred and fifty thousand cubic feet, or has sleeping accommodation for more than one hundred persons :

“ Roadway,” in relation to any street or way, means the whole space open for traffic, whether carriage traffic and foot traffic, or carriage or foot traffic only :

“ Street ” means any highway, road, bridge, lane, footway, square, court, alley, or passage, whether a thoroughfare or not, and a part of any such highway, road, bridge, lane, footway, square, court, alley, or passage :

“ Surveyor ” means a person appointed by a council under this Act as a building surveyor, whether generally or for the purposes of any particular case :

“ The Building Regulations ” means the regulations made for the purposes of this Act, so far as the same apply to the city or municipality in relation to which the term is used :

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“Way” includes any public roadway or footpath not being a street, and any private roadway or footpath which it is proposed to convert into a highway or to form, lay out, or adapt as a street.

PART II.

CONSTRUCTION OF BUILDINGS.

Excavations

5 All excavations for buildings shall be properly guarded and protected, as prescribed, so as to prevent the same from becoming dangerous to life or property, and shall be sustained where necessary, to prevent the adjoining earth from caving in, by the person or persons causing the excavations to be made.

Buildings to comply with regulations.

6 Except as otherwise provided, no building shall be erected or constructed unless the same complies with the requirements of the Building Regulations.

PART III.

RIGHTS OF BUILDING AND ADJOINING OWNERS.

Rights of owners of adjoining lands respecting erection of walls on line of junction.

57 Where lands of different owners adjoin and are unbuilt on at the line of junction, and either owner is about to build on any part of the line of junction, the following provisions shall have effect—

Cf. *ib.*, 36, s. 57.

- I. If the building owner desires to build a party wall on the line of junction, he may serve notice thereof on the adjoining owner, describing the intended wall :
- II. If the adjoining owner consents to the building of a party wall, the wall shall be built half on the land of each of the two owners, or in such other position as is agreed between the two owners :
- III. The expense of the building of the party wall shall be from time to time defrayed by the two owners in due proportion, regard being had to the use made and which may be made of the wall by the two owners respectively :

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- iv. If the adjoining owner does not consent to the building of a party wall, the building owner shall not build the wall otherwise than as an external wall placed wholly on his own land : A.D. 1937.
- v. If the building owner does not desire to build a party wall on the line of junction, but desires to build an external wall placed wholly on his own land, he may serve notice thereof on the adjoining owner describing the intended wall :
- vi. Where an external wall is built on the boundary of the land of the building owner or against another external wall, or against a party wall, it shall be lawful for the surveyor to allow the footing of the side next such boundary or other external or party wall to be omitted, as provided by the Building Regulations :
- vii. In any case where a party wall is built in pursuance of the provisions of this Part, and the land or any of the land upon which such party wall is built is under the provisions of the *Real Property Act 1862*, the owner of any land so built upon, and being under the said provisions, shall execute an easement of support in respect of such wall over the lastmentioned land and appurtenant to the other land upon which the party wall is built, and shall cause such easement to be registered upon the folium of the register book relating to his said land, and the building owner shall bear the expenses of and incidental thereto.

8 The building owner shall have in relation to party structures, in addition to and without prejudice to any rights he may have under any other Act or at common law, the following rights ; namely, a right to—

Rights of
building
owner.
Ib., s. 38.

- i. Make good, underpin, or repair any party structure which is defective or out of repair :
- ii. Pull down and rebuild any party structure which is so far defective or out of repair as to make it necessary or desirable to pull it down :
- iii. Pull down any timber or other partition which divides any buildings and is not conformable with the provisions of this Act, and to build instead a party wall conformable thereto :

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iv. Pull down—

(a) In the case of buildings having rooms or storeys the property of different owners intermixed, such of the said rooms or storeys, or such parts thereof :

(b) In the case of buildings connected by arches, or communications over public ways or over passages belonging to other persons, such of the said buildings, arches, or communications, or such parts thereof—

as are not built in conformity with this Act, and to rebuild the same in conformity with this Act :

v. Raise and underpin any party structure permitted by this Act to be raised or underpinned, or any external wall built against such party structure, upon condition of making good all damage occasioned thereby to the adjoining premises or to the finishings and decorations thereof, and of carrying up to the requisite height all flues and chimney stacks belonging to the adjoining owner on or against such party structure or external wall :

vi. Pull down any party structure which is of insufficient strength for any building intended to be built, and to rebuild the same of sufficient strength for that purpose, upon condition of making good all damage occasioned thereby to the adjoining premises or to the finishings and decorations thereof :

vii. Cut into any party structure upon condition of making good all damage occasioned to the adjoining premises by such operation :

viii. Cut away any footing or any chimney breasts, jambs, or flues projecting, or other projections, from any party wall or external wall in order to erect an external wall against such party or external wall, or for any other purpose, upon condition of making good all damage occasioned to the adjoining premises by such operation :

ix. Cut away or take down such parts of any wall or building of an adjoining owner as may be necessary in consequence of such wall or build-

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ing overhanging or encroaching upon the ground of the building owner, in order to erect an upright wall against the same on condition of making good any damage sustained by the wall or building by reason of such cutting away or taking down: A.D. 1937.

- x. Perform any other necessary works incidental to the connection of a party structure with the premises adjoining thereto: and
- xi. Raise a party fence wall or pull the wall down and rebuild it as a party wall---

but the above rights set forth in paragraphs i. to x. shall be subject to the qualification, that any building which has been erected previously to the date of the commencement of this Act shall be deemed to be conformable to the provisions of this Act, if the same is conformable with the provisions of the Act regulating buildings at the time the building was erected.

9—(1) Where a building owner proposes to exercise any of the foregoing rights with respect to party structures, the adjoining owner may by notice require the building owner to build on any such party structure such chimney copings, jambs, or breasts or flues, or such piers or recesses, or any other like works as may fairly be required for the convenience of such adjoining owner, and are specified in the notice, and it shall be the duty of the building owner to comply with such requisition in all cases where the execution of the required works will not be injurious to the building owner, or cause to him unnecessary inconvenience or unnecessary delay in the exercise of his right

Party structures.
Ib., s. 89.

(2) Any difference that arises between a building owner and an adjoining owner in respect of the execution of any such works shall be determined in the manner in which differences between building owners and adjoining owners are hereinafter directed to be determined.

10—(1) A building owner shall not, except with the consent in writing of the adjoining owner and of the adjoining occupiers, or in cases where any party wall or structure is dangerous (in which case the provisions of Part V. shall apply), exercise any of his rights under this Part in relation to any party wall, party fence wall, or party structure, unless at least six weeks before doing so he has served on the adjoining

Rules as to exercise of rights.
Ib., s. 90.

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ing owner a party wall or party structure notice stating the nature and particulars of the proposed work, and the time at which the work is proposed to be commenced.

(2) When a building owner in the exercise of any of his rights under this Part lays open any part of the adjoining land or building, he shall, at his own expense, make and maintain for a proper time a proper hoarding and shoring or temporary construction for the protection of the adjoining land or building and the security of the adjoining occupier.

(3) A building owner shall not exercise any right by this Act given to him arbitrarily or in such manner or at such a time as to cause unnecessary inconvenience to the adjoining owner or to the adjoining occupier.

(4) A party wall or structure notice shall not be available for the exercise of any right unless the work to which the notice relates is begun within six months after the service thereof, and is prosecuted with due diligence.

(5) Within fourteen days after the receipt of such notice, or at any time before building operations are commenced, the adjoining owner may serve on the building owner a notice requiring him to build on such party structure any works to the construction of which he is entitled under section nine.

(6) The lastmentioned notice shall specify the works required by the adjoining owner for his convenience, and shall, if necessary, be accompanied by explanatory plans and drawings.

(7) If either owner does not within fourteen days after the service on him of any notice express his consent thereto, he shall be considered as having dissented therefrom, and thereupon a difference shall be deemed to have arisen between the building owner and the adjoining owner.

11 In all cases not specially provided for by this Act, where a difference arises between a building owner and an adjoining owner in respect of any matter arising with reference to any work to which any notice given under this Part relates, such difference shall be referred to two arbitrators, one to be appointed by each party, or their umpire, pursuant to the *Arbitration Act* 1892.

Settlement of
difference
between
building and
adjoining
owners.
Ib., s. 91.

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12 A building owner, his servants, agents, and workmen, at all usual times of working, may enter and remain on any premises for the purpose of executing, and may execute, any work which he has become entitled or is required in pursuance of this Act to execute, removing any furniture, or doing any other thing which may be necessary; and if the premises are closed, he and they may, accompanied by a constable or other peace officer, break open any fences or doors in order to effect such entry: Provided that before entering on any premises for the purposes of this section the building owner shall, except in the case of emergency, give fourteen days' notice of his intention so to do to the occupier and owner, and in case of emergency shall give such, if any, notice as may be practicable.

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Power for
building
owner to
enter
premises.
Ib., s. 92.

13 Where a building owner intends to erect within ten feet of a building belonging to an adjoining owner, a building or structure any part of which within such ten feet extends to a lower level than the foundations of the building belonging to the adjoining owner, he may, and, if required by the adjoining owner, shall (subject as hereinafter provided) underpin or otherwise strengthen the foundations of the lastmentioned building so far as may be necessary, and the following provisions shall have effect—

Building
owner to
underpin
adjoining
owner's
building.
Ib., s. 93.

- i. At least one month's notice in writing shall be given by the building owner to the adjoining owner, stating his intention to build, and whether he proposes to underpin or otherwise strengthen the foundations of the said last-mentioned building, and such notice shall be accompanied by a plan and sections showing the site of the proposed building and the depth to which he proposes to excavate:
- ii. If the adjoining owner within fourteen days after being served with such notice, gives a counter notice in writing that he disputes the necessity of, or that he requires, such underpinning or strengthening, a difference shall be deemed to have arisen between the building owner and the adjoining owner:
- iii. The building owner shall be liable to compensate the adjoining owner and occupier for any incon-

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venience, loss, or damage which may result to them by reason of the exercise of the powers conferred by this section :

- iv. Nothing in this section shall relieve the building owner from any liability to which he would otherwise be subject in case of injury caused by his building operations to the adjoining owner.

Security to be given by builder and adjoining owners.
Ib., s. 94.

14—(1) An adjoining owner may, if he thinks fit, by writing, require the building owner (before commencing any work which he may be authorised by this Part to execute) to give such security as is agreed upon or, in case of difference, is settled by two arbitrators or their umpire, as provided by section seventeen, for the payment of all such expenses, costs, and compensation in respect of the work as may be payable by the building owner.

(2) The building owner may, if he thinks fit, at any time after service on him of a party wall or party structure requisition by the adjoining owner, and before beginning a work to which the requisition relates, but not afterwards, serve a counter requisition on the adjoining owner requiring him to give such security for payment of the expenses, costs, and compensation for which he is, or will be liable, as may be agreed upon, or in the case of difference, may be settled as mentioned in subsection (1) hereof.

(3) If the adjoining owner does not within one month after service of such counter requisition give security accordingly, he shall at the end of that month be deemed to have ceased to be entitled to compliance with his party wall or party structure requisition, and the building owner may proceed as if no party wall or party structure requisition had been served on him by the adjoining owner.

Rules as to expense in respect of party structures.
Ib., s. 95.

15—(1) As to expenses to be borne jointly by the building owner and the adjoining owner—

1. If any party structure is defective or out of repair, the expense of making good, underpinning, or repairing the same shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of the structure :

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- ii. If any party structure is pulled down and rebuilt by reason of its being so far defective or out of repair as to make it necessary or desirable to pull it down, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of the structure : A.D. 1937,
- iii. If any timber or other partition dividing a building is pulled down in the exercise of the right by this Part vested in a building owner, and a party structure is built instead thereof, the expense of such pulling down and of building such party structure, and also of building any additional party structures that may be required by reason of the partition having been pulled down, shall be borne by the building owner and the adjoining owner in due proportion, regard being had to the use that each owner may make of the party structure and to the thickness required for support of the respective buildings parted thereby :
- iv. If any rooms or storeys, or any parts thereof, the property of different owners and intermixed in any building are pulled down in pursuance of the right by this Act vested in a building owner and are rebuilt in conformity with this Act, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of such rooms or storeys :
- v. If any arches or communications over public ways or over passages belonging to other persons than the owners of the buildings connected by such arches or communications, or any parts thereof, are pulled down in pursuance of the right by this Part vested in a building owner, and are rebuilt in conformity with this Act, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of such arches or communications.

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(2) As to expenses to be borne by the building owner—

- i. If any party structure, or any external wall built against another external wall, is raised or underpinned in pursuance of the power by this Part vested in a building owner, the expense of raising or underpinning the same, and of making good all damage occasioned thereby, and of carrying up to the requisite height all such flues and chimney stacks belonging to the adjoining owner on or against any such party structure or external wall as are by this Part required to be made good and carried up, shall be borne by the building owner :
- ii. If any party structure which is of proper materials and sound, or not so far defective or out of repair as to make it necessary or desirable to pull it down, is pulled down and rebuilt by the building owner, the expense of pulling down and rebuilding the same, and of making good any damage by this Part required to be made good, and a fair allowance in respect of the disturbance and inconvenience caused to the adjoining owner, shall be borne by the building owner :
- iii. If any party structure is cut into by the building owner, the expense of cutting into the same and of making good any damage by this Part required to be made good shall be borne by the building owner :
- iv. If any footing, chimney breast, jamb, or floor is cut away in pursuance of the powers by this Part vested in any building owner, the expense of such cutting away and of making good any damage by this Part required to be made good shall be borne by the building owner :
- v. If any party fence wall is raised for a building, the expense of raising such wall shall be borne by the building owner :
- vi. If any party fence wall is pulled down and built as a party wall the expense of pulling down such party fence wall and building the same as a party wall shall be borne by the building owner :

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(3) If at any time the adjoining owner makes use of any party structure, or any part thereof, raised or underpinned as aforesaid, or of any party fence wall pulled down and built as a party wall, or any part thereof, beyond the use thereof made by him before the alteration, there shall be borne by the adjoining owner from time to time, a due proportion of the expense (having regard to the use that the adjoining owner may make thereof).— A.D. 1937.

- i. Of raising or underpinning such party structure or external wall, and of making good all damage occasioned thereby to the adjoining owner, and of carrying up to the requisite height all such flues and chimney stacks belonging to the adjoining owner on or against any such party structure or external wall as are by this Part required to be made good and carried up :
- ii. Of pulling down and building such party fence wall as a party wall.

16 Within one month after the completion of any work which a building owner is by this Part authorised or required to execute, and the expense of which is in whole or in part to be borne by an adjoining owner, the building owner shall deliver to the adjoining owner an account in writing of the particulars and expense of the work, specifying any deduction to which such adjoining owner or other person may be entitled in respect of old materials, or in other respects ; and every such work shall be estimated and valued at fair average rates and prices, according to the nature of the work and the locality and the market price of materials and labour at the time.

Account of expenses to be delivered to adjoining owner.
Ib., s. 96.

17—(1) At any time within one month after the delivery of the said account the adjoining owner, if dissatisfied therewith, may declare his dissatisfaction to the building owner by notice in writing, specifying his objection thereto, and thereupon a difference shall be deemed to have arisen between the parties, and such difference shall be determined in manner hereinbefore in this Part provided for the settlement of differences between building and adjoining owners.

Adjoining owner may object to account.
Ib., s. 97.

(2) If within the said period of one month the adjoining owner does not declare in the said manner his dissatisfaction with the account, he shall be deemed to have accepted the same, and shall pay the same on demand to the party

Building owner may recover if no objection made.
Ib., s. 98.

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A.D. 1937. delivering the account, and if he fails to do so, the amount so due may be recovered as a debt.

Structure to belong to building owner until contribution paid.
Ib., s. 99.

18 Where the adjoining owner is liable to contribute to the expenses of building any party structure, then, until such contribution is paid, the building owner at whose expense the same was built shall stand possessed of the sole property in the structure.

Adjoining owner liable to expenses incurred on his requisition.
Ib., s. 100.

19 The adjoining owner shall be liable for all expenses incurred on his requisition by the building owner, and in default of payment thereof the same may be recovered from him as a debt.

Saving for lights in party walls, &c.
Ib., s. 101.

20 Nothing in this Act shall authorise any interference with an easement of light or other easement in or relating to a party wall, or take away, abridge, or prejudicially affect any right of any person to preserve or restore any light or other thing in or connected with a party wall in case of the party wall being pulled down or rebuilt.

PART IV.

DANGEROUS, RUINOUS, NEGLECTED, AND UNSIGHTLY STRUCTURES.

Division I.—Interpretation.

Interpretation.

21 In this Part, unless the contrary intention appears—

“Structure” means any building, wall, fence, verandah, balcony, stand, grandstand, or other erection, or anything contained in, affixed to, or against, or projecting from, or constituting a fire menace to, any building, wall, fence, verandah, balcony, stand, grandstand, or other erection, or roof, or any part thereof, but does not include a sign, signboard, electric sign, sky sign, hoarding, or scaffolding :

“Fire menace” means the condition of a structure when, by reason of its defective construction or condition, inadequate insulation, or proximity to inflammable materials, such structure, or

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such inflammable materials or other property in the vicinity of such structure are, in the opinion of the surveyor, liable to be set on fire, and also by reason of the lack of approved adequate exits or means of escape from such structure, the life or limb of any person would be endangered in case of fire : A.D. 1937.

“ Repair ” means to —

- I. Make a structure safe structurally and also incapable of inflicting injury or causing accident or death to human beings or animals, or damaging property :
- II. Alter the condition, insulation, or position of a structure (if such structure constitutes a fire menace), so that such structure will not be liable to set fire to itself or to inflammable materials or other property in the vicinity of such structure : and
- III. To provide approved adequate exits or means of escape from any structure constituting a fire menace, so that the life or limb of any person would not be endangered in case of fire.

Division II.—Dangerous Structures.

22—(1) If the surveyor at any time suspects that any structure, whensoever erected, is in a dangerous state, or it has been reported to him by the Superintendent of the Fire Brigade that any structure constitutes a fire menace, he shall forthwith make a survey of such structure.

Survey of dangerous or fire-menacing structure to be made.

(2) For the purpose of making such survey the surveyor and his assistants may enter into or upon any structure or upon any land upon which the structure stands, or into any other premises at any reasonable time.

23—(1) If the surveyor, after making such survey, certifies to the council that such structure is in a dangerous state or constitutes a fire menace, the council—

Surveyor to certify thereto.

- I. May cause the same to be repaired, shored up, or otherwise secured to the satisfaction of the surveyor : and

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11. Shall cause a notice, in writing, to be served on the owner of such structure requiring such owner forthwith to take down, make secure, or repair such structure as may be specified in such notice to the satisfaction of the surveyor.

(2) If such owner does not begin to take down, repair, or make secure such structure as required in such notice within twenty-four hours or such longer time as may be specified in such notice, after the service of such notice as aforesaid, and complete such taking down, repair, or making secure as speedily as the nature of the case will admit, the surveyor, with all convenient speed, may cause all or so much of the structure as is in a dangerous or fire-menacing condition to be taken down, repaired, or otherwise secured in such manner as he may consider necessary.

(3) In any case where in the opinion of the surveyor any structure is in such a dangerous or fire-menacing state that immediate action is necessary for the public safety, the surveyor may cause the same to be repaired, shored up, or secured, or to be wholly or partly taken down to his satisfaction, and shall forthwith report to the council.

Expenses.
Ib., s. 109.

24—(1) All expenses incurred by the council for or in relation to any work done to or upon a dangerous or fire-menacing structure under this Part, shall be paid by the owner of the structure, but without prejudice to his right to recover the same from any person liable to the expenses of repairs.

(2) If the owner cannot be found, or if on demand he refuses or fails to pay the said expenses, the council, after the expiration of three months from the service on him of notice of its intention so to do, may sell the structure; but shall, after deducting from the proceeds of the sale the amount of all expenses incurred by it, pay the surplus, if any, to the owner, on demand.

Provisions
respecting
sale of dan-
gerous
structures.
Ib., s. 110.

25 Where under this Part, any dangerous structure is sold for payment of the expenses incurred in respect thereof by the council, the purchaser, his agents and servants, may enter upon the land whereon the structure is standing for the purpose of taking down the same and removing the materials of which it is constructed.

Building.

26 If the materials are not sold by the council, or if the proceeds of the sale are insufficient to defray the said expenses, the council may recover the expenses or the balance thereof from the owner of the building, together with all costs in respect thereof.

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Recovery of expenses.

Ib., s. 112.

27 Where a structure has been certified by the surveyor to be dangerous to its inmates, a court may, if satisfied of the correctness of the certificate, upon the application of the council, by order, direct that any inmates of such structure be removed therefrom by a police officer

Power to remove inmates from dangerous structures.

Ib., s. 114.*Division III.—Ruinous and Neglected Structures.*

28—(1) Where a structure is ruinous, or so far dilapidated as thereby to have become and to be unfit for use or occupation, or is, from neglect or otherwise, in a structural condition prejudicial to the property in or the inhabitants of the neighbourhood or is by reason of its age, condition, state of dilapidation, or the combustible nature of its material, likely in the event of fire to endanger or be prejudicial to the safety of other structures or property in the neighbourhood, the council, upon the certificate in writing of the existence of such facts from the health officer or the surveyor as the case may require, may order the owner to take down, alter, or repair, or rebuild such structure or any part thereof, or to fence in with a close fence or picket fence the ground upon which it stands or any part thereof, or otherwise to put the same or any part thereof into a state of repair and good condition, to the satisfaction of the council, within a reasonable time to be fixed by the order.

Removal of dilapidated and neglected buildings.

Ib., s. 115.14 Geo. V.
No. 6, s. 5.

(2) If the order is not obeyed, the council, with all convenient speed, may enter upon the neglected structure, and the land upon which it stands, and execute the order.

(3) Where the order directs the taking down of a neglected structure or any part thereof, the council, in executing the order, may remove the materials to a convenient place, and (unless the expenses of the council under this section in relation to such structure are paid to them within fourteen days after such removal) sell the same, if and as the council in its discretion thinks fit.

(4) All expenses incurred by the council under this section in relation to a neglected structure may be deducted by the council out of the proceeds of the sale, and the surplus, if

Building.

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any, shall be paid by the council on demand to the owner of the structure ; and if such neglected structure, or some part thereof, is not taken down, and such materials are not sold by the council, or if the proceeds of the sale are insufficient to defray the said expenses, the council may recover such expenses or the deficiency from the owner of the structure, together with all costs in respect thereof, but without prejudice to his right to recover the same from any lessee or other person liable to the expenses of repairs.

(5) The surveyor may, for the purpose of securing the due observance of, and compliance with, any of the provisions of this section, enter and inspect any structure or erection at all reasonable times, and do therein all such things as are reasonably necessary for the purposes aforesaid.

Division IV.—Unsightly and Unsuitable Structures.

Buildings, &c.
to be made
sightly and
suitable.

29 Whenever the council shall be of opinion that any building or structure is unsightly or unsuitable to the locality in which such building or structure is situate, the council may proceed as follows—

- i. If the council considers that such building or structure can be made sightly or suitable as aforesaid, the council may cause a notice to be served upon the owner of the land upon which such building or structure is erected, requiring such owner to make such alterations and improvements as the council thinks fit ; and such owner shall, within the time specified in such notice, make such alterations and improvements accordingly :
- ii. If the council considers that such building or structure can not be made sightly or suitable as aforesaid by any alteration or improvement, the council may cause a notice, in writing, to be served upon the owner of the land upon which such building or structure is erected, requiring such owner to remove such building or structure, and such owner shall, within the time specified in such notice, remove such building or structure in such manner as shall have been directed by the council :

Building.

- iii. If any such owner as aforesaid, after service upon him of any notice under this section, fails within the time specified in such notice to comply with the requirements thereof, he shall be liable to a penalty of five pounds and to a daily penalty of one pound ; and the council may cause all such acts and things as may be necessary to secure compliance with the requirements of such notice ; and all the costs, charges, and expenses incurred by or on behalf of the council thereby or incidental thereto shall be repaid to the council by such owner :
- iv. If the owner of any such building or structure as aforesaid is unknown, or cannot be found, the council may give the notice by advertisement in one or more newspapers of its intention as herein provided, and by affixing a copy of such notice to some conspicuous place on such building or structure ; and if at the end of three months after such notice has been first advertised as aforesaid, no owner shall be found, the council may proceed as provided in paragraph iii. hereof, and may sell the material of any building or structure removed, and apply the proceeds towards payment of the expenses incurred thereby.

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PART V.

SURVEYORS.

30—(1) Every council shall appoint a qualified surveyor for the purposes of this Act, and shall provide and maintain an office for such surveyor.

Councils to
appoint surveyors.

Cf. *ib.*, ss.
136 and 144.

(2) If any building or structure is executed, or any work is done to, in, or upon any building or structure by or under the superintendence of the surveyor, acting professionally or on his own private account, the surveyor shall not survey such building or structure for the purposes of this Act, or act as the surveyor in respect thereof or in any matter connected therewith ; but it shall be his duty to give notice to the council, and the council shall then appoint some other person to be the surveyor and to act in respect of the matter.

Building.

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Buildings to
be supervised
by the sur-
veyor.*Ib.*, s. 138.

31—(1) Subject to the provisions of this Act and to the prescribed exemptions, every building or structure and every work done to, in, or upon any building or structure, and all matters relating to open spaces about buildings shall be subject to the supervision of the surveyor.

(2) All building operations not exempted from the provisions of the Building Regulations shall be subject to the supervision of the surveyor, who shall require the provisions of the Building Regulations relating thereto to be duly observed and complied with, and in case of any breach or non-observance of any of such provisions he shall take or cause to be taken, such action authorised by the provisions of the Building Regulations to enforce compliance with such provisions as he may think fit.

Notice to be
given to sur-
veyor by
builder.*Ib.*, s. 145.

32—(1) In the following cases, and not later than the following times, that is to say, where—

- i. A building, or structure, or work is about to be begun, then two clear days before it is begun :
- ii. A building or structure, or work is, after the commencement thereof, suspended for any period exceeding three months, then two clear days before it is resumed : and
- iii. During the progress of a building, or structure, or work the builder employed thereon is changed, then two clear days before a new builder enters upon the continuance thereof—

the builder or other person causing or directing the work to be executed shall serve on the surveyor a building notice respecting the building, or structure, or work.

(2) Every building notice shall be on the official form, and state the situation, total floor area, height, number of storeys, and intended use of the building or structure, and the number of buildings or structures if more than one, and the particulars of the proposed work and the cost thereof, and the name and address of the person giving notice and those of the owner then in possession of, and the occupier of, the building or structure, or of its site or intended site.

(3) All works in progress at the same time to, in, or on the same building or structure may be included in one building notice.

Building.

33 The surveyor shall upon the receipt of any such notice as aforesaid, and also upon any work being observed by or made known to him, which is affected by the provisions of this Act, but in respect of which no notice has been given, and also during the progress of any work affected by such provisions, as often as may be necessary for securing the due observance of such provisions, survey any building or work hereby placed under his supervision, and cause all such provisions to be duly observed.

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Surveyor to enforce execution of this Act.

Ib., s. 146.

34—(1) The surveyor at all reasonable times during the progress and after the completion of any building, structure, or work affected by any of the provisions of this Act, or by any terms or conditions on which the observance of any such provisions may have been dispensed with, may enter and inspect such building, structure, or work, and any premises where it is situated.

Power of entry to inspect buildings.

Ib., s. 146.

(2) The surveyor may, for the purpose of ascertaining whether any buildings erected in any premises are in such a situation or possess such characteristics as are required in order to exempt them from the operation of this Part, at all reasonable times and after reasonable notice, enter any premises; and he may do therein all such things as are reasonably necessary for the said purpose

35 Where, by reason of any emergency, any act or work is required to be done immediately, or before notice can be given as aforesaid, such act or work may be done on condition that before the expiration of twenty-four hours after it has been begun notice thereof is served on the surveyor.

In case of emergency, works may be commenced without notice.

Ib., s. 149.

36—(1) Where it appears from the building notice served on the surveyor under this Act that it is proposed to erect any building or structure, or to do any work to, in, or upon any building which will be in contravention of this Act, or that anything required by this Act is proposed to be omitted, the council shall serve upon the builder or building owner a notice of objection to such proposed erection.

As to service of notice of objection on building or building owner.

Ib., s. 150.

(2) If the builder or building owner is aggrieved by such objection he may serve on the clerk within fourteen days after the service on him of such notice as aforesaid a request in writing for a review by the council, and shall in such request set forth the grounds upon which the same is based.

Building.

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(3) The council shall consider such request, if any, and shall give to the applicant notice in writing of its decision thereon.

(4) If the applicant is dissatisfied with such decision he may lodge with the clerk within seven days after the service on him of such notice a notification in writing that he desires to appeal therefrom and thereupon the matter shall be deferred to an appeal board comprising—

- i. A police magistrate, who shall be chairman :
- ii. A representative of the Tasmanian Institute of Architects : and
- iii. A representative of the council.

(5) Such board shall be appointed as prescribed, and the powers and procedure of the board shall be as prescribed, and its decision shall be final and binding on all parties concerned.

Notice by
surveyor in
case of irre-
gularity.
Ib., s. 151.

37—(1) In any cases where—

- i. In erecting any building or structure, or in doing any work to, in, or upon any building, any thing is done in contravention of this Act, or anything required by this Act is omitted to be done ; or
- ii. The surveyor, on surveying or inspecting any building or work in respect of which notice has not been served as required by this Part, finds that the same is so far advanced that he cannot ascertain whether anything has been done in contravention of this Act, or whether anything required by this Act has been omitted to be done—

the surveyor shall serve on the builder engaged in erecting such building or structure, or in doing such work, a notice (hereinafter referred to as a notice of irregularity) requiring him within forty-eight hours from the date of such notice, to cause anything done in contravention of this Act to be amended ; or to do anything required to be done by this Act which has been omitted to be done ; or to cause so much of any building, structure, or works as prevents the surveyor from ascertaining whether anything has been done or omitted to be done as aforesaid to be to a sufficient extent cut into, laid open, or pulled down.

Building.

(2) A notice of irregularity shall set forth—

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- i. A clear statement in ordinary language of the irregularity which has been committed :
- ii. The part, section, clause, or paragraph of the Building Regulations or by-laws which has been contravened :
- iii. The date by which such person is required to comply with the provision which has been so contravened : and
- iv. The address of the premises where such irregularity has been committed.

38—(1) Notwithstanding that a building or structure has ceased to be in charge of or under the control of the builder, a notice of irregularity to the effect stated in section thirty-seven may, at any time during the erection of such building or structure, or within thirty days after the completion thereof, be served on the builder, or on the owner or occupier thereof, or other the person causing or directing, or who has caused or directed, the work to be executed, instead of, or in addition to, the builder (if any).

Notice of irregularity after completion of building.
Ib., s. 152.

(2) When the owner of a building or structure does not allow the builder to comply with the requisition of a notice of irregularity served on the builder, and the builder serves notice on the surveyor to that effect, a notice of irregularity to the effect above mentioned may, at any time within fourteen days after service of the notice by the builder on the surveyor, be served on the owner or occupier of the building or structure, or other the person causing or directing or who has caused or directed the work to be executed.

39—(1) If the person on whom a notice of irregularity is served makes default in complying with that notice within the period named therein, he shall be guilty of an offence, and a court, on complaint by the council, in addition to, or in lieu of, imposing a penalty for such offence, may make an order on such person, requiring him to comply with the notice, or with any requisitions therein which in the opinion of the court are authorised by this Act, within the time named in the order.

Summary proceedings on non-compliance with notice.
Ib., s. 153.

(2) If the order is not complied with, the council may, if it thinks fit, after giving seven days' notice to such person, enter with a sufficient number of workmen upon the premises

Building.

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and do all such things as may be necessary for enforcing the order, and for bringing any building, structure, or work into conformity with the provisions of this Act, and all expenses incurred by the council in so doing may be recovered either from the person on whom the order was made or from the owner of the premises.

Register to
be kept.
ib., s. 152.

40—(1) A register shall be made up and kept in the surveyor's office of all plans submitted for the approval of the council, and of all building notices received by the surveyor.

(2) Such register shall set out the description, locality, contract price, and total floor area of all new buildings, alterations, or additions indicated on such plans, and the amount of fees chargeable thereon, and the date of receipt of such plans and building notices, and such other information as the council directs.

PART VI.

PROCEEDINGS: NOTICES.

Division I.—Proceedings.

Court and
justices may
make orders.

41—(1) Where jurisdiction is by this Act given to a court, the court may settle the time and manner of executing any work, or of doing any other thing, and may put the parties to the case upon such terms with respect to the execution of the work as it may think fit.

(2) The court shall also have power to award or refuse costs according to the circumstances, and to settle the amount thereof.

Council may
demolish
buildings and
sell materials
and recover
expenses.
L.B.A., s. 170.

42—(1) Where any person has been convicted of any offence against this Act, by constructing, erecting, adapting, extending, raising, uniting, or separating any building or structure, or any part of any building or structure, in contravention of any provision of this Act, the council may give notice in writing to such person to bring such building or structure into conformity with the said provision.

Building

(2) If such person fails to comply with such notice within fourteen days after the giving thereof, the council may, notwithstanding the imposition and recovery of any penalty, cause complaint of such conviction, notice, and default to be made before a justice, who shall thereupon issue a summons requiring such person to appear to answer such complaint before a court. A.D. 1937.

(3) If on the hearing of such complaint the matter thereof is proved to the satisfaction of the court, it may make an order, in writing, authorising the council, and it shall thereupon be lawful for the council or any person authorised by it, to enter upon such building or structure with a sufficient number of workmen and to demolish or alter such building or structure, or any part thereof, so far as the same has been adjudged to be in contravention of this Act, and to do whatever other acts may be necessary for such purpose, and to remove the materials to some convenient place, and, if in its discretion it thinks fit, to sell the same in such manner as it thinks fit.

(4) All expenses incurred by the council in demolishing or altering such building or structure, or any part thereof, and in doing such other acts as aforesaid, or the balance of such expenses after deducting the proceeds of sale of the aforesaid materials, if the council sell the same, may be recovered from the person committing the offence aforesaid.

(5) If the proceeds of such sale are more than sufficient to defray such expenses, the council shall restore the surplus of such proceeds after deducting the amount of all such expenses, to the owner of the building or structure on demand.

43 Where, by any provision of this Act, any surplus of the proceeds of the sale of any building, structure, or materials is made payable to any owner thereof, and no demand is made by any person entitled thereto within one year of the receipt of the proceeds by the council, the same shall be paid to the Treasurer, and shall be by him paid to the owner upon the order of the Supreme Court or a judge, obtained on the application by petition or summons of the owner and proof of his title thereto.

Payment of
surplus
proceeds into
Treasury.
Ib., s. 172.

44—(1) Where it is by any provision of this Act, declared that expenses are to be borne by, or may be recovered from, the owner of any premises (including under the term

Payment of
expens
by
owners.
Ib., s. 173.

Building.

A.D. 1937. "owner" the adjoining and building owners, respectively), the following rules shall be observed with respect to the payment of those expenses —

- i. The owner immediately entitled in possession to the premises, or the occupier thereof, shall, in the first instance, pay the expenses—with this limitation, that an occupier shall not be liable to pay any sum exceeding in amount the rent due, or that will thereafter accrue due from him in respect of the premises, during the period of his occupancy :
- ii. If there are successive owners, each of them shall be liable to contribute to such expenses in proportion to his interest :
- iii. Any difference arising as to the amount of contribution shall be decided by arbitration :
- iv. If some of the owners liable to contribution cannot be found, the deficiency so arising shall be divided amongst the owners who can be found :
- v. Any occupier of premises who has paid any such expenses may deduct the amount so paid from any rent payable by him to any owner of the said premises ; and any owner who has paid more than his due proportion of any such expenses may deduct the amount so overpaid from any amount payable by him to any other owner of the same premises :
- vi. If default is made by any person in payment to a council of any expenses hereby made payable by him in the first instance, the same may be recovered as provided by the *Rates and Charges Recovery Act 1936* ; and, if default is made by any person in repaying to any other person any money recoverable under this section, such moneys may be recovered in the same manner as if the obligation to pay such moneys were a simple contract debt.

(2) In any case in which a judgment has been obtained or an order has been made under this Act for the payment by any person of any sum of money, the same shall be a charge on the land in respect of which, or in respect of some building, structure, or erection upon which, the liability to pay such sum of money has arisen.

*Building.**Division II.—Notices.*

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45—(1) Notices, orders, and other such documents under this Act shall be in writing, and notices and documents other than orders when issued by the council, shall be sufficiently authenticated if signed by the clerk, or by the officer by whom the same are to be given or served.

Notices to be
in writing.
Ib., s. 137.

(2) Orders made by the council shall be under the seal of the corporation.

(3) Every notice served in pursuance of this Act shall in any question relating to any building, structure, or work, be *prima facie* evidence, as against the builder, of the nature of the building, structure, or work proposed to be built or done.

46—(1) Any notice, order, or other document required or authorised to be served under this Act may be served by delivering a copy thereof, or by sending a copy thereof by registered post, to the person on whom it is to be served; or by delivering the same to some person on the premises to which it relates; or if no person is found on the premises, by fixing a copy thereof on some conspicuous part of the premises to which it relates; or, in the case of a company, by delivering a copy thereof at the registered office of the company.

Service of
notices.
Ib., s. 138.

(2) If there are more owners or occupiers than one, such notice, order, or other document may be addressed to one only of them, with the addition of the words “and others” after his name, and service upon such one shall, for all purposes of the Building Regulations, be deemed to be service upon all of such owners or occupiers.

(3) Any notice, order, or other document to be served upon a builder shall be sufficiently served if a copy thereof is sent by registered post to such builder at the place of address stated in his building notice, if any, or, in default thereof, at his office or any one of his principal offices, or if a copy thereof is fixed on some conspicuous part of the premises to which it relates.

(4) Any notice, order, or other document by this Act required to be given to, or served on, the owner or occupier of any premises, or a copy thereof, may be addressed by the description of the “owner” or “occupier” of the premises (naming the premises) in respect of which the notice is given or served, without further name or description.

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(5) Any notice or other document by this Act required to be given to, or served on, the council may be given or served by registered post. to the council at its office, or by delivering the same to some person at its office.

(6) Any notice required by this Act to be served on the surveyor may be served on him by registered post at his office, or by delivering the same to some person at his office.

(7) Any notice, order, or other document required or authorised to be given or served on any person under this Act shall be sufficient if it states its purpose in ordinary language so as to give the person to whom it is addressed reasonably clear information as to what is required of him.

(8) The validity of any such notice, order, or other document, or of the service thereof, shall not be affected by any misnomer, misstatement, error, misdescription, informality, or irregularity which is not calculated to mislead, or which, in fact, does not mislead.

Division III.—Evidence.

Proof of certain matters in legal proceedings.

47 In any action, or other proceeding commenced or instituted by the surveyor, or the clerk, or any other person by direction of the council—

- i. It shall not be necessary for him to allege or prove his appointment as surveyor or clerk, as the case may be :
- ii. All formal allegations in any pleading or process therein shall, in the absence of proof to the contrary by the defendant or person proceeded against, be deemed to be proved :
- iii. Every allegation in any such pleading or process that any land or place, or that any building, structure, or erection was at any time therein specified subject to the provisions of the Building Regulations shall, in the absence of proof to the contrary by the defendant or person proceeded against, be deemed to be proved :
- iv. Every notice, demand, order, requisition, notification, or direction, or other document mentioned or referred to in any such pleading or process as

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having been given to, or served on, any person or any owner or occupier shall, in the absence of proof to the contrary by the defendant or person proceeded against, be deemed to have been in all respects a valid and regular notice, demand, order, requisition, or direction as the case may be; and to have been duly and regularly given or served, as is alleged in such pleading or process; and to have been such a notice, demand, order, requisition, notification, or direction, or other document as is therein alleged: A.D. 1937.

- v. Every allegation in any such pleading or process that the defendant or person proceeded against was at any time therein specified the owner or any occupier of land, or of any building, structure, or erection therein referred to, or was the builder of any building, structure, or erection therein referred to, shall, in the absence of proof to the contrary by the defendant or person proceeded against, be deemed to be proved.

PART VII.

LODGMET OF PLANS: FEES.

48 All plans required by or under this Act in relation to any building shall be lodged at such times, and in such manner, and shall be accompanied by such information and particulars as may be prescribed in relation to the matter to which the same relates. Plans, &c.

49—(1) There shall be paid to the council by the builder employed in erecting any building or structure or doing any work, or in his default by the owner or occupier of the property on or in relation to which such building or work is carried out, such fees as may be prescribed. Fees.

(2) All such fees shall become payable—

1. At the time at which the plans are required to be submitted for approval or the building notice is required to be given, whichever is the earlier: or

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II. In case of fees not ascertainable at such time as aforesaid, at the expiration of three days after the completion of the work.

(3) If any such builder, owner, or occupier refuses or fails to pay the said fees when the same are due, they may be recovered in a summary manner, on its being shown to the satisfaction of the court that a bill specifying the amount of the fees was delivered to him or sent to him in a registered letter, addressed to his place of business or last known residence.

PART VIII.

MISCELLANEOUS.

Powers of Council in certain cases.

50—(1) Where the council is empowered to refuse its consent to, or allowance of, the doing or omission of any act or thing under this Act, the council may make such consent or allowance subject to such terms and conditions in relation to the subject matter thereof as the council thinks fit.

(2) If any such term or condition is accepted by the person required to obtain such consent or allowance as aforesaid he shall be bound thereby, and if such term or condition is not observed or fulfilled by him he shall be liable to the like penalty as if such consent or allowance had not been given.

(3) The council may refuse to approve of the plans of any building proposed to be erected which, in the opinion of the council, would, by reason of the architectural design or elevations, or the size, quality, or nature of such building, injuriously affect the value of property in the vicinity of the site of the proposed building.

Power of entry to owner, &c., to execute work.

L. S. A., s. 192.

51 Any owner, builder, or other person, and his servants, workmen, and agents, may, for the purpose of complying with any notice or order served or made on him in pursuance of this Act in respect of any building or structure, room, or place, after giving seven days' notice to the occupier thereof, and on production of the firstmentioned notice or order, enter, and thereafter without further notice re-enter, such building or structure, room, or place, and do all works and things therein, thereto, or in connection therewith which may be necessary for complying with such notice or order.

Building.

52 Where any building has been erected or work done without due notice having been given to the surveyor in accordance with this Act, the surveyor may, at any time within one month after he has discovered that such building has been erected or work done, enter the premises for the purpose of seeing that the provisions of this Act, or any notice given, or order made, under this Act have been complied with; and the time during which the surveyor may take any proceedings, or do anything authorised or required by this Act to be done by him in respect of such building or work, shall begin to run from the date of his discovering that such building has been erected or work done.

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Limitation of time for proceedings when notice not given.
Ib., s. 193.

53 Where any consent is required to be given, any notice to be served, or any other thing to be done by, on, or to any owner in pursuance of this Act, if there is no owner, or if any such owner cannot be found, a police magistrate may give such consent, or do or cause to be done such thing, on such terms and conditions as he may think fit, and may dispense with the service of any notice which would otherwise require to be served.

Consent, how given on behalf of owners not to be found.
Ib., s. 196.

54 Proceedings with respect to a building shall not be affected by the removal or falling in of the roof or covering of such building.

Removal of roof not to affect proceedings.
Ibid., s. 198.

55 It shall not be lawful to make any alteration of any building in such manner that when so altered it will, by reason of such alterations, not be in conformity with the provisions of this Act applicable to new buildings.

Buildings not to be altered so as not to conform to Act.
Ib., s. 207.

56 Every addition to, or alteration of, a building, and any other work made or done for any purpose in, to, or upon a building (except that of necessary repair not affecting the construction of any external or party wall) shall, so far as regards such addition or alteration or other work, be subject to the provisions of this Act relating to new buildings.

Additions to and alterations of buildings.
Ib., s. 209.

57 A building, structure, or work erected or constructed before the commencement of this Act, to which no objection could have been taken under any law then in force, shall, subject to the provisions of this Act as to new buildings, or the alteration of buildings, be deemed to be erected or constructed in compliance with the provisions of this Act.

Application of Act to buildings erected before commencement of Act.
Ib., s. 210.

Building.

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Removal of
buildings and
structures.

58—(1) Where the council in the exercise of any power conferred by this Act has required any person to demolish, pull down, or remove any building or structure and such person has failed or refused to comply with such requirement within the time specified in the notice requiring the same, the council may demolish, pull down or remove such building or structure and may enter on any land for that purpose.

(2) All costs and expenses incurred by the council in the exercise of the power conferred by this section may be recovered by the council from the owner of such building or structure.

PART IX.

REGULATIONS AND BY-LAWS.

Regulations.

59—(1) The Governor may make regulations for the purposes of this Act.

(2) On the recommendation of the council of any city or municipality to which this Act applies, the Governor may make any such regulations to apply only within the area controlled by such council.

(3) Any such regulations may be general or in respect of specified classes or descriptions of—

- i. Areas : or
- ii. Buildings or structures—

and may discriminate in respect of the purposes for which any buildings or structures are used or intended to be used.

(4) Any such regulations may regulate and control—

- i. Building operations of every kind and may prescribe—

(a) Materials which may or may not be used either generally or in specified cases the nature and quality of any such materials ; and the manner in which and the method by which, any specified materials may be required to be treated or dealt with before being used :

(b) The plans, specifications, elevations, sections, and particulars, to be supplied :

Building.

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- (c) The procedure to be followed and the requirements and conditions to be fulfilled and observed by owners, builders, and other persons concerned :
- (a) The cases in which and the conditions, if any, under which buildings of any specified kind or description or in any specified circumstances shall be exempt from all or any prescribed provisions of this Act :
- (e) The methods of construction either generally or in specified cases :
- (f) The position, in relation to any street or way, or to the building line thereof, or otherwise, in which building shall not be permitted :
- (g) The height above which buildings shall not be erected : and
- (h) The fees and charges to be paid to the council in relation thereto—
- ii. The provision of light, ventilation, drainage and protection from, and precautions against, fire risks in relation to buildings, either generally or in specified cases :
- iii. The removal and demolition of buildings :
- iv. Sites for the erection of buildings with power to prohibit such erection where the land is so situated as not to admit of proper drainage, or where for any other reason the use of the building thereon would be inimical to health :
- v. The construction, erection, use, and removal of—
- (a) Hoardings :
- (b) Sky signs, electric signs, sign boards and advertisement boards :
- (c) Lifts and elevators : and
- (d) Verandahs, balconies, awnings and similar structures over any street or way : and
- (e) Gates, doors, and window-shutters opening on to any street or way :
- vi. The piling, stacking, or storing, of any timber, firewood, casks, barrels, packing-cases, fuel, or other inflammable material within a prescribed distance of any street or public way, or of any

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building, or fence, or otherwise constituting a public danger, with power to prohibit such piling, stacking, or storing in specified cases, or in specified areas : and

- vii. The construction, erection, maintenance, use, supervision, inspection, and removal of scaffoldings, cranes, hoists, and other machines, contrivances and gear for building purposes, with power to define those terms, or any of them ; and may prescribe the materials of which, and the manner in which, any such thing shall be constructed and used, and the methods which shall be used, and the precautions which shall be taken for ensuring the safety thereof in or about any building operations—

and may prescribe penalties not exceeding fifty pounds, and daily penalties not exceeding five pounds for the breach of any such regulation.

(5) Any regulations made for the purposes of paragraph vii. of subsection (4) hereof may be expressed to apply throughout the State or any specified part thereof, and thereupon the same shall have effect accordingly, although any matter to which the same may relate is not within any building area.

By-laws

60—(1) Subject to the provisions of this Act any council may make by-laws for the purposes of this Act either generally or in respect of specified areas, or of specified classes of buildings or structures.

(2) Any such by-laws may—

i. Regulate and control—

- (a) The construction, erection, renewal, maintenance, and use of verandahs, balconies and similar structures, and columns, posts, and pillars, used in connection therewith, in, or over any street or way, with power to prohibit the same in any specified areas, and to require the removal of any existing verandahs or balconies in such areas, and within such reasonable time, as may be prescribed :

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- (b) The construction, erection, renewal, maintenance, and use of sky signs, electric signs, sign boards, and advertisement boards in any specified areas, or in relation to any specified streets or places : A.D. 1937.
- (c) The erection and use of tents in prescribed areas or places, generally or for specified purposes, with power to limit the periods for which the same may be used in specified cases :
- (d) The erection, maintenance, and use, in connection with the erection, repair, alteration, or removal of buildings, and other structures, of scaffolding over or near the public streets or ways, and of cranes and hoists worked by hand, steam, electric, hydraulic, or other power, and machines, boilers, and other apparatus and contrivances :
- (e) The treatment of foundations and sites of buildings and other erections ; including the mode in which, and the materials with which, such foundations and sites are to be made, excavated, filled up, drained, or otherwise prepared and completed for securing stability and for safeguarding health ; and the filling up as prescribed of any excavations within a prescribed distance of any building or prescribed class of building :
- (f) The mode in which, and the materials with which, any excavations made within a line drawn outside the external walls of a house, building, or other structure or erection, and at a uniform distance therefrom of three feet, shall be filled up :
- (g) The construction, erection, and ventilation, and drainage of houses, shops, public buildings, factories, and other buildings or structures :
- (h) The protection of ironwork and other metal-work used in the construction of

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- buildings from the action of fire ; and the use of woodwork in external walls :
- (i) The description, quality, and proportions of the substances of which plaster may be made and generally regulating plastering :
 - (j) The use of woodwork in the external walls of any building or specified class of building : and
 - (k) The classes of buildings which may be erected within any area which the council may define as a residential area ; and the purposes for which buildings within such area may be used—
- and may require, provide for, and regulate the holding, issue and cancellation of licences in respect of any such matters :
- ii. In relation to any area defined as hereinafter provided, prohibit the erection or construction of new buildings (within the meaning of this Act)—
- (a) Unless the same are constructed of such non-inflammable materials as may be prescribed : or
 - (b) Where the same necessitate or involve the laying-out, construction, or opening of new streets, until plans as prescribed have been submitted to and approved by the council in accordance with the by-laws, with power to prohibit the sale of any portion of land subdivided, or proposed to be subdivided, for building purposes, or the erection thereon of any buildings without the consent of the council until the requirements prescribed in relation to such subdivision are complied with :
- iii. Require the owner or occupier of any—
- (a) Building to which a balcony or verandah over the public street or way is attached to keep such balcony or verandah properly painted and repaired, and the floors and roof thereof watertight and free from rubbish :

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(*b*) Land or premises on which is erected, placed, or fixed any fence, wall, or barricade abutting on any public street or way to keep such fence, wall, or barricade in proper order and repair—

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and may provide in default thereof, power for the council to do the work and recover the cost from such owner or occupier :

- iv. Prohibit or regulate the use of the roofs of balconies, verandahs, or porticos for viewing processions or sights in public streets or ways :
- v. Prohibit the erection, or the construction within localities defined by such by-laws or elsewhere than as prescribed, of any buildings or structures except buildings or structures of prescribed classes, or descriptions, or for prescribed purposes :
- vi. Determine the building line for any street either generally or in respect of different classes of buildings :
- vii. Prescribe the plans and particulars which shall be lodged in relation to any specified building operations, and regulate the procedure in respect thereof : and
- viii. Prescribe the fees which shall be payable in respect of any of the matters aforesaid or of any matters under this Act where not otherwise prescribed, and the persons by whom, and the times at which the same shall be payable—

and may provide for and prescribe generally in respect of any matters arising under this Act and may prescribe penalties not exceeding twenty-five pounds and daily penalties not exceeding five pounds, in respect of any breach of any such by-laws.

(2) Where an area is to be defined for any of the purposes of paragraphs i. and ii. of subsection (1) hereof, the council shall pass a special resolution setting forth the boundaries of such area and the purpose for which it is defined, and shall publish in the Gazette and in a newspaper a copy of such resolution, not less than one month before any proposed by-law in relation thereto is to come into operation.

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THE SCHEDULE.

Regnal Year and Number.	Title of Act.
58 Vict. No. 32	<i>The Launceston Building Act 1894</i>
59 Vict. No. 53	<i>The Launceston Building Act 1895</i>
3 Geo. V. No. 10	<i>The Launceston Building Act 1912</i>
9 Geo. V. No. 75	<i>The Hobart Building Act 1918</i>
10 Geo. V. No. 36	<i>The Hobart Building Act 1919</i>
13 Geo. V. No. 24	<i>The Launceston Building Act 1923</i>
14 Geo. V. No. 6	<i>The Hobart Building Act 1923</i>